Chapter 308A — Land Special Assessments

2001 EDITION

FARM USE ASSESSMENT

(Policy)

308A.050 Legislative intent

(Qualification for Farm Use Assessment)

308A.053 Definitions for ORS 308A.050 to 308A.128

308A.056 Definition of “farm use”

308A.059 Farm use definition rulemaking

308A.062 Qualification of exclusive farm use zone farmland

308A.065 County counsel review of exclusive farm use zoning ordinances; notice upon determination of unqualified land; assessment pending zone requalification

308A.068 Qualification of nonexclusive farm use zone farmland

308A.071 Income requirements for nonexclusive farm use zone farmland

308A.074 Wasteland qualifications; annual application

308A.077 Application to qualify nonexclusive farm use zone farmland

308A.080 Acquired land qualifications

308A.083 Effect of qualification generally

308A.086 Requalification generally

308A.089 Requalification of disqualified nonexclusive farm use zone farmland; fee

(Valuation)

308A.092 Establishing value for farm use; procedure

308A.095 County board of review to advise assessor on income-approach factors

308A.098 County board of property tax appeals use of assessor’s data

308A.101 Department of Revenue declaratory rulings; judicial review

308A.104 Construction of provisions governing value for farm use

308A.107 Maximum assessed value and assessed value of farmland

308A.110 Real property improvements and machinery not subject to farm use assessment

(Disqualification)

308A.113 Disqualification of exclusive farm use zone farmland

308A.116 Disqualification of nonexclusive farm use zone farmland

308A.119 Abatement; termination of abatement

308A.122 Effect of requalification on abated taxes

308A.125 Historic cemeteries within exclusive farm use zones; partition; effect of disqualification

308A.128 Certain district assessments inapplicable to exclusive farm use zone farmland

FARM AND FOREST HOMESITES

308A.250 Definitions for ORS 308A.250 to 308A.259

308A.253 Qualification of homesites

308A.256 Maximum assessed value and assessed value of homesites

308A.259 Disqualification of homesite

OPEN SPACE LANDS

308A.300 Definitions for ORS 308A.300 to 308A.330

308A.303 Policy

308A.306 Application for open space use assessment; contents of application; filing; reapplication

308A.309 Submission of application for approval of local granting authority; grounds for denial; approval; application withdrawal

308A.312 Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial

308A.315 Determination of maximum assessed value and assessed value of open space lands

308A.318 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional potential taxes

308A.321 Withdrawal by assessor when use changed; notice; imposition of additional taxes; interest; penalty; exception

308A.324 Prepayment of additional taxes; extending taxes on tax roll; collection; distribution

308A.327 Reports from owner to assessor; effect of failure to make report upon request

308A.330 Rules

RIPARIAN HABITAT EXEMPTION

308A.350 Definitions for ORS 308A.350 to 308A.383

308A.353 Policy

308A.356 Application for exemption as riparian land; contents; notice after sale or transfer

308A.359 Standards and criteria for exemption; determination; exemption limited to certain lands

308A.360 City and county authorization required for exemption of riparian land within city and urban growth boundary

308A.362 Approval or disapproval of application; limitation on approval; order; notice; exemption; potential additional taxes

308A.365 Duration of exemption; change in use; withdrawal at request of owner

308A.368 Additional taxes upon withdrawal from riparian land designation; computation

308A.371 Additional taxes; payment; collection

308A.374 Reports from owners; request after exemption granted for determination of continued qualification

308A.377 Abatement of additional tax when farm, forest or open space land designated riparian

308A.380 Limitation on amount of land that may be exempt as riparian land

308A.383 Rules

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS

(Additional Taxes)

308A.700 Definitions for ORS 308A.700 to 308A.733

308A.703 Additional taxes upon disqualification; further amounts upon declassification of certain small tract forestland

308A.706 Circumstances when additional taxes are deferred; potential additional tax liability

308A.709 Circumstances when additional taxes are not imposed

308A.712 Determining amount of deferred additional taxes and period for which additional taxes are due

308A.715 Imposition of deferred additional taxes upon request of owner

(Disqualification Notification Procedures)

308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation

308A.721 Assessor to determine additional taxes when certain small tract forestland is declassified

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates

308A.727 Change to open space use; additional taxes upon withdrawal; notification upon application

308A.730 Application for special assessment following acquisition of land through government exchange; amount of additional taxes following disqualification

308A.733 Withdrawal of change of special assessment application

(Conservation Management; Effect on Disqualification)

308A.740 Legislative findings and declarations

308A.743 Disqualification limited when land subject to conservation and management plan, conservation easement or deed restriction; procedural requirements

FARM USE ASSESSMENT

(Policy)

308A.050 Legislative intent. The Legislative Assembly recognizes that agriculture and related land uses contribute significantly to Oregon's character and economy. The Legislative Assembly finds that providing the means for agriculture to continue and prosper is in the interest of all citizens of this state, who benefit directly or indirectly from agricultural production and stewardship of farmlands and ranchlands. Valuation of farm properties based upon market data from sales for investment or other purposes not connected with bona fide farm use encourages the conversion of agricultural land to other uses. The identification of agricultural land for farm use, as provided by law, substantially limits alternative uses of such land and justifies the valuation of that land based on its agricultural production capability. Therefore, it is the declared intent of the Legislative Assembly that bona fide farm properties be assessed for ad valorem property tax purposes at a value that is exclusive of values attributable to urban influences or speculative purposes. [1999 c.314 §1]

(Qualification for Farm Use Assessment)

308A.053 Definitions for ORS 308A.050 to 308A.128. As used in ORS 308A.050 to 308A.128:

(1) "Exclusive farm use zone" means a zoning district established by a county or a city under the authority granted by ORS chapter 215 or 227 that is consistent with the farm use zone provisions set forth in ORS 215.203 to 215.311, 215.438, 215.448, 215.452, 215.455, 215.700 to 215.780 or 215.800 to 215.808.

(2) "Exclusive farm use zone farmland" means land that qualifies for special assessment under ORS 308A.062.

(3) "Homesite" means the land, including all tangible improvements to the land under and adjacent to a dwelling and other structures, if any, that are customarily provided in conjunction with a dwelling.

(4) "Nonexclusive farm use zone farmland" means land that is not within an exclusive farm use zone but that qualifies for farm use special assessment under ORS 308A.068. [1999 c.314 §2]

308A.056 Definition of "farm use." (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by:

(a) Raising, harvesting and selling crops;

(b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof;

(c) Dairying and selling dairy products;

(d) Stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling

shows;

(e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission;

(f) On-site constructing and maintaining equipment and facilities used for the activities described in this subsection;

(g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products raised for human or animal use on land described in this section; or

(h) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof.

(2) “Farm use” does not include the use of land subject to timber and forestland taxation under ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (1)(e) or 321.415 (5) (relating to land used to grow certain hardwood timber, including hybrid cottonwood).

(3) For purposes of this section, land is currently employed for farm use if the land is:

(a) Farmland, the operation or use of which is subject to any farm-related government program;

(b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of this subsection, prior to maturity;

(d) Land not in an exclusive farm use zone that has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

(e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that is not currently being used for any economic farm use;

(f) Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u);

(g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(i) Land lying idle for no more than one year when the absence of farming activity is the result of the illness of the farmer or a member of the farmer’s immediate family, including injury or infirmity, regardless of whether the illness results in death;

(j) Land described under ORS 321.267 (1)(e) or 321.415 (5) (relating to land used to grow certain hardwood timber, including hybrid cottonwood); or

(k) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training greyhounds for racing.

(4) As used in this section:

(a) “Accepted farming practice” means a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a profit in money and customarily utilized in conjunction with farm use.

(b) “Cultured Christmas trees” means trees:

(A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(B) Of a marketable species;

(C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

(D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices:

(i) Basal pruning;

(ii) Fertilizing;

(iii) Insect and disease control;

(iv) Stump culture;

(v) Soil cultivation; or

(vi) Irrigation. [1999 c.314 §3; 2001 c.613 §21]

308A.059 Farm use definition rulemaking. (1) The Department of Revenue shall provide by rule for a more detailed definition of farm use, consistent with the general definition in ORS 308A.056, to be used by county assessors in determining qualification for special assessment under ORS 308A.068. The rules shall not be designed to exclude from the special assessment those lands that are in farm use as defined in ORS 308A.056 for which tax relief is intended.

(2) In determining qualification for special assessment under ORS 308A.068, the county assessor shall consider the use of the land by the owner, renter or operator thereof together with any other lands that are a part of one farming unit being operated by the owner, renter or operator. [Formerly 308.380]

308A.062 Qualification of exclusive farm use zone farmland. (1) Any land that is within an exclusive farm use zone and that is used exclusively for farm use shall qualify for farm use special assessment under ORS 308A.050 to 308A.128, unless disqualified under other provisions of law.

(2) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [1999 c.314 §5]

308A.065 County counsel review of exclusive farm use zoning ordinances; notice upon determination of unqualified land; assessment pending zone requalification. (1) Upon written request of the county assessor or county governing body, the county counsel shall review the zoning ordinances of the county that purport to establish exclusive farm use zones to determine if any zone mentioned in the ordinance is not an exclusive farm use zone. If the county counsel is in doubt as to whether a zone is an exclusive farm use zone, the county counsel shall request the assistance of the Department of Revenue under ORS 305.110. The county counsel shall promptly notify the county assessor and county governing body by letter of the findings of the county counsel.

(2) If the assessor discovers any land that has been granted farm use special assessment under ORS 308A.062 that is not qualified for such assessment because the zone is not an exclusive farm use zone, the assessor shall immediately notify the county governing body of this fact.

(3) Within six months from the date the county governing body receives notice from the assessor or from the Land Conservation and Development Commission that a farm use zone is not an exclusive farm use zone, the county governing body shall qualify the zone as an exclusive farm use zone within the meaning of ORS 308A.062. The assessor shall continue to assess the land at the special assessment provided in ORS 308A.107 until the county governing body qualifies the zone or the land is disqualified under ORS 308A.113.

(4) Subsections (1) to (3) of this section shall provide the exclusive procedure for correcting the erroneous granting of farm use special assessment as exclusive farm use zone farmland when the zone does not meet the definition of an exclusive farm use zone under ORS 308A.053. [Formerly 308.403]

308A.068 Qualification of nonexclusive farm use zone farmland. (1) Any land that is not within an exclusive farm use zone but that is being used, and has been used for the preceding two years, exclusively for farm use shall qualify for farm use special assessment:

(a) If the land meets the income requirements set forth in ORS 308A.071; and

(b) Upon compliance with the application requirements set forth in ORS 308A.077.

(2)(a) The provisions of this section shall not apply to any land with respect to which the owner has granted, and has outstanding, any lease or option to buy the surface rights for other than farm use.

(b) This subsection does not apply in the case of a lease or option to buy surface rights:

(A)(i) For the exploration of geothermal resources, as defined by ORS 522.005, mineral resources or other subsurface resources; or

(ii) For the use of land for hunting, fishing, camping or other recreational use; and

(B) If the exploration, use or possession engaged in pursuant to the lease or option to buy does not interfere with the farm use of the farmland.

(3) Whether farmland qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. However, if land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232, at its real market value as defined by law without regard to this section, and

shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year. [1999 c.314 §7]

308A.071 Income requirements for nonexclusive farm use zone farmland. (1) For purposes of ORS 308A.050 to 308A.128, farmland or a farm parcel that is not within an area zoned for exclusive farm use is not used exclusively for farm use unless all of the prerequisites of subsections (2) to (5) of this section are met.

(2)(a) Except as provided in subsection (6) of this section, in three out of the five full calendar years immediately preceding the assessment date, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the following amount for a calendar year:

(A) If the farm unit consists of six acres or less, the gross income from farm use shall be at least $650.

(B) If the farm unit consists of more than six acres but less than 30 acres, the gross income from farm use shall be at least equal to the product of $100 times the number of acres and any fraction of an acre of land included.

(C) If the farm unit consists of 30 acres or more, the gross income from farm use shall be at least $3,000.

(b) For purposes of determining the number of acres to be considered under paragraph (a) of this subsection, the land described in ORS 308A.056 (3) and the land, not exceeding one acre, used as a homestead shall not be included.

(c) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not all under the same ownership, the gross income requirements applicable to the farm parcel shall be as provided under paragraph (a) of this subsection. In addition, the gross income from farm use of a farm parcel described under this paragraph must be at least:

(A) One-half of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit; or

(B) A cash or net share crop rental of one-quarter of the gross income requirements described under paragraph (a) of this subsection that would be required if the farm parcel were the only farmland of the farm unit. For purposes of this subparagraph, “net share crop rental” means the value of any crop received by the owner of the farm parcel less any costs borne by the owner of the farm parcel.

(3) Excise or income tax returns are filed with the Department of Revenue for purposes of ORS chapter 316, 317 or 318 by the farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules showing rental income received by the owner of the farm parcel, during the years to which the income requirements of this section apply.

(4) Upon request, a copy of the returns or the schedules of the returns showing the gross income received from farm use is furnished by the taxpayer to the county assessor.

(5) The burden of proving the gross income of the farm unit for the years described in subsection (2) of this section is upon the person claiming special assessment for the land.

(6) The failure of a farm unit to produce the amount of gross income required by subsection (2) of this section shall not prevent the farm unit from meeting the qualifications of this section if:

(a) The failure is because:

(A) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(B) Severe drought conditions are declared under ORS 536.700 to 536.780; and

(b) The farm unit produces the required amount of gross income in three out of the last five nonflood or nondrought years.

(7) As used in this section:

(a) “Farm parcel” means the contiguous land under the same ownership, whether assessed as one or more than one tax lot.

(b) “Owner” or “ownership” means any person described under ORS 308A.077 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an owner as tenant in common or other joint ownership interest.

(c) “Gross income” includes the value of any crop or livestock that is used by the owner personally or in the farming operation of the owner, but does not include:

(A) The value of any crop or livestock so used unless records accurately reflecting both value and use of the crop or livestock are kept by the owner in a manner consistent with generally accepted accounting principles; and

(B) The purchase cost of livestock. [Formerly 308.372]

308A.074 Wasteland qualifications; annual application. (1) Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with nonexclusive farm use zone

farmland described in ORS 308A.068, and that is not currently being used for any economic farm use shall qualify for farm use special assessment under ORS 308A.068 if the farmland was operated as part of a farm unit that produced more than one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this section.

(2)(a) An owner of wasteland shall make annual application to qualify the wasteland as nonexclusive farm use zone farmland under ORS 308A.068.

(b) The application shall be filed with the county assessor on or before April 15 of each year qualification is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the county assessor and shall include any information as may be reasonably required to determine qualification, including copies of applicable state income tax returns. All information provided, including determinations made under administrative and court proceedings relating to the assessment of the wasteland, shall be confidential information of the assessor's office and shall be used only for purposes of ORS 308A.050 to 308A.128.

(c) There shall be attached to each application an affidavit or affirmation from the applicant providing that the statements contained in the application are true.

(3) For purposes of this section, "owner" or "owners" means the person or persons entitled to file for special assessment under ORS 308A.077 (2)(b). [1999 c.314 §9]

308A.077 Application to qualify nonexclusive farm use zone farmland. (1) Any owner of nonexclusive farm use zone farmland entitled to special assessment under ORS 308A.068 must, to secure the assessment, make application therefor to the county assessor on or before April 1 of the first year in which the assessment is desired.

(2)(a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include any information as may reasonably be required to determine the entitlement of the applicant.

(b) The application may be signed by any one of the following:

(A) The owner of the farmland who holds an estate therein in fee simple or for life.

(B) Any one of tenants in common or tenants by the entirety, holding an estate in the farmland in fee simple or for life.

(C) Any person of legal age, duly authorized in writing to sign an application on behalf of any person described in subparagraph (A) or (B) of this paragraph.

(D) The guardian or conservator of an owner, or the executor or administrator of an owner's estate.

(E) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or the deputy of the assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

(3) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true. [Formerly 308.375]

308A.080 Acquired land qualifications. (1) Acquired land shall qualify for farm use special assessment if:

(a) The acquired land:

(A) Is not in an exclusive farm use zone;

(B) Is, immediately upon acquisition, put into farm use; and

(C) Is operated as part of the total farming unit with the original land; and

(b) The original land:

(A) Is owned by the purchaser of the acquired land;

(B) Is in farm use;

(C) Is assessed under ORS 308A.107; and

(D) Produced gross income of at least $10,000 in the calendar year prior to acquisition.

(2) Land that qualifies for farm use special assessment under subsection (1) of this section shall, for purposes of the gross income requirement under ORS 308A.071, be added to and treated as a part of the entire farming unit upon acquisition.

(3) In order for acquired land described in this section to qualify under ORS 308A.068, an application must be filed under ORS 308A.077 on or before April 1 of the first year following acquisition in which farm use special assessment is sought for the acquired land. [Formerly 308.374]

308A.083 Effect of qualification generally. In the case of exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062 or nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068, the county assessor shall enter on the assessment and tax roll the notation "potential additional tax liability" until the land is disqualified under ORS 308A.113 or 308A.116. [1999 c.314 §12]

308A.086 Requalification generally. (1) Any land that has been disqualified from farm use special assessment under ORS 308A.050 to 308A.128 may requalify for special assessment under ORS 308A.050 to 308A.128 at the same time and in the same manner and under the same provisions of law as land initially qualifies for farm use special assessment under ORS 308A.050 to 308A.128.

(2) Land that requalifies under this section must meet applicable qualification requirements as of the assessment date for the tax year for which special assessment of the requalified land under ORS 308A.050 to 308A.128 is sought.

(3) This section does not apply to the requalification of land that was disqualified and that is described:

(a) In the case of land in an exclusive farm use zone, under ORS 215.236 (relating to nonfarm dwellings) and ORS 308A.706 (1)(a) (relating to compatible nonuse);

(b) In the case of nonexclusive farm use zone farmland, under ORS 308A.089 (relating to requalification during first year of disqualification), 308A.116 (4) (relating to subdivision), 308A.122 (relating to abatement for failure to meet income requirements) or 308A.706 (1)(a) (relating to compatible nonuse); and

(c) Under ORS 308A.706 (1)(d) (relating to change in special assessment). [1999 c.314 §13]

308A.089 Requalification of disqualified nonexclusive farm use zone farmland; fee. (1) Notwithstanding ORS 308A.724, land that was nonexclusive farm use zone farmland and that has been disqualified by the county assessor from farm use special assessment for the reason that the land is no longer in farm use as described under ORS 308A.116 (1)(c) may be requalified for farm use special assessment for the first year in which the disqualification is in effect.

(2) Disqualified farmland may requalify for special assessment under this section upon compliance with the following:

(a) The owner shall make application for requalification to the county assessor on or before December 15 of the tax year for which the disqualification is first in effect.

(b) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor.

(c) The application shall contain the information necessary to determine that the property meets the requirements of ORS 308A.071 and the other requirements for property to receive a farm use special assessment under ORS 308A.050 to 308A.128.

(d) The application shall be signed by the owner and shall be accompanied by a filing fee of:

(A) $1 for each $1,000 (or fraction of $1,000) of real market value of the property as determined under ORS 308.232.

(B) Not less than $10 or more than $250.

(e) There shall be annexed to each application for requalification the affidavit or affirmation of the applicant that the statements contained therein are true.

(3) Upon receipt of the application, the county assessor shall determine if the property meets the requirements of ORS 308A.071 and the other requirements for farm use special assessment under ORS 308A.050 to 308A.128 for the year in which the disqualification is first in effect.

(4) Upon approval of the application the county assessor shall notify the officer in charge of the assessment and tax roll of the requalification for special assessment under ORS 308A.068. The officer shall correct the current assessment and tax roll to reflect the special assessment, as provided under ORS 311.205 (1)(e).

(5) Upon disapproval of the application, the county assessor shall notify the owner of the application's disapproval and the land's continued disqualification. If notice of disapproval is not mailed prior to April 15 of the tax year, the application shall be considered approved.

(6) As used in this section, "owner" means the person or persons entitled to file for special assessment under ORS 308A.077 (2)(b). [Formerly 308.392]

(Valuation)

308A.092 Establishing value for farm use; procedure. (1) This section and ORS 308A.095 set forth the procedures by which the values for farm use are established for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The values for farm use of farmland shall be determined utilizing an income approach. In utilizing the income approach, the capitalization rate shall be the effective rate of interest charged in Oregon by the Federal Farm Credit Bank system at the time of closing on loans for farm properties estimated as an average over the past five reported calendar years, plus a component for the local tax rate. The Department of Revenue annually shall determine and specify the rate according to the best information available, and shall certify the rate to the county assessors.

(3) The county assessors shall develop tables for each assessment year that reflect, for each class and area, the values determined under this section and that express the values as values per acre. [Formerly 308.345]

308A.095 County board of review to advise assessor on income-approach factors. (1) Income-approach factors being utilized by a county assessor in arriving at the values for farm use of farmland under ORS 308A.092 shall be submitted by the county assessor to a county board of review. The board of review shall advise the county assessor as to whether the factors being so utilized are proper under ORS 308A.092.

(2) The county board of review shall consist of:

(a) Two members appointed by the county court sitting for the transaction of county business, board of county commissioners or other county governing body of the county.

(b) Two members appointed by the county assessor.

(c) One member appointed by the four members appointed as provided in paragraphs (a) and (b) of this subsection, who shall serve for a term of one year.

(3) Each member of the county board of review appointed under subsection (2)(a) and (b) of this section shall serve for a term ending two years after the date of the expiration of the term for which the predecessor of the member was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(4) Members of the county board of review must be persons knowledgeable and experienced in farmland values.

(5) Members of the county board of review shall be reimbursed by the county for their actual and necessary expenses incurred in the performance of their functions as members. [Formerly 308.350]

308A.098 County board of property tax appeals use of assessor's data. Data utilized by a county assessor in arriving at the values for farm use of farmland under ORS 308A.092 shall be made available by the county assessor to the county board of property tax appeals in the event of any consideration of a petition involving the assessed value of farmland by the board of property tax appeals under ORS 309.100. [Formerly 308.355]

308A.101 Department of Revenue declaratory rulings; judicial review. Any group or organization representing owners of farm properties may petition the Department of Revenue under ORS 305.105 for a declaratory ruling with respect to rules promulgated under ORS 308A.092 and 308A.095 and may obtain judicial review of the declaratory ruling in the manner provided by ORS 305.445. [Formerly 308.360]

308A.104 Construction of provisions governing value for farm use. ORS 308A.092 and 308A.095 shall be construed liberally to effectuate their intended purpose. However, except as expressly provided and to the extent necessary to carry out their terms, nothing contained in ORS 308A.092 and 308A.095 shall be construed to alter or modify, by implication or otherwise, any of the tax laws of this state. [Formerly 308.365]

308A.107 Maximum assessed value and assessed value of farmland. (1) The value for farm use, maximum assessed value and assessed value shall be determined under this section for both:

(a) Exclusive farm use zone farmland that qualifies for special assessment under ORS 308A.062; and

(b) Nonexclusive farm use zone farmland that qualifies for special assessment under ORS 308A.068.

(2) The value for farm use for each property subject to special assessment under this section shall equal the applicable value derived from the tables created pursuant to ORS 308A.092 for the tax year multiplied by the acreage of the property within the applicable class and area.

(3)(a) The maximum assessed value for property subject to special assessment under this section shall be determined as provided in this subsection.

(b) The county assessor shall develop tables for each tax year that provide, for each class and area, a maximum assessed value per acre that is equal to 103 percent of the assessed value per acre for the preceding tax year or 100 percent of the maximum assessed value per acre for the preceding tax year, whichever is greater.

(4) Property subject to special assessment under this section shall have an assessed value for the tax year equal to the lesser of the value per acre applicable to the property under subsection (2) of this section or under subsection (3) of this section and multiplying the value by the acreage of the property within the applicable class and area.

(5) If property subject to special assessment under this section consists of different classes, the assessed value of the property shall be the sum of the assessed values computed for each applicable class under subsection (4) of this section.

(6) Property that newly qualifies for farm use special assessment shall, for the first tax year for which the special assessment applies, have:

(a) A value for farm use as determined under subsection (2) of this section;

(b) A maximum assessed value as determined under the tables developed under subsection (3) of this section; and

(c) An assessed value as determined under subsections (4) and (5) of this section. [1999 c.314 §20; 2001 c.912 §5]

Note: Section 6, chapter 912, Oregon Laws 2001, provides:

Sec. 6. The amendments to ORS 308A.107 by section 5 of this 2001 Act apply to tax years beginning on or after July 1, 2002. [2001 c.912 §6]

308A.110 Real property improvements and machinery not subject to farm use assessment. Except for property that is exempt or specially assessed under other provisions of law, real property improvements and machinery or other personal property on, attached to or in any other respect connected with property subject to assessment under ORS 308A.050 to 308A.128, including property used in operations that constitute farm use operations, shall have an assessed value determined under ORS 308.146. Real property improvements and machinery and personal property may not be assessed as provided in ORS 308A.050 to 308A.128. [1999 c.314 §21]

(Disqualification)

308A.113 Disqualification of exclusive farm use zone farmland. (1) Land within an exclusive farm use zone shall be disqualified from special assessment under ORS 308A.062 by:

(a) Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as farmland;

(b) Removal of the land from any exclusive farm use zone; or

(c) Establishing a nonfarm dwelling on the land under ORS 215.236.

(2) Notwithstanding subsection (1)(a) of this section, the county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:

(a) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780.

(3)(a) Notwithstanding ORS 308.210, 308A.062, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.

(b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.

(4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.397]

308A.116 Disqualification of nonexclusive farm use zone farmland. (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS 308A.068 shall be disqualified from such special assessment upon:

(a) Notification by the taxpayer to the assessor to remove the special assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(c) Removal of the special assessment by the assessor upon the discovery that the land is no longer in farm use for failure to meet the income requirements under ORS 308A.071 or is no longer in farm use; or

(d) The act of recording a subdivision plat under the provisions of ORS chapter 92.

(2) The county assessor shall not disqualify the land that has been receiving special assessment upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner if the land continues to be used solely for farm use.

(3) When, for any reason, the land or any portion thereof ceases to be used solely for farm use, the owner at the time of the change in use shall notify the assessor of the change prior to the next January 1 assessment date.

(4) If under subsection (1)(d) of this section, the county assessor disqualifies land for special assessment upon the act of platting the land, the land, or a part of the land, may be requalified for special assessment upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

(b) Submission by the owner of an application for special assessment under ORS 308A.077;

(c) Meeting all of the qualifications for farm use special assessment under ORS 308A.068; and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for farm use.

(5) The county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because:

(a) The effect of flooding substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780.

(6)(a) Notwithstanding ORS 308.210, 308A.068, 311.405 or 311.410, if disqualification occurs as a result of the discovery that the land is no longer in farm use, then, regardless of when during the assessment year discovery is actually made, disqualification by the county assessor shall occur as of the January 1 assessment date of the assessment year in which discovery is made.

(b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.

(7) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733. [Formerly 308.390]

308A.119 Abatement; termination of abatement. (1) If on January 1 of any year any farmland assessed under ORS 308A.068 has become disqualified for farm use special assessment because of any gross income or other requirement of ORS 308A.071, the collection of the additional taxes under ORS 308A.700 to 308A.733 shall be deferred, but only if each year for a period of five consecutive years (or such lesser number of years in which farm use assessment was in effect prior to disqualification) beginning on January 1 of the first year the land became so disqualified, the land is used as farmland (including, for the purposes of this section, the growing of forest products). As the limited use is continued and completed each year, additional taxes are abated on the basis of an abatement of one year's additional tax for each year of limited use beginning with the oldest year for which additional taxes are due for up to five years (or the number of years for which farm use assessment was in effect, whichever is less). Beginning on the January 1 the land became so disqualified the land shall be assessed at its assessed value under ORS 308.146 or as otherwise provided by law without regard to any special assessment laws.

(2) If at any time prior to the expiration of the five-year (or lesser) period specified in subsection (1) of this section the land is used for a higher and better use than farmland, the abatement process shall terminate, and there 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 tax) the additional taxes that still remain deferred and unabated under subsection (1) of this section.

(3) When land described in this section is used for a higher and better use than farmland during the five-year (or lesser) period described in subsection (1) of this section, the owner shall notify the county assessor before the following January 1 of the change in use.

(4) The amount determined to be due under this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370. [Formerly 308.404]

308A.122 Effect of requalification on abated taxes. If during the period specified in ORS 308A.119, the farmland again meets the gross income or other requirements of ORS 308A.071, the owner may apply to the assessor on or before April 1 of the next calendar year, in the manner provided in ORS 308A.077, for farm use special assessment. If satisfied that the requirements of ORS 308A.071 have been met, the assessor shall restore farm use special assessment to the land. The potential additional taxes for all years not already abated under ORS 308A.119

shall continue as a potential liability against the land under ORS 308A.119 and 308A.706, except that each oldest year of potential liability shall abate as the total of all other years of potential additional tax liability for prior years reaches five. [Formerly 308.406]

308A.125 Historic cemeteries within exclusive farm use zones; partition; effect of disqualification. Any land that has received special assessment as exclusive farm use zone farmland, has been used as a cemetery at any time between 1810 to 1950, contains fewer than 50 marked graves, is less than one acre in size and was issued a patent, whether recorded or unrecorded, before 1900 may be partitioned from a parcel that shall continue to qualify for special assessment. The parcel that continues in special assessment and the partitioned cemetery shall not be subject to the provisions of ORS 308A.703 as a result of partitioning under this section. [Formerly 308.400]

308A.128 Certain district assessments inapplicable to exclusive farm use zone farmland. (1) Except as otherwise provided in subsection (2) of this section, the assessments and levies of the following taxing units and special districts shall not be imposed while land is qualified for special assessment as exclusive farm use zone farmland under ORS 308A.062:

(a) Sanitary districts formed under ORS 450.005 to 450.245.

(b) Domestic water supply districts formed under ORS chapter 264.

(c) Water authorities, sanitary authorities or joint water and sanitary authorities formed under ORS 450.600 to 450.989.

(2) Subsection (1) of this section does not apply to:

(a) Benefit assessments or special ad valorem tax levies imposed upon homesites situated within a parcel of farm use land. As used in this paragraph, “homesite” means not more than one acre of land upon which are constructed nonfarm dwellings and appurtenances; or

(b) Benefit assessments or special ad valorem tax levies imposed subsequent to disqualification of lands for farm use special assessment under ORS 308A.062. [Formerly 308.401]

FARM AND FOREST HOMESITES

308A.250 Definitions for ORS 308A.250 to 308A.259. As used in ORS 308A.250 to 308A.259:

(1) “Exclusive farm use zone” has the meaning given that term in ORS 308A.053.

(2) “Forestland” means forestland that is a parcel of land of more than 10 acres that has been zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest use and that is, as of the assessment date for which value for the forest homesite is being determined:

(a) Land that has as its highest and best use the growing and harvesting of trees of a marketable species;

(b) Land that has been designated as forestland under ORS 321.257 to 321.390 or 321.805 to 321.825; or

(c) Land that has been classified under ORS 321.705 to 321.765.

(3) “Homesite” means land described in ORS 308A.253, including all tangible improvements to the land under and adjacent to a dwelling and other structures, if any, that are customarily provided in conjunction with the dwelling.

(4) “Nonexclusive farm use zone farmland” has the meaning given that term in ORS 308A.053.

(5) “Owner” or “owners” means:

(a) The person who holds an estate in the homesite in fee simple or for life.

(b) Any one of tenants in common or tenants by the entirety, holding an estate in the homesite in fee simple or for life.

(c) Any person of legal age, duly authorized in writing to act on behalf of any person described in paragraph (a) or (b) of this subsection in filing an application for special assessment of nonexclusive farm use zone farmland.

(d) The guardian or conservator of an owner, or the executor or administrator of an owner’s estate.

(e) The purchaser of the fee simple or life estate of an owner under a contract of sale. [1999 c.314 §29]

308A.253 Qualification of homesites. (1) Land under a dwelling that is used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species shall qualify for special assessment under ORS 308A.256.

(2) Land under dwellings located within an exclusive farm use zone and used in conjunction with farm use shall qualify for special assessment under ORS 308A.256.

(3) Land under dwellings used in conjunction with the farm use of nonexclusive farm use zone farmland shall

qualify for special assessment under ORS 308A.256 if the farmland was operated as a part of a farm unit that produced more than one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this section.

(4) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling "in conjunction with the activities customarily carried on in the management and operation of forestland" includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the forestland, is occupied by an employee of the owner of forestland who is employed in connection with the forest operation or is occupied by a person who is involved in the forest operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the forest operation but:

(A) Whose principal source of income is derived from the harvest of timber from the forestland on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the forest operation, during the five consecutive tax years before the tax year in which engagement in the forest operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the forest operation ended. For purposes of this subparagraph, "continuous" includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(5) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling "in conjunction with farm use" of farm use land includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the farm use land, is occupied by an employee of the owner of farm use land who is employed in connection with the farming operation or is occupied by a person who is involved in the farming operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the farm operation on the farm use land but:

(A) Whose principal source of income is from the farm operation on the farm use land on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the farm operation, during the five consecutive tax years before the tax year in which engagement in the farm operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the farm operation ended. For purposes of this subparagraph, "continuous" includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(6)(a) In order for land described in subsection (3) of this section to qualify for assessment under ORS 308A.250 to 308A.259, the owner or owners shall file an application with the county assessor on or before April 15 of each year the assessment is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the assessor and shall include any information as may be reasonably required to determine the entitlement of the applicant, including copies of applicable state income tax returns. All information provided, including determinations made under administrative and court proceedings where entitlement is in issue, shall be confidential information of the assessor's office and shall be used only for purposes of this subsection.

(b) There shall be attached to each application an affidavit or affirmation from the applicant providing that the statements contained in the application are true. [Formerly 308.376]

308A.256 Maximum assessed value and assessed value of homesites. (1) The maximum assessed value and assessed value of a homesite shall be determined as provided in this section.

(2) A homesite shall have an assessed value for ad valorem property tax purposes for the assessment year equal to the lesser of the homesite's maximum assessed value or homesite value.

(3) The homesite value for purposes of ORS 308A.250 to 308A.259 shall equal the real market value of the bare land of the total parcel and contiguous acres under same ownership, as determined under ORS 308.205, divided by the number of acres in the total parcel and contiguous acres under the same ownership, plus the lesser of:

(a) $4,000; or

(b) The depreciated replacement cost of land improvements necessary to establish the homesite.

(4) For the purposes of establishing a homesite value, the value of one acre of land for each homesite, as determined in subsection (3) of this section shall be used.

(5) The homesite's maximum assessed value shall equal 103 percent of the property's maximum assessed value for the previous assessment year.

(6) For the first assessment year for which property constitutes a homesite under this section, the homesite's maximum assessed value shall equal the homesite's value as determined under subsection (3) of this section multiplied by the ratio of average maximum assessed value to real market value of the residential property class in the county. [Formerly 308.377]

308A.259 Disqualification of homesite. (1) A homesite shall be disqualified from assessment under ORS 308A.256 and shall be assessed at the assessed value under ORS 308.146 if the dwelling:

(a) Is not being used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species; or

(b)(A) Is not being used in conjunction with farm use; and

(B) Is used for a nonfarm purpose; however, vacancy does not constitute a change in use.

(2) If a homesite becomes disqualified from special assessment under the provisions of subsection (1) of this section, except for establishing a nonfarm dwelling pursuant to ORS 215.236, no additional tax shall be imposed following disqualification. The remaining qualifying portion of the parcel shall be valued as specially assessed.

(3) If the owner establishes a nonfarm dwelling in an exclusive farm use zone under ORS 215.236, additional taxes shall be imposed as provided in ORS 308A.700 to 308A.733. [Formerly 308.378]

OPEN SPACE LANDS

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. (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 assessment 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 maximum assessed value for the previous assessment year.

(4)(a) For the first assessment 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]

308A.318 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional potential taxes. (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. [Formerly 308.770]

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 from owner to assessor; effect of failure to make report upon request. The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners of land classified under ORS 308A.300 to 308A.330 as to the use of the same. If the owner shall fail, after 90 days' notice in writing by certified mail to comply with such demand, the assessor may immediately withdraw the land from classification, 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]

308A.330 Rules. The Department of Revenue of the State of Oregon shall make such rules and regulations consistent with ORS 308A.300 to 308A.330 as shall be necessary or desirable to permit its effective administration. [Formerly 308.790]

RIPARIAN HABITAT EXEMPTION

308A.350 Definitions for ORS 308A.350 to 308A.383. As used in ORS 308A.350 to 308A.383:

(1) "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" means the contract vendee under a recorded contract.

(2) "Department" means the State Department of Fish and Wildlife.

(3) "Designated riparian land" means the beds of streams, the adjacent vegetation communities, and the land thereunder, which are predominantly influenced by their association with water, not to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately owned and which qualify for exemption under ORS 308A.350 to 308A.383.

(4) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3). [Formerly 308.792]

308A.353 Policy. The Legislative Assembly declares that it is in the best interest of the state to maintain, preserve, conserve and rehabilitate riparian lands to assure the protection of the soil, water, fish and wildlife resources of the state for the economic and social well-being of the state and its citizens. The Legislative Assembly declares that riparian habitat maintained in a healthy condition is a legitimate land use that contributes to erosion control, improved

water quality and prolonged streamflow. The Legislative Assembly further declares that it is in the public interest to prevent the forced conversion of riparian environments to more intensive uses as a result of economic pressures caused by the assessment of those lands for purposes of property taxation at values incompatible with their protection as riparian lands and that tax exemption must be granted to permit the continued availability of riparian environments for these purposes, and it is the intent of ORS 308A.350 to 308A.383 to so provide. [Formerly 308.793]

308A.356 Application for exemption as riparian land; contents; notice after sale or transfer. An owner of land desiring designation and exemption of that land from ad valorem taxation as riparian land under ORS 308A.350 to 308A.383 shall make application to the county assessor upon forms prescribed by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which designation as riparian lands is requested and the current use of the land. The application shall include any other information as is reasonably necessary to properly designate an area of land as riparian land under ORS 308A.350 to 308A.383 with a verification of the truth thereof. Applications to the county assessor shall be made on or before December 31 of the calendar year preceding the first tax year for which such designation is requested. The county assessor shall notify the State Department of Fish and Wildlife if a recorded sale or transfer of the land granted exemption under ORS 308A.350 to 308A.383 occurs for the purpose of determining continued eligibility of the land for the exemption. The State Department of Fish and Wildlife shall notify the county assessor in writing of the finding within 120 days after the date the county assessor's notice is mailed or delivered. Failure of the assessor to notify the State Department of Fish and Wildlife shall not prevent the imposition of the additional tax prescribed by ORS 308A.368 (2). [Formerly 308.794]

308A.359 Standards and criteria for exemption; determination; exemption limited to certain lands. (1) The State Department of Fish and Wildlife shall develop standards and criteria for the designation of land as riparian. Upon the receipt of an application referred to it by the county assessor, the department shall determine if the land described in the application is qualified for designation as riparian.

(2) The department shall review riparian management plans submitted by applicants to assure compliance with the intent of ORS 308A.353. Standards and criteria to be used to determine consistency with the intent of ORS 308A.350 to 308A.383 shall be developed by the department and shall be reviewed by the department annually. These criteria shall be in addition to the following provisions limiting participation under ORS 308A.350 to 308A.383:

(a)(A) Subject to subparagraph (B) of this paragraph, and except as provided in subparagraph (C) of this paragraph, only lands planned and zoned as forest or agricultural lands, including rangeland, in compliance with the statewide planning goals adopted under ORS 197.240 and outside adopted urban growth boundaries shall qualify.

(B) Lands that, as of July 1, 1997, are outside adopted urban growth boundaries and also as of that date are planned and zoned as forest or agricultural lands, including rangeland, in compliance with the statewide planning goals adopted under ORS 197.240 qualify, for tax years beginning on or after July 1, 1998, for riparian designation if they are managed in the manner provided for designated riparian lands and are otherwise eligible for riparian designation under ORS 308A.350 to 308A.383 even though the lands are no longer outside adopted urban growth boundaries or planned or zoned as forest or agriculture.

(C) Lands within the boundaries of a city and an urban growth boundary, if the city and county governing bodies have authorized the exemption under ORS 308A.360, may qualify if the lands are managed in the manner provided for riparian designation under ORS 308A.350 to 308A.383.

(b) Land management activities permitted within designated riparian lands shall be consistent with the intent of ORS 308A.350 to 308A.383.

(3) Land that the State Department of Fish and Wildlife determines may qualify for designation as riparian shall be approved by the department for designation and exemption under ORS 308A.350 to 308A.383 only if the owner of the land has developed and implemented, in accordance with the standards adopted under subsections (1) and (2) of this section, adequate measures for:

(a) The continued protection of the land; or

(b) Techniques for rehabilitation of the riparian land and those measures or techniques are approved by the department.

(4) The department may approve the application for designation of land as riparian with respect to only part of the land that is the subject of the application, but if any part of the application is denied, the applicant may withdraw the entire application. [Formerly 308.795; 2001 c.925 §7]

Note: Section 9, chapter 925, Oregon Laws 2001, provides:

Sec. 9. Section 6 of this 2001 Act [308A.360] and the amendments to ORS 308A.359 and 308A.362 by sections 7

and 8 of this 2001 Act apply to tax years beginning on or after July 1, 2002. [2001 c.925 §9]

308A.360 City and county authorization required for exemption of riparian land within city and urban growth boundary. (1) Land located within the boundaries of a city and an urban growth boundary is exempt from the ad valorem property taxes of the city and county in which the land is located if:

(a) The governing bodies of the city and the county in which the land is located have both adopted ordinances or resolutions:

(A) Permitting the designation of land as riparian land; and

(B) If possible, describing how the city or county will provide technical assistance to landowners preparing riparian management plans pursuant to ORS 308A.359 and will monitor landowner compliance with approved plans; and

(b) The land qualifies for designation and exemption as riparian land under ORS 308A.350 to 308A.383.

(2) Copies of the authorizing ordinances or resolutions must be given to the county assessor and to the State Department of Fish and Wildlife. [2001 c.925 §6]

Note: See note under 308A.359.

308A.362 Approval or disapproval of application; limitation on approval; order; notice; exemption; potential additional taxes. (1) The State Department of Fish and Wildlife shall immediately notify the county assessor and the applicant of its approval or disapproval of an application which shall in no event be later than April 1 of the year following the year of receipt of the application. Subject to subsection (2) of this section and the mileage limitation of ORS 308A.380, an application not denied by April 1 shall be deemed approved, and the land that is the subject of the application shall be considered to be land that qualifies under ORS 308A.359.

(2) An application for land described in ORS 308A.359 (2)(a)(B) shall be approved only if filed on or before five years after the date the land became land no longer outside adopted urban growth boundaries or planned or zoned as forest or agricultural land.

(3) An application for land described in ORS 308A.360 (1) may be approved only if ordinances or resolutions authorizing the exemption have been adopted by the city and county in which the land is located and these ordinances or resolutions are in effect on the date of application.

(4) The department may not approve more than 50 applications for land described in ORS 308A.360 (1) for any tax year. An application that is not approved because of the limitation imposed by this subsection shall be held for consideration for the next tax year.

(5)(a) When the department approves land for designation as riparian under ORS 308A.359, it shall enter an order of approval and file a copy of the order with the county assessor within 10 days. Upon receipt of the order, the county assessor shall enter a notation on the assessment roll that the land described in the order is exempt from ad valorem taxation.

(b) If the land is as described in ORS 308A.360 (1), the exemption shall apply only to the ad valorem property taxes of the city and county that have authorized the exemption.

(6) On approval of an application filed under ORS 308A.356, for each year of designation the assessor shall indicate on the assessment and tax roll that the property is exempt from taxation as riparian land or, in the case of land described in ORS 308A.360 (1), partially exempt from taxation. The assessor shall also indicate on the tax roll that the land is subject to potential additional taxes as provided by ORS 308A.368, by adding the notation “designated riparian land (potential add’l tax).”

(7) Any owner whose application for designation has been denied may appeal to the department under the provisions of ORS 183.310 to 183.550 governing contested cases. [Formerly 308.796; 2001 c.925 §8]

Note: See note under 308A.359.

308A.365 Duration of exemption; change in use; withdrawal at request of owner. (1) When land has once been designated as riparian under ORS 308A.350 to 308A.383, it shall remain under that designation and it shall not be applied to any use other than those specifically included in the management plan or consistent with the intent of ORS 308A.350 to 308A.383 unless withdrawn from designation as provided in subsection (2) of this section.

(2) During any year after designation, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which the land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from designation as riparian and shall immediately give written notice of the

withdrawal to the State Department of Fish and Wildlife. [Formerly 308.797]

308A.368 Additional taxes upon withdrawal from riparian land designation; computation. (1) When land that has been designated as exempt from taxation under ORS 308A.350 to 308A.383 as riparian is applied to some use other than that compatible with riparian use, as defined in the management plan, except through compliance with ORS 308A.365 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days after the change in use notify the county assessor of the change in use. The assessor or assessors shall withdraw the land from designation and immediately give written notice of the withdrawal to the State Department of Fish and Wildlife. Thereafter, the land shall be assessed and taxed as other property similarly situated is assessed and taxed.

(2) The assessor, upon discovery of the change in use to a use other than that compatible with riparian or upon withdrawal by the owner of the land from designation, shall compute an additional tax equal to the difference between the taxes assessed against the land and the taxes that otherwise would have been assessed against the land had the land not received exemption for each of the last five years (or such lesser number of years, corresponding to the number of years of exemption under ORS 308A.350 to 308A.383 applicable to the property after its most recent change of ownership) preceding the tax year in which the land was withdrawn from designation. [Formerly 308.798]

308A.371 Additional taxes; payment; collection. (1) The amount determined to be due under ORS 308A.368 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.368 shall be added to the tax extended against the entire parcel of land of which the riparian land is a part 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 308.799]

308A.374 Reports from owners; request after exemption granted for determination of continued qualification. (1) The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners of land designated as riparian under ORS 308A.350 to 308A.383 as to the use of the same. If the owner fails, after 90 days' notice in writing by certified mail to comply with such demand, the assessor shall give written notice to the State Department of Fish and Wildlife and to the landowner of the assessor's intention to withdraw the land from designation and apply the payments and penalties provided in ORS 308A.368 not less than 30 days prior to automatic withdrawal of the riparian land from designation. If, prior to the expiration of the 30-day period, the landowner fails to file the requested report, the assessor immediately shall withdraw the land from designation and apply the payments and penalties provided in ORS 308A.368.

(2) If the assessor has reason to believe that land designated as riparian land no longer qualifies for designation and special assessment, the assessor shall request the State Department of Fish and Wildlife to determine if the land continues to qualify. The request shall be in writing. Upon receipt of the request, the State Department of Fish and Wildlife shall inspect the property and may take whatever steps are necessary to determine if the land continues to qualify for special assessment. The State Department of Fish and Wildlife shall notify the assessor of the determination made pursuant to the request of the assessor within 120 days after the request is received. A determination by the State Department of Fish and Wildlife that the property no longer qualifies shall constitute a discovery described in ORS 308A.368 (2). [Formerly 308.800]

308A.377 Abatement of additional tax when farm, forest or open space land designated riparian. (1) Land may be designated as riparian upon application and approval of the application under ORS 308A.356 and 308A.359 if the land is being assessed under any of the following special assessment programs:

(a) ORS 308A.050 to 308A.128 (relating to farm use special assessment).

(b) ORS 321.347, 321.348, 321.353, 321.358 and 321.359 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.825 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.705 to 321.765 (relating to classification as Western Oregon Small Tract Optional Tax forestland).

(e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

(2) Notwithstanding the provisions of any of the special assessment laws listed in subsection (1) of this section, the additional taxes, penalties and interest that would be due as a result of a change of designation to riparian shall be abated and shall not be collected. [Formerly 308.801]

308A.380 Limitation on amount of land that may be exempt as riparian land. (1)(a) For the tax years

beginning prior to July 1, 2004, the department may approve for designation as riparian land not more than 200 miles of private streambank in any county.

(b) The land approved for designation as riparian land under this subsection each year shall be in addition to, and not restricted by, the approval of designation of land as riparian during the previous year. However, the department may, in addition, approve for designation as riparian land each year an amount of land equal to the amount of land withdrawn from, or disqualified for, designation as riparian land during the previous year, and, an amount of land equal to the difference between the amount of land approved for designation as riparian land during the previous years and the maximum established under paragraph (a) of this subsection.

(2) If the department receives applications for designation of land as riparian in excess of the maximum established under subsection (1) of this section, preference shall be afforded according to the date the application was filed with the county assessor. Applications which are not approved because the maximum has been reached shall be held for consideration for approval for the next tax year. [Formerly 308.802]

308A.383 Rules. The Department of Revenue and the State Department of Fish and Wildlife shall make such rules consistent with ORS 308A.350 to 308A.383 as may be necessary or desirable to permit its effective administration. [Formerly 308.803]

ADDITIONAL TAXES, PROCEDURES APPLICABLE TO CERTAIN LAND SPECIAL ASSESSMENT PROGRAMS

(Additional Taxes)

308A.700 Definitions for ORS 308A.700 to 308A.733. As used in ORS 308A.700 to 308A.733:

(1) “Disqualification” includes the removal of forestland designation under ORS 321.359 or 321.820 or the declassification from Western Oregon Small Tract Optional Tax classification under ORS 321.760.

(2) “Urban growth boundary” means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district under ORS 268.390 (3). [1999 c.314 §33]

308A.703 Additional taxes upon disqualification; further amounts upon declassification of certain small tract forestland. (1) This section applies to land upon the land’s disqualification from special assessment under any of the following sections:

(a) Exclusive farm use zone farmland under ORS 308A.113;

(b) Nonexclusive farm use zone farmland under ORS 308A.116;

(c) Western Oregon designated forestland under ORS 321.359;

(d) Eastern Oregon designated forestland under ORS 321.820;

(e) Western Oregon Small Tract Optional Tax classification under ORS 321.760; or

(f) Wildlife habitat open space use assessment under ORS 215.808.

(2) Following a disqualification listed in subsection (1) of this section, an additional tax shall be added to the tax extended against the land on the next assessment and tax roll, to be collected and distributed in the same manner as other ad valorem property tax moneys. The additional tax shall be equal to the difference between the taxes assessed against the land and the taxes that would otherwise have been assessed against the land, for each of the number of years determined under subsection (3) of this section.

(3) The number of years for which additional taxes shall be calculated shall equal the lesser of the number of consecutive years the land had qualified for the special assessment program for which disqualification has occurred or:

(a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately following disqualification, remains outside an urban growth boundary;

(b) Ten years, in the case of wildlife habitat open space use assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary; or

(c) Five years, in the case of:

(A) Nonexclusive farm use zone farmland;

(B) Western Oregon designated forestland;

(C) Eastern Oregon designated forestland;

(D) Western Oregon Small Tract Optional Tax classified forestland;

(E) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection; or

(F) Wildlife habitat open space use special assessment land that is not described in paragraph (b) of this subsection.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) If the disqualification of the land is the result of the sale or transfer of the land to an ownership making the land exempt from ad valorem property taxation, the lien for additional taxes shall attach as of the day preceding the sale or transfer.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

(7) If additional taxes are imposed under this section as a result of the declassification of Western Oregon Small Tract Optional Tax classified forestland, the following amounts shall be added to and considered a part of the additional taxes otherwise due under this section, to be collected in the same manner in which additional taxes are collected:

(a) The amount of privilege taxes that would have been payable under ORS 321.257 to 321.322, during the five years immediately preceding the extension of additional taxes on the tax roll; and

(b) Interest on the amounts of taxes added pursuant to paragraph (a) of this subsection at the rate of six percent a year from the date at which such increased taxes would have been payable if the forestland had been valued without regard to ORS 321.720.

(8) The Department of Revenue shall provide the amounts described in subsection (7) of this section to the county assessor. [1999 c.314 §34; 2001 c.114 §21]

308A.706 Circumstances when additional taxes are deferred; potential additional tax liability. (1) Notwithstanding that land may have been disqualified from special assessment, the additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax liability if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:

(A) Is not being used as farmland; and

(B) Is not being used for industrial, commercial, residential or other use that is incompatible with a purpose to return the land to farm use.

(b) Acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body.

(c) Acquired and used for natural heritage purposes and all of the following additional requirements are met:

(A) The land is registered under ORS 273.581 as a natural heritage conservation area;

(B) The land is acquired by a private nonprofit corporation;

(C) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage elements of the area;

(D) If the land is retained by the corporation, it remains open to the public without charge for the uses described in subparagraph (C) of this paragraph; and

(E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

(d) Qualified for special assessment under:

(A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;

(B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone farmland;

(C) ORS 321.358, relating to classification as designated forestland in western Oregon;

(D) ORS 321.730, relating to classification as Western Oregon Small Tract Optional Tax forestland;

(E) ORS 321.815, relating to classification as designated forestland in eastern Oregon; or

(F) ORS 215.808, relating to wildlife habitat open space use assessment.

(e) Declassified Western Oregon Small Tract Optional Tax forestland that is considered to be western Oregon designated forestland under ORS 321.347 (4).

(f) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are deferred or abated as provided in ORS 308A.119.

(2) In any case where the additional tax is deferred under the provisions of this section but may subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the notation “potential additional tax

liability" on the assessment and tax roll. [1999 c.314 §35]

308A.709 Circumstances when additional taxes are not imposed. Notwithstanding that land may have been disqualified from special assessment, no additional taxes may be imposed under ORS 308A.703 if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

(1) Acquired by a governmental agency as a result of the lawful exercise of the power of eminent domain or the threat or imminence thereof.

(2) Acquired by purchase, agreement or donation under ORS 390.121 (relating to State Parks and Recreation Commission acquisitions).

(3) Acquired by a city, county, metropolitan service district created under ORS chapter 268 or park and recreation district organized under ORS chapter 266 for public recreational purposes or for the preservation of scenic or historic places.

(4) Acquired for wildlife management purposes under ORS 496.146.

(5) Public property that was leased or rented to a taxable owner as described in ORS 307.110 at the time of disqualification, and the reason for the disqualification was the termination of the lease under which the land was assessed.

(6) Land that ceases to be located within the boundaries of an exclusive farm use zone as the result of a change in the boundaries of the zone or removal of the zone following an action by the governing body of the county or city that:

(a) Was not requested or initiated by the owner of the land; or

(b) Was requested by:

(A) The State Parks and Recreation Department for public park purposes under ORS 390.121; or

(B) The State Fish and Wildlife Commission for wildlife management purposes under ORS 496.146.

(7) Declassified as Western Oregon Small Tract Optional Tax forestland under ORS 321.760 (1)(c) and (d) because:

(a) The State Forester has determined that the predominant use of the land is for the production of cultured Christmas trees; or

(b) Notwithstanding ORS 321.727, the land is transferred to an owner who, upon completion of the transfer, has a total ownership of forestland in western Oregon of less than 10 acres.

(8) Forestland acquired by a federal, state or local governmental agency. In the case of an acquisition described in this subsection, a lien for additional taxes and interest may not attach on the day preceding the day of transfer of the forestland to the governmental agency. [1999 c.314 §36; 1999 c.800 §1a]

308A.712 Determining amount of deferred additional taxes and period for which additional taxes are due. (1) If the disqualification of land from special assessment results in the deferral of additional taxes under ORS 308A.706:

(a) The amount of deferred additional taxes shall be determined as provided for in this section in lieu of ORS 308A.703; and

(b) The deferred additional taxes shall be added to the assessment and tax roll for the year in which the event described in subsections (2) to (6) of this section is first taken into account for property tax purposes, to be collected and distributed in the same manner as other ad valorem property taxes.

(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of farmland) and subsequently the land is changed to an industrial, commercial, residential or other use incompatible with a return of the land to farm use, then:

(a) The amount of additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the farm use special assessment was in effect for the land, not to exceed:

(A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of farm use zoning applicable to the property; or

(B) In the case of all other farmland disqualified from farm use special assessment, five tax years.

(3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government exchange of land), additional taxes shall be collected when the land acquired as a result of the exchange is disqualified from special

assessment. The additional taxes shall equal the total amount of additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to the governmental agency or body received the special assessment before the exchange plus the number of years, if any, the land acquired from the governmental agency or body received a special assessment after the exchange.

(b) The total number of years taken into account shall not exceed the maximum number of years for which additional taxes may be collected under the provision of law applicable to either the exchanged land (immediately before the exchange) or the acquired land, whichever is greater.

(4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to natural heritage), the additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

(5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the additional taxes that would have been collected at the time of disqualification shall be collected at the time the land is disqualified from any other special assessment law listed in ORS 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the land, not to exceed:

(A) Five tax years; or

(B) If the property had, within the past 10 tax years, been disqualified from a special assessment program described in ORS 308A.703 (3)(a) or (b) and had been continuously subject to special assessment, then 10 tax years. However, the number of continuous preceding years of special assessment under the special assessment programs listed in ORS 308A.703 (3)(c) that may be taken into consideration for purposes of computing the additional tax may not exceed five years.

(6) In determining the additional tax under subsection (5) of this section:

(a) The number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior to a disqualification of the land for special assessment as exclusive farm use zone farmland under the conditions described in ORS 308A.709 (6).

(b) The number of continuous preceding years of special assessment counted shall not include those years of special assessment under ORS 321.705 to 321.765 if the land was disqualified under the conditions described in ORS 308A.709 (7). [1999 c.314 §37]

308A.715 Imposition of deferred additional taxes upon request of owner. (1) Notwithstanding that additional taxes otherwise due under ORS 308A.703 are deferred under ORS 308A.706, the additional taxes may be imposed at any time after disqualification of the property from special assessment if the property owner so requests.

(2) A request for imposition of tax under this section shall be made in writing to the county assessor.

(3) If the request for imposition of tax under this section is made prior to August 15 of the assessment year, the additional tax shall be added to the current general property tax roll to be collected and distributed in the same manner as other real property tax. If the request for imposition of tax is made on or after August 15 of the assessment year, the additional tax shall be added to the next general property tax roll to be collected in the same manner as other ad valorem property taxes. [1999 c.314 §38]

(Disqualification Notification Procedures)

308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation. (1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

(a) Farm use special assessment under ORS 308A.050 to 308A.128.

(b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.

(c) Western Oregon designated forestland special assessment under ORS 321.347, 321.348, 321.353, 321.358 and 321.359.

(d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.825.

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

(A) ORS 308A.706 (1)(d) (relating to change in special assessment);

(B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);

(C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

(a) The result of a request for disqualification by the property owner; or

(b) Because the property is being acquired by a government or tax-exempt entity. [1999 c.314 §39]

308A.721 Assessor to determine additional taxes when certain small tract forestland is declassified. (1) Upon receipt of a notice of declassification of Western Oregon Small Tract Optional Tax forestland issued by the State Forester under ORS 321.760, the county assessor shall prepare a statement of the total amount of additional tax due under ORS 308A.703 as a result of the declassification.

(2) The assessor shall mail or deliver the statement described in this section to the owner within 30 days of the receipt of the notice of declassification from the State Forester. [1999 c.314 §40]

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates. (1)(a) In order for additional taxes imposed under ORS 308A.703 to be deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the owner must file an application or claim for classification under another special assessment law.

(b) If the disqualification is effective prior to July 1 in any year, the owner shall file the required claim or application on or before August 1 of that year.

(c) If the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current assessment and tax rolls, and the owner shall file the required claim or application in the next calendar year in accordance with the laws governing the particular special assessment program.

(2) If an owner of land disqualified under one of the special assessment laws listed in ORS 308A.706 (1)(d) seeks to qualify for farm use special assessment of nonexclusive farm use zone farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in which application is made under this section, to qualify for the two-year farm use requirement of ORS 308A.068 and the income requirement under ORS 308A.071.

(3) Notwithstanding subsection (1) of this section, an owner may make application under this section at any time within 30 days of the date notice of disqualification is sent by the assessor under ORS 308A.718 or declassification certification is made by the State Forester under ORS 321.760. [1999 c.314 §41]

308A.727 Change to open space use; additional taxes upon withdrawal; notification upon application. (1) Land specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) shall be changed to

open space use special assessment under ORS 308A.300 to 308A.330 if:

(a) Application for open space use special assessment is or has been made under ORS 308A.306;

(b) The land qualifies for open space use special assessment;

(c) The application for open space use special assessment is or has been approved under ORS 308A.309 and 308A.312;

(d) The open space use is for a golf course open to the general public with or without payment of fee or charge; and

(e) All or a portion of the land is within or is contiguous to an urban growth boundary.

(2) Land described in subsection (1) of this section shall not, upon the change from farm or forest use to open space use, be subject to any of the additional taxes ordinarily applicable when land specially assessed under one of the special assessment laws listed under ORS 308A.706 (1)(d) is disqualified, declassified or otherwise removed from such special assessment.

(3) When land that has been changed from special assessment as farm or forest land to open space use special assessment under subsections (1) and (2) of this section is later withdrawn or otherwise removed from open space use special assessment, all the provisions of ORS 308A.300 to 308A.330 shall apply except that there shall be added to the amount of additional taxes imposed under ORS 308A.318 or 308A.321 and computed under ORS 308A.312 (3), the amount of the additional taxes that, except for subsections (1) and (2) of this section, would have been added at the time of the change. However, in making the computation of the amount to be added under this subsection, the number of years specified in ORS 308A.703 shall be reduced by the number of continuous years of open space use special assessment in effect for the land pursuant to the change. At the time of the change to open space use and each year thereafter, the assessor shall determine and note upon the assessment and tax rolls the added amount of potential additional taxes, if any, that may become due under this subsection.

(4) For purposes of ORS 308A.324 and in construing any other provision of ORS 308A.300 to 308A.330, the amount of additional taxes added under subsection (3) of this section shall be treated as additional taxes imposed under ORS 308A.318 or 308A.321.

(5) Upon receipt of any application for open space use special assessment under ORS 308A.300 to 308A.330, the public official or agency shall notify the owner of the provisions of this section. [Formerly 321.795]

308A.730 Application for special assessment following acquisition of land through government exchange; amount of additional taxes following disqualification. (1) If land specially valued under ORS 308A.062, 308A.068, 321.257 to 321.390, 321.720 or 321.805 to 321.825 is acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body and the land acquired from the governmental agency or body is not farm use land located within an exclusive farm use zone or is not land, the highest and best use of which is the growing and harvesting of trees of a marketable species, the owner shall make application for special valuation as farm or forest land in the manner provided under ORS 308A.077, 321.358, 321.730 or 321.815, whichever is applicable, as follows:

(a) If the exchange takes place prior to July 1, the owner shall file the application on or before August 1.

(b) If the exchange takes place on or after July 1, the owner shall file the application on or before April 1 of the following year.

(2) Failure to file an application as required under this section, or failure to otherwise meet the qualification for special valuation under the special assessment law for which application is made shall disqualify the land under ORS 308A.703. However, the amount of additional taxes imposed upon the disqualification under this subsection shall be equal to those that would have been imposed against the land transferred to the governmental agency or body on account of the exchange were it not for ORS 308A.706 (1)(b).

(3) If an application filed under this section is for classification for farm use special assessment under ORS 308A.068, the owner shall have five years beginning with the first year of classification to meet the income requirements under ORS 308.372 and need not meet the two-year farm use requirements of ORS 308A.068.

(4) This section shall not apply to an exchange of forestland to which ORS 308A.706 (1)(b) (relating to governmental exchange) applies. [Formerly 308.373]

308A.733 Withdrawal of change of special assessment application. (1) Where any property has been granted special assessment for the purposes of property taxation under any of the special assessment laws listed in subsection (2) of this section, and the owner or other qualified person applies for a change in the classification under another special assessment law, the applicant shall have 30 days thereafter within which to withdraw the application, by giving

written notice to the public official or agency to whom the applicant applied for the change in classification. If no notice of withdrawal is given by the applicant, the application shall be acted upon and the change in classification made, as otherwise provided by law.

(2) This section applies to the following special assessment laws:

(a) ORS 308A.050 to 308A.128 (relating to special assessment at value for farm use).

(b) ORS 321.347, 321.348, 321.353, 321.358 and 321.359 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.825 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.705 to 321.765 (relating to classification as Western Oregon Small Tract Optional Tax forestland).

(e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

(f) ORS 308A.350 to 308A.383 (relating to designation as riparian land). [Formerly 308.025]

(Conservation Management; Effect on Disqualification)

308A.740 Legislative findings and declarations. (1) The Legislative Assembly finds that it is in the interests of the people of this state that certain private lands be managed in a sustainable manner for the purpose of maintaining the long-term ecological, economic and social values that these lands provide.

(2) The Legislative Assembly declares that it is the policy of this state to encourage landowners to manage private lands in a sustainable manner through tax policy, land use planning, education and technical and financial incentives.

(3) The Legislative Assembly further declares that it is the policy of this state not to impose additional taxes on property, commodities or income if a landowner voluntarily foregoes, limits or postpones economic uses of private land for conservation purposes.

(4) As used in this section, “conservation” means the management of land, water and natural resources for the purpose of meeting human and ecological needs in a sustainable manner. [2001 c.708 §2]

Note: See note under 308A.743.

308A.743 Disqualification limited when land subject to conservation and management plan, conservation easement or deed restriction; procedural requirements. (1) Land that is specially assessed under ORS 215.800 to 215.808, 308A.050 to 308A.128, 308A.300 to 308A.330, 321.257 to 321.390, 321.705 to 321.765 or 321.805 to 321.825, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may not be disqualified from the special assessment or exemption, and may not be subject to additional taxes under ORS 308A.700 to 308A.733, if the property owner has:

(a) Entered into a wildlife habitat conservation and management plan, as described in ORS 215.800 to 215.808, approved by the State Department of Fish and Wildlife; or

(b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the land:

(A) Is managed in compliance with the conservation easement or deed restriction; and

(B) Continues to meet the requirements for special assessment or exemption. The existence of the conservation easement or deed restriction may not cause the disqualification of the land from special assessment or exemption or preclude the disqualification of the land from special assessment or exemption for some other reason.

(2) A property owner who executes a conservation easement may convey the easement to a land trust or other qualified entity without a loss of benefits under this section.

(3) In order for land to be subject to this section:

(a) The conservation easement, deed restriction or wildlife habitat conservation and management plan must be recorded in the records of the clerk of the county in which the land is located; and

(b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and management plan, along with the property tax account number for the land, must be sent to the county assessor. [2001 c.708 §3]

Note: Section 5, chapter 708, Oregon Laws 2001, provides:

Sec. 5. Sections 2 and 3 of this 2001 Act [308A.740 and 308A.743] apply to tax years beginning on or after July 1, 2002. [2001 c.708 §5]