

Exhibit B

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3.40.020 Purpose and Intent

- A. It is in the best interest of the County to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, to preserve historic resources for future generations to enjoy and learn from, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the County and its citizens. Additionally, it is in the County's interest to provide incentives that encourage the retention of open space in compliance with Growth Management Act principles.
- B. It is the intent of this chapter to implement RCW Chapter 84.34, as amended, by establishing procedures, rules, and fees for the consideration of applications for Public Benefit Rating System assessed valuation on "open space land" as defined in RCW 84.34.020. The provisions of RCW Chapter 84.34, and the regulations adopted thereunder shall govern the matters not expressly covered in this chapter. It is not the intent of this chapter that open space classifications become the basis of land use zoning classifications, or that owners of open space property that has been previously approved for current use assessment prior to the adoption of the Public Benefit Rating System be adversely affected.

3.40.030 Operation of the County Public Benefit Rating System for Open Space Lands

Rating system. To be eligible for open space classification under the County's Public Benefit Rating System, property must contain one or more open space resource listed below. These resources are defined in this chapter and ranked as high, medium or low priority open space resources. High priority open space resources receive five (5) points each, medium priority open space resources receive three (3) points each, and low priority open space resources receive one (1) point each. Properties can receive a maximum of thirty (30) points from no more than six (6) open space priority resources. In addition, bonus points and super bonus points may be awarded pursuant to this chapter and a property can achieve a maximum of fifty-seven (57) points through the rating system and the bonus system. Portions of property may also qualify for open space designation.

- A. **High priority open space resources** – five (5) points each:
 - 1. Resource and Rural Agricultural Lands
 - 2. Rural Forest Lands/Woodlots
 - 3. Privately Owned Trails and Corridors
 - 4. Natural Shoreline Environments
 - 5. Significant Fish & Wildlife Habitat Conservation Areas, Special Plant Sites, and Category "A" or "B" Wetlands

6. Designated Historic Structures and Properties within Ebey's Landing National Historic Reserve
 7. Historic Landmarks/Archeological Sites
 8. Private Lands Within Designated National Reserves
- B. Medium priority open space resources - three (3) points each;**
1. Conservancy Shoreline Environments
 2. Flood Hazard Buffer Areas
 3. Geologic Hazard Buffer Areas
 4. Scenic Natural Resources, Viewpoints, and View Corridors
 5. Urban Growth Area Open Space
 6. Public Lands Buffer
 7. Category "C" or "D" Wetlands
- B. Medium priority open space resources - three (3) points each;**
1. Conservancy Shoreline Environments
 2. Flood Hazard Buffer Areas
 3. Geologic Hazard Buffer Areas
 4. Scenic Natural Resources, Viewpoints, and View Corridors
 5. Urban Growth Area Open Space
 6. Public Lands Buffer
 7. Category "C" or "D" Wetlands
- C. Low priority open space resources - one (1) point each;**
Artificial or Category "E" Wetlands.
- D. Bonus system.** Properties qualifying in the specific high, medium, or low priority open space resource categories may receive up to twenty-seven (27) bonus points if the following additional qualifications are met:
1. Public priority - five (5) points.
 2. Voluntary Resource or Critical Area restoration - five (5) points.
 3. Bonus surface water quality buffer – one (1), three (3), or five (5) points.
 4. Contiguous parcels under separate ownership three (3) points per contiguous parcel.
 5. Conservation/historic/trail easement in perpetuity – five (5) points.
 6. Properties with an approved Rural Stewardship Plan – five (5) points.

- E. **Bonus Historic Preservation and Restoration points.** Properties that meet the criteria of ICC 3.40.030.A.6 may receive additional bonus points for any of the following:
 - 1. Restoration of a Historic Structure or Site – varies
 - 2. Historic Covenant in perpetuity – five (5) points
 - 3. Voluntary Listing on the Historic Register – five (5) points
 - 4. Historic Documentation – three (3) points
- F. **Bonus public access points**
 - 1. Unlimited public access – five (5) points.
 - 2. Limited public access -sensitive area – five (5) points.
 - 3. Privately owned tidelands access - five (5) points.
 - 4. Limited public access - three (3) points.
- G. **Super bonus system.** Properties with at least one (1) high priority open space resource and which allow unlimited public access, or limited public access if due to resource sensitivity, and which convey a conservation, historic, or trail easement in perpetuity, in a form approved by the County, shall be automatically eligible for current use value at ten percent (10%) of market value.

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3.40.060 Ineligible lands

The following properties shall not be eligible for open space classification:

- A. Properties less than five (5) acres in size unless otherwise specified herein.
- B. Properties that do not contain an open space resource identified as either high, medium, or low priority.
- C. Open space areas required by zoning or other land use regulation, unless the owner provides additional public benefit, such as additional public access, resource restoration, or a native growth protection easement. Ineligible lands include open space areas dedicated under zoning or subdivision conditions or which are used to achieve maximum development potential under zoning.
- D. Buffer areas required as part of a development, subdivision, zoning, or other regulatory requirement are not eligible as a surface water quality buffer area priority open space resource, unless other conditions beyond those required by regulation are imposed.
- E. Property that contains a Critical Area or Critical Area Buffer which has been altered without authorization from Island County, except that a landowner who is not responsible for the violation intends to voluntarily restore the critical area under the provisions of ICC 3.40.280.B.
- F. Properties where an historic structure has been demolished without prior authorization

from the Ebey's Landing Historic Preservation Commission; or where an historic structure or site has been neglected by the landowner, except that a landowner who is not responsible for the neglect of an historic structure or site and who has provided a commitment to restore the structure or site may be eligible under the provisions of ICC 3.40.250.F.

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3.40.110 Board of Decision

The Board of County Commissioners shall consider an application to the Public Benefit Rating System as defined by RCW 84.34.037. They shall approve the application, with or without terms and/or conditions, and set the public benefit rating for assessment abatement, or deny the application. In so doing the following provisions will apply:

- A. They shall rate the land applying for classification according to the Public Benefit Rating System;
- B. They may approve the application with respect to only part of the land that is the subject of the application;
- C. If any part of the application is denied or conditions attached the applicant may withdraw the entire application.
- D. Decisions on applications where the request for enrollment is at least partially based on the criteria established in ICC 3.40.250.F shall be made only after a recommendation has been made by the Ebey's Landing Historic Preservation Commission.

3.40.250 High Priority Open Space Resources

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F. Designated Historic Structures and Properties within Ebey's Landing National Historic Reserve

- 1. **Definition.** Historic Structures, Buildings, and Sites that are located within the Ebey's Landing National Historic Reserve and that are listed in the Building and Landscape Inventory of 1983, and updated in 1995. Sites that are historic may include pastures, orchards, community gathering places, or locations where historic events took place.
- 2. **Source.** The United States Secretary of Interior's National Register of Historic Places.
- 3. **Eligibility.** Eligible properties must be located within the Ebey's Landing National Historic Reserve and be listed in the Building and Landscape Inventory of 1983, and updated in 1995.
 - a) Eligible Structures and Buildings are subject to the following requirements:

- (i) Are currently in good condition, or a plan is approved that details how a Structure or Building will be rehabilitated, including a schedule for when building permits are to be submitted, approved, and work completed, and
 - (ii) When permits are required for rehabilitation and/or maintenance the subject permits shall be reviewed and approved by the Ebey's Landing Historic Preservation Committee, and
 - (iii) Be subject to maintenance guidelines that are designed to ensure that historic Structures and Buildings do not fall into a state of disrepair, and
 - (iv) Structures and Buildings shall maintain eligibility only if they have been painted with colors that are approved by the Ebey's Landing Historic Preservation Committee
- b) Eligible sites are subject to the following requirements:
- (i) Protective covenants are placed on the applicable portion of a property that defines the types of activities, uses, and development that are allowed and/or prohibited, and
 - (ii) Maintenance guidelines are established that are designed to ensure that the integrity of the site is maintained and protected.

G. Historic Landmarks/Archaeological Sites

1. **Definition.** Historic and archaeological resources: land which constitute or upon which is situated an historic landmark formally designated by the County or a local jurisdiction, including buildings, structures or sites of significance in the County's historic or prehistoric heritage, such as Native American settlements, trails, pioneer settlements, farmsteads, roads, industrial works, bridges, burial sites, prehistoric and historic archaeological sites and landscapes, or traditional cultural properties and landscapes.
2. **Source.** County or other local lists or registers of historic places or landmarks and the State inventory of Archaeological Sites (State Office of Archaeology and Historic Preservation) and the County Historical Society.
3. **Eligibility.** Eligible properties must be listed on the County or other local list or register of historic places or landmarks for which there is local regulatory protection. Improvements to the land are not eligible for other federal or state tax credits. Additionally, land that has been verified through an archaeological report prepared by a qualified archaeologist that contains archaeological resources. The County will review and make determinations on eligibility.

H. Private Lands Within Designated National Reserves

1. **Definition.** Officially designated areas under private ownership located within

national reserves that remain undeveloped and are maintained to protect the landscape of the reserve.

2. **Source.** National Park Service, the Trust Board of the Ebey's Landing National Historical Reserve.
3. **Eligibility.** Eligible lands are privately owned parcels within the Ebey's Landing National Historical Reserve, five (5) acres or greater in size, that remain undeveloped and are maintained to protect the landscape of the reserve.

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3.40.290 Bonus Historic Preservation and Restoration points.

Properties that meet the criteria of ICC 3.40.030.A.6 may receive additional bonus points for any of the following:

A. Restoration of a Historic Structure or Buildings – Point values are designed to provide the greatest benefit in the years leading up to, and immediately following, the expenses incurred for restoration, e.g. design, architecture, permitting, and construction. Point values decrease over time. A point value of twenty-seven (27) is provided for the first ten (10) years in the program. The point value is reduced to five (5) for the subsequent years. The point value shall be applied to the entire property. Additionally, the structural value will be held at \$1,000 during the initial ten (10) year period.

1. **Definition.** Historic Structures, Buildings, and Sites that are located within the Ebey's Landing National Historic Reserve and that are listed in the Building and Landscape Inventory of 1983, and updated in 1995.
2. **Source.** An appraisal that is no more than twelve (12) months old, estimates from a licensed contractor that itemizes the repairs and/or updates, and a project timeline that defines milestones and completion dates, all of which that are approved by the Ebey's Landing Historic Preservation Commission.
3. **Eligibility.** The estimated costs of repairing and/or updating these Structures and Buildings exceeds twenty-five (25) percent of the current value of the Building or Structure. (should things like kitchen/bathroom remodels or finishing an unfinished basement be eligible?). A building permit shall be applied for within the first twelve (12) months of enrollment in the program. Structure and/or Building restoration shall be completed within thirty-six (36) months of enrollment in the program.

B. Historic Covenant in perpetuity – five (5) points

1. **Definition.** A covenant that is recorded with the property that establishes in perpetuity, appropriate restrictions and requirements as they relate to further potential development, future use of a property, demolition preclusions, and maintenance notifications to future property owners.
2. **Source.** A recorded instrument that is reviewed and approved by the Ebey's Landing Historic Preservation Committee.

3. **Eligibility.** At a minimum, protective covenants will inform future property owners that an Historic Structure or Building may not be demolished and must be appropriately maintained, that an Historic Site must be appropriately maintained, and that certain uses or activities may not be allowed on an Historic Site.

C. Voluntary Listing on the Historic Register – five (5) points

1. **Definition.** Properties that are not already listed in the Building and Landscape Inventory of 1983, and updated in 1995 but that meet the criteria for listing.
2. **Source.** Nomination and designation by the Ebey's Landing Historic Preservation Committee.
3. **Eligibility.** Eligible lands meet the criteria for designation.

D. Historic Documentation – three (3) points

1. **Definition.** Historic Structures, Buildings, and Sites that are located within the Ebey's Landing National Historic Reserve and that are listed in the Building and Landscape Inventory of 1983, and updated in 1995.
2. **Source.** Not applicable.
3. **Eligibility.** Eligible properties have provided documentation through photographs or other methods for permanent retention in local, regional and/or national archives. The owner records an instrument on the property that commits to future documentation prior to initiating any form of new construction, rehabilitation, reshaping of land, or clearing, and immediately following completion of any of these activities.

3.40.300 Super Bonus Category – Current Use Value of Ten Percent (10%) of Market Value

Properties with at least one (1) high priority open space resource AND which allow unlimited public access or limited public access for a sensitive area (due to resource sensitivity) AND which convey a conservation, historic, or trail easement in perpetuity, in a form and with such conditions as are acceptable to the County, shall be automatically eligible for current use value at ten percent (10%) of market value.

3.40.310 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or its application to other persons or circumstances is not affected.

3.40.320 Effective Date

This Chapter shall take effect on October 1, 1998 and shall apply to new applications submitted on or after that date. Amendments take effect upon the terms of their adoption.