

MAINE TREE GROWTH TAX LAW

The Maine Legislature enacted the Tree Growth Tax Law in 1972 to help Maine landowners maintain their property as productive woodlands, and to broadly support Maine's wood products industry. By choosing to develop a Woodland Management Plan designed to realize the value of your timber (and meet other goals for your forest) through well-planned harvests over time, your property may be eligible for enrollment. You should be sure you understand all of the benefits of Maine's Tree Growth Tax Law, as well as the penalties for removing your land from the program.

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To enroll your property in the Maine Tree Growth Tax Program, you must have at least ten acres of forest land managed primarily for the production of commercial forest products. You may benefit from a reduction in property taxes, making it more affordable for you to own and manage your woodland. The decision to enroll land in the Maine Tree Growth Tax Program is a long term one. The penalties for removing land from the program can be high, so consider all the aspects before enrolling.

By completing your Woodland Management Plan and working with your Consulting Forester, you'll go a long way toward determining whether Maine's Tree Growth Tax Law is right for you. To be sure you're up to date with current requirements of the Tree Growth Tax Law, call the Maine Forest Service.

If you elect to enroll a parcel of land in the Tree Growth Tax Program, you need not designate all of the acres as productive forest. You may decide to manage some of your land (minimum of ten acres) for timber production, and some of your land for other purposes. Remember, land managed for timber harvesting can often provide many other benefits, including wildlife habitat, scenic beauty, recreation, and clean water, to name a few. Land within the parcel not managed primarily for commercial harvesting will be valued on the basis of just value. Your consulting forester can help you make those choices and document them in your Management Plan. The Maine Forest Service respects your choices and helps you put them into action.

For more information on Maine's Tree Growth Tax Program and other "current use" property tax programs, please contact the Bureau of Revenue Services or the Maine Forest Service. Tax Bulletin #21 explains the Open Space Program, which is a program as an alternative for those who do not wish to actively manage their land for commercial forest products.

Bulletin No 19 (Maine Tree Growth Tax Law)

Issued November 29, 2007; Replaces September 13, 2003 Revision.

SUBJECT: MAINE TREE GROWTH TAX LAW

REFERENCE: Title 36, M.R.S.A., Section 571 - 584-A. PL 2003, c. 30 (amd).

1. General Information. The Maine Tree Growth Tax Law provides for the valuation of land that has been classified as forestland on the basis of productivity value, rather than on fair market value. The law is based on Article IX, section 8 of the Maine Constitution that permits such valuation of forestlands for property tax purposes.
2. Determination of Valuations. The State Tax Assessor determines the 100% valuation per acre for each forest type by county or region each year. These valuations are filed with the Secretary of State by October 1 each year and are certified to municipal assessor(s) before April 1 each year.
3. Classification.
 - A. Optional classification--any parcels of land with at least 10 acres of forestland may be classified at the unanimous election of the owners.
 - B. Commercial harvesting or harvesting for commercial use means the harvesting of forest products that have commercial value.
 - C. Forest products that have commercial value--means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.
 - D. Forestland--means land used primarily for growth of trees to be harvested for commercial use; may be either seedling, pole timber, or saw log stands. Forestland does not include ledge, marsh, open swamp, bog, water and similar areas that are unsuitable for growing a forest product or for harvesting for commercial use even though these areas may exist within forestlands.
 - E. Land, which would otherwise be included in this definition, shall not be excluded because of:
 1. Multiple uses for public recreation;
 2. Statutory or governmental restrictions which prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;
 3. Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or
 4. Past or present multiple use for mineral exploration.
 - F. Common interests—in the case of ownership in common, unanimous consent of all owners of the parcel is required for filing.
 - G. When the value of a recreational use lease exceeds the value of the tree growth determined pursuant to 36 M.R.S.A, section 576, the land is to be considered no longer primarily used for the continuous growth of forest products and should be withdrawn from the Tree Growth classification. Parcels of 100 acres or less are exempted from this provision.
4. Schedule.
 - A. Filing--owners must file an application with the municipal assessor(s) of the municipality where the parcel is located; in the Unorganized Territory the application must be filed with the State Tax Assessor.
 - B. Filing date--the application must be filed on or before April 1 of the year for which classification is requested. Annual filing of applications is not necessary; however, assessor(s) may request the filing of a new application at any time giving 120 days written notice. Any owner(s) of classified land has as a responsibility and must report any changes in forest types or changes in land use of classified forestland. Exception- following transfer of classified land, the new owner's application must be submitted within one-year after the applicable date of transfer.
 - C. Applications must indicate the forest type breakdown, as well as the other land classifications found in the parcel.
 - D. A Forest Management and Harvest Plan must be prepared and a sworn statement to that effect submitted. Classified land that is transferred to a new owner can remain under Tree Growth for up to one-year from the date of transfer. To continue land as classified beyond one-year, the new owner of a transferred parcel must do one of the following within one-year after the transfer date: File a sworn statement with the assessor that a written Forest Management and Harvest Plan has been obtained OR provide the assessor with a written statement from a licensed professional forester that the land is being managed in accordance

with the plan prepared for the previous owner. Limitation - a new owner continuing under previous owner's plan must accomplish the required ten-year compliance inspection and recertification within ten years from the date that previous owners' plan was initially certified or last revised. Failure to comply with this paragraph disqualifies land from classification and a penalty for withdrawal must be imposed.

- E. Forest Type Map--the application must be accompanied by a current forest type map showing the different forest types as well as the other land classifications in the parcel to the nearest one-acre.
- F. Separate applications--separate applications must be filed for each separate parcel, and a separate application for each part of a parcel if the parcel is located in more than one municipality or county.
- G. If filing an application for classification of less than 10-forested acres in a municipality with the remaining forested acreage in the parcel located in an adjacent municipality, the owner of the parcel must provide copies of both applications to each town.
- H. Parcel Definition--a tree growth parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line.
- I. Specific instructions--schedule and affidavit:

PART A

- Lines 1 and 2. The name, address and telephone number of the owner should appear on these lines. If there is more than one owner, enter "multiple owners" on line 1 and attach a separate sheet listing this information.

If an authorized agent represents the owner or owners, line 1 should show "name of agent, authorized agent for (name of owner)," and line 2 should show the address and telephone number of the authorized agent.

If more than one owner, line 1 may show "(name of agent), authorized agent for (name of one owner) and others," and a separate sheet may be attached, listing all owners. In any event, the names of all owners of the parcel must be shown, either on the schedule itself or on a separate sheet.

If an authorized agent completes the schedule, it is not necessary to show the addresses or telephone numbers of the owners so represented. Where more than one owner is involved, whether the schedule is prepared by the owners or by an authorized agent, the respective interest of each owner (such as "joint tenant," or 1/10 in common and undivided) must be shown.

- Line 3. Show the location of the parcel; in particular, the municipality or township and the county where the parcel is located.
- Line 4. The preferable identification of land would be by the description under which the property is carried in the assessment records or on the most recent tax bill. Where this description is not readily available, reference to the recorded deed (as, Book 231, Page 16, Kennebec Registry) can be substituted. Check the appropriate structures or improvements box and indicate tax year this parcel was first accepted for taxation under current use.
- Line 5A. Show total acreage of each forest type in the parcel covered by the schedule. The statutory definition of the forest types is as follows:
 - "Softwood type" means forests in which pine, spruce, fir, hemlock, cedar and larch, singularly or in combination, comprise 75% or more of the stocking.
 - "Mixed wood type" means forests in which neither hardwoods nor softwoods comprise 75% of the stand but are a combination of both.
 - "Hardwood type" means forests in which maple, birch, beech, oak, elm, basswood, poplar and ash, singularly or in combination, comprise 75% or more of the stocking.
- Line 5B. Show total land unsuitable for commercial forest production in the categories listed. Please note that water areas should be identified as either natural water areas or man-made water areas. Please list wetland, barren and water area on line 5B.
- Line 5C. Show the total acreage of land not used primarily for commercial forest production. This does not include land unsuitable for forest growth which is shown on Line 5B.

These categories include, but are not limited to: vacant land, improved parcels with structures, camping areas, roads (see definition below) agricultural lands, orchards, gravel pits, transmission line and pipeline R/W's, railroads, and forest land which the owner chooses not to classify under the Tree Growth Tax Law.

Roads--routes or tracks consisting of beds of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles. Report road acreage to include the cleared R/W area adjacent to the traveled way.

- Line 5D. Show the total acreage of the parcel covered by the schedule. This should equal the total of lines 5A, 5B, and 5C.
- Additional Space. If additional space is required to complete any line or lines on the schedule, please attach a separate sheet with the name or names of the owners at the top. Specify the line to which the information applies.

○ **PART B**

All parcels are required to have a Forest Management and Harvest Plan prepared and subject to review and updated as needed by a Licensed Professional Forester at least every 10 years .

This part shall constitute an affidavit when properly completed. Owners must certify that a written Forest Management and Harvest Plan has been prepared; submit a licensed professional forester's signed statement as evidence of compliance when forester determines that land is being managed in accordance with recommendations included in the applicable plan; or the new owner of classified land may, when in agreement with, certify that the written Forest Management and Harvest Plan prepared for the prior owner is adopted by the new owner for the time remaining from the date the plan was initially prepared for the previous owner until the ten-year compliance review period expires. Owner must obtain a licensed forester's signature as proof to show land is being managed in accordance with the plan prepared for the previous landowner.

NEW OWNERS TAKE NOTICE: CLASSIFICATION EXPIRES ONE YEAR FROM DATE LAND IS TRANSFERRED UNLESS YOU TAKE ACTION. To continue land as classified beyond one-year after the applicable transfer date you must either obtain a Forest Management and Harvest Plan and file under category 1 OR certify under category 3 for the period remaining under previous owner's ten-year plan. Failure of a new owner to certify a category within one-year after the applicable transfer date will disqualify land from classification under Tree Growth and the new landowner must pay a substantial penalty for withdrawal (36 MRSA § 581). **ALSO - A new landowner may not harvest or authorize the harvest of forest products for commercial use until a certification under Category 1 or 3 is filed with the assessor.**

Landowners must check the category under which they seek classification. **Category 1** is for initial certification of parcels not previously classified and for new owners of transferred land that was classified by a prior owner when the new owner has obtained a new or revised Forest Management and Harvest Plan. **Category 2** must be used to re-certify classified land following periodic compliance review; Forester must determine that parcel is in compliance with plan specifications following each ten-year land inspection to decide if owner has sufficiently conformed to the applicable written Forest Management and Harvest Plan. Forester should supply updates to plan, as appropriate to ensure owner can carry out accepted forest management practices for at least the ten-year period following inspection. **Category 3** may only be used by a new owner on acquiring a parcel classified by a former owner when the new owner intends to continue land as classified under the previous owners' plan. This category is limited to the period remaining under previous owners' plan from preparation date of the plan until land is due for its ten-year review for compliance.

Proof may be required by the assessor(s) to confirm the landowner's sworn statement. However, certain proprietary detail that is included in a particular plan must be held as confidential. Upon completion of the assessor's evaluation or review of a plan, the plan must be returned to the owner or an agent of the owner.

Before withdrawing a parcel from taxation under Tree Growth, if the sole reason the land does not meet the requirements of this classification is that the owner failed to file the sworn statement required under

section 574-B, subsection 1, the assessor shall provide the owner with written notice by regular mail of the deadline to file the sworn statement and permit the owner at least 60 days to respond to that notice.

- **Category 1.** Written Forest Management and Harvest Plan. Landowners must submit a sworn statement that they are following the provisions of a Forest Management and Harvest Plan prepared for the parcel. The name and license number of the participating Licensed Professional Forester must be provided together with the date the plan was prepared or last revised.

"Forest Management and Harvest Plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules, maps and recommendations for timber stand improvements, harvesting plans and recommendations for regeneration activities."

- **Category 2.** Compliance Certification. Determination on 10-year Periodic Inspection by a Licensed Professional Forester: A forester must inspect the parcel and establish whether the landowner has prudently managed the land in accordance with the applicable Forest Management and Harvest Plan. A Licensed Professional Forester must sign the schedule and provide the date that parcel was inspected to demonstrate owner is in compliance with plan or forester must submit other evidence that owner is considered in compliance with plan. Forester should amend plan and outline activities on accepted forest management practices, as appropriate, to guide owner until the next ten-year compliance review must be accomplished.
- **Category 3.** Transfer of Classified Land. Parcel may continue under previous owner's plan; limited application. New owner must provide a statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous owner. New owner must accomplish the required ten-year compliance review from the later of; the date that previous owner's plan was initially certified or the date that plan was last revised.

A LAND CLASSIFICATION PLAN SHOWING THE LOCATION OF EACH PARTICULAR AREA ACCORDING TO THE LAND USE AND FOREST TYPE ON THE PARCEL OF FOREST LAND MUST BE INCLUDED WITH YOUR COMPLETED SCHEDULE FOR CLASSIFICATION OF LAND AS FOREST LAND .

General information: Owners must manage Tree Growth classified parcels according to accepted forestry practices designed to produce trees having commercial value. In considering this option owners may be guided by but are not limited to the following accepted forestry practices: timber harvesting, tree planting, direct seeding, site preparation, thinning, cleaning, weeding, pruning, inventory of standing timber, forest protection measures (insect, fire, wind, etc.), forest access road construction and maintenance, and boundary line work.

Important: *A new owner of classified land may not harvest or authorize the harvest of forest products for commercial use until the new schedule for classification as Category 1 or 3 is filed with the assessor.*

Development Cost Offsets for Forest Management and Harvest Plans:

Once every 10 years an individual is allowed a credit against Maine Income Tax otherwise due for the lesser of \$200 or the individual's cost for having a Forest Management and Harvest Plan developed for a parcel of forestland greater than 10 acres (36 MRSA §5219-C). Credit does not apply to compensation to forester that is a regular employee of the individual.

Financial assistance for preparation of Management and Harvest Plans may be available from federal and state sources. Ask your forester about cost-share programs, contact a County Agricultural Stabilization & Conservation Service or call Maine Forest Service at (207)287-2791.

Assessment.

- . Assessed valuation--municipal assessor(s) shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county or region by the municipality's certified ratio.
- A. Tax rate--classified forest land shall be assessed at the same property tax rate applicable to other property in the municipality.
- B. Reimbursement to municipalities for taxes lost -- Municipalities shall be reimbursed up to 90% of the taxes lost.

- C. For purposes of this section, the tax lost is the tax that would have been assessed, but for this subchapter, on the classified forest lands if they were assessed according to the undeveloped acreage valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped acreage, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter.
- D. The reimbursement as calculated above may not exceed an amount determined by calculating the tree growth tax loss less the municipal savings in educational costs attributable to reduced state valuation.

Valuation of Areas Other than Forest Land. Areas other than classified forested acres within any parcel of forestland must be valued on the basis of fair market value.

Reduced Valuations. If fire, disease or other natural disasters reduce stocking to less than 3 cords per acre of merchantable wood on classified forestland, the valuation is to be reduced by 75% for the first 10 years following the loss.

Reclassification. Landowners are required to give the assessor(s) notice of any change in forest type or land use, if not, the assessor(s) may reclassify the parcel or withdraw land where the facts justify a change in forest type or land use.

Appeal from Determination of Valuations. Any person aggrieved by the determination of the 100% valuations per acre, as determined by the State Tax Assessor, may petition the State Tax Assessor for reconsideration within 30 days of the issuance of that order.

- o If reconsideration is denied further appeal may be made to the Superior Court in the county where the property is located.

Appeal from Municipal Assessor(s).

- . Assessments on classified forestland made under this subchapter are subject to the abatement procedures provided by 36, M.R.S.A. §841. The assessor or assessors for the time being, on written application filed within 185 days from date of commitment, or on their initiative, stating the grounds therefore, within one year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with section 706. Section 706 requires that taxpayers submit a list of their estates possessed on April 1 if they were requested by mail to do so. If they were requested by mail to file their list of estates and failed to do so, they are barred of their right to appeal for an abatement of taxes for that tax year.
- A. Notice of decision--if the assessor(s) fail to give written notice of their decision on an application for abatement within 60 days from the date of filing of such application, the application shall be deemed to have been denied and applicant may appeal to the State Board of Property Tax Review, #49 State House Station, Augusta, Maine 04333, Telephone: (207)624-7410.
- B. State Board of Property Tax Review--an application for review must be filed within 60 days from receipt of the assessors' decision or within 60 days from the date the application for abatement was deemed to have been denied.
- C. Superior Court--any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located.

Withdrawal of Classification; Penalty.

- . Change in use--classified forestland no longer used primarily for the growth of trees to be harvested for commercial use must be reported by the landowner to the assessor. If the landowner fails to report such change and the assessor determines that classified forestland no longer qualifies as forestland, assessor must withdraw the land so classified. If the owner(s) fail to report a change in use an additional penalty of 25% of the required penalty shall be assessed. This additional penalty may be waived for cause.
- A. Optional withdrawal--the landowner(s) may at any time request withdrawal of any parcel or portion thereof by certifying to the assessor that the land is no longer to be classified under the Tree Growth Tax Law. In the case of a portion of a parcel, a plan showing the area withdrawn must be filed. The resulting portions must thereafter be treated as separate parcels.
- B. Parcels of less than 10-forested acres resulting from sale of classified land must be withdrawn from classification. The penalty resulting from such sale that occurs after October 31, 2001 must be assessed against the transferor of that resulting parcel. Penalty--whenever withdrawal of land occurs except through the exercise or threatened exercise of eminent domain a penalty must apply. The penalty must apply to that real estate withdrawn. Penalties must be assessed and collected as supplemental assessments in accordance with section 713-B.
- C. Before withdrawing a parcel from taxation under Tree Growth, if the sole reason the land does not meet the requirements of this classification is that the owner failed to file the sworn statement required under section 574-B, subsection 1, the assessor shall provide the owner with written notice by regular mail of the deadline to file the sworn statement and permit the owner at least 60 days to respond to that notice.
- D. Determination of penalty--the penalty will be an amount equal to 30% of the difference between the 100% Tree Growth valuation (of the classified land on the assessment date immediately preceding withdrawal)

and the fair market value of the property on the date of withdrawal. If the land has been classified for more than 10 years, the following percentages shall apply.

10 years or less 30%
11 years 29%
12 years 28%
13 years 27%
14 years 26%
15 years 25%
16 years 24%
17 years 23%
18 years 22%
19 years 21%
20 years or more 20%

- E. Fair market value--fair market value at the time of withdrawal is the assessed value of comparable property that is not valued on a current use basis in the municipality adjusted by the municipality's certified assessment ratio.
- F. IMPORTANT. In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, section 8: ". . . a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest. . . "
- G. Farm and Open Space Tax Law--no penalty shall be assessed upon the withdrawal of land from the Tree Growth Tax Law if the same land is accepted for classification as Farm Land or Open Space Land, 36 M.R.S.A., §1109.

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SUBJECT: OPEN SPACE TAX LAW

REFERENCE: Title 36, M.R.S.A., Sections 1101 - 1121

1. General Information.

The Open Space Tax Law provides for the valuation of land which has been classified as open space land based on its current use as open space, rather than its potential fair market value for more intensive uses other than open space. The purpose of this bulletin is to explain the more important features of this law. As used in this bulletin, the title "assessor(s)" means the assessor or board of assessors of a municipality, the chief assessor of a Primary Assessing Area and the State Tax Assessor in the case of the Unorganized Territory.

2. Valuation

- A. Valuation Method - The current use value of open space land is the sale price that particular open space parcel would command in the marketplace if it were required to remain in the particular category or categories of open space land for which it qualifies, adjusted by the certified ratio.

The values may be established based on such considerations as sales of land subject to permanent conservation restrictions, sales of land subject to enforceable deed restrictions, enhancement to unclassified appurtenant land areas under same ownership, before and after appraisals of permanently restricted land in the region and other relevant factors. These values may not reflect development or market value purposes other than open space use.

- B. Alternative Valuation Method - Notwithstanding any other provision of law, if an assessor is unable to determine the valuation of open space land under the conventional method above, the assessor may value that land under the following *alternative method*. The assessor may reduce the assessed valuation, as adjusted by the certified ratio of similar land in the municipality but without conservation easement restrictions, by the cumulative percentage reduction for which the land is eligible according to the following categories.
 - 1. All ordinary open space land is eligible for a reduction of 20% off the standard value.
 - 2. Permanently protected open space land is eligible for the reduction set in paragraph "a" and an additional 30%; in other words, 50% off the standard value.
 - 3. Forever wild open space land is eligible for the reduction set in paragraphs "a" and "b" and an additional 20%; in other words, 70% off the standard value.
 - 4. Public access open space land is eligible for the applicable reduction set in paragraph "a", "b" or "c" and an additional 25%; in other words, up to 95% off the standard value*.

Notwithstanding the above, the value of forested open space land may not be reduced to less than the values certified under the Tree Growth Tax Law and the open space land valuation may not exceed just value as required under §701-A.

3. Definition of Land Categories Eligible For Additional Percentage Reduction

- A. Permanently protected open space is an area of open space land that is subject to restrictions prohibiting building development under a perpetual conservation easement or as an open space preserve owned and operated by a nonprofit entity committed to conservation and will permanently preserve the property in its natural, scenic or open character. (50% off)
- B. Forever wild open space is an area of open space land that is permanently protected and subject to restrictions or committed to uses by a nonprofit entity committed to conservation and will ensure that in the future the natural resources on that protected property will remain unaltered, except for: Fishing or hunting; Harvesting shellfish in the intertidal zone; Prevention of the spread of fires or disease; or Providing opportunities for low-impact outdoor recreation, nature observation and study. (70% off)

- C. Public access open space is any area of open space land allowing public access by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, non-motorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant may impose temporary or localized public access restrictions to: Protect active habitat of endangered species; Prevent destruction or harm to fragile protected natural resources; or protect the recreational user from any hazardous area. (Additional 25% off)

4. Standards for Classification

- A. Minimum size - There is no minimum acreage requirement for Open Space. However, minimum area(s) and setback(s) for non-conforming use must be excluded from classification.
- B. Use - The tract must be preserved or restricted in use to provide a public benefit by conserving scenic resources; enhancing public recreation opportunities; promoting game management; or preserving wildlife or wildlife habitat.
- C. Developed Lands - Any building or improvement area(s) are excluded from classification as open space land. Each excluded area must include at least the minimum lot size and, for improvements within the 250 foot shoreland area (75 feet on streams), the minimum shoreland frontage required by the applicable minimum lot standards or zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived if: the affected frontage is part of a contiguous shore path or a beach for which there is or will be, once classified, regular and substantial use by the public; or the legislative body of the municipality determines that a public benefit will be served by preventing future development near the shore or by securing access for the public on the particular shoreland area that would otherwise be excluded from classification. Title 38, § 435.

5. Public Benefit Factors

Factors appropriate to one application may be irrelevant in determining the public benefit of another application. A single Factor, whether listed here or not, may be determinative of public benefit. Among the Factors to be considered are:

- A. • The importance of the land by virtue of its size or uniqueness in the vicinity or proximity to extensive development or comprising an entire landscape feature;
- B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area;
- C. The opportunity of the general public to appreciate significant scenic values of the land;
- D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use;
- E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;
- F. The likelihood that the preservation of the land as undeveloped open space will provide economic benefit to the town by limiting municipal expenditures required to service development;
- G. Whether the land is included in an area designated as open space land or resource protection land on a comprehensive plan or in a zoning ordinance or on a zoning map as finally adopted;
- H. The existence of a conservation easement, other legally enforceable restriction, or ownership by a nonprofit entity committed to conservation of the property that will permanently preserve the land in its natural, scenic or open character;
- I. The proximity of other private or public conservation lands protected by permanent easement or ownership by governmental or nonprofit entities committed to conservation of the property;
- J. The likelihood that protection of the land will contribute to the ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area or similar protected area;
- K. The existence on the land of habitat for rare, endangered or threatened species of animals, fish or plants, or of a high quality example of a terrestrial or aquatic community;
- L. The consistency of the proposed open space use with public programs for scenic preservation, wildlife preservation, historic preservation, game management or recreation in the region;
- M. The identification of the land or of outstanding natural resources on the land by a legislatively mandated program, on the state, local or federal level, as particular areas, parcels, land types or natural resources for protection including, but not limited to, the Register of Critical Areas under Title 5, chapter 312; the laws governing wildlife sanctuaries and management areas under Title 12, sections 7651 and 7652; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter I, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21; or

- N. Whether the land contains historic or archeological resources listed in the National Register of Historic Places or is determined eligible for such a listing by the Maine Historic Preservation Commission, either in its own right or as contributing to the significance of an adjacent historic or archeological resource listed, or eligible to be listed, in the National Register of Historic Places.
- O. Whether the land is maintained in accordance with criteria that are adopted under local ordinance that provide for preserving the integrity of historically important structures or conserving a scenic view (Title 30-A §5730).
- P. Whether the land contains a wildlife habitat, which is subject to a written management agreement between the landowner and either the Department of Inland Fisheries and Wildlife or the Department of Conservation to ensure that the habitat benefits provided by the land are not lost.

Land containing structures or any substantial improvements; the owner shall indicate on the application schedule and classification map the area(s) within the parcel containing improvements and exclude from open space classification area(s) equal to the applicable building lot size prescribed by the zoning regulations relevant to that site.

6. General Provisions

- A. Filing - Owners must file an application by April 1 of the year in which classification is first requested with the assessor(s) of the jurisdiction where the property is located. Annual filing is not necessary; however, assessor(s) may request the filing of a new application at any time. The application must be accompanied by a map or sketch showing the open space classified acres as well as the non-open space classified acres. within the tract.
- B. Notification of Classification - The assessor(s) must determine whether the land is subject to classification and classify the land as to type and notify the owner of the decision by June 1st of that year. If the application is denied, the assessor(s) must state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of the statute.
- C. Reclassification - Landowners are required to give the assessor(s) notice of any change in open space land classification. If the landowners do not give notice of any change in classification, the assessor(s) must reclassify the parcel where the facts justify a change in classification or use.
- D. Tax Rate - Classified open space land shall be subject to the same property tax rate applicable to other property in the jurisdiction.

7. Valuation of Areas Other Than Open Space

Areas other than open space land must be valued on the basis of fair market value.

8. Appeal from Assessor(s)

- A. Abatement Procedure - Assessments made under this subchapter are subject to the abatement procedures provided by 36 M.R.S.A. §841. The assessors, on written application within 185 days from date of commitment, stating the grounds therefore, or on their own initiative within one year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with section 706.
- B. Notice of Decision - The assessor shall by June 1st notify the landowner that his application has been accepted or denied. If the application is denied, the assessor shall state the reasons for the denial and provide the landowner an opportunity to amend the schedule to conform to the requirements of this chapter within 60 days.
- C. State Board of Property Tax Review - An application for review must be filed within 60 days from receipt of the assessors' decision or within 60 days from the date the application for abatement was deemed to have been denied.
- D. Superior Court - Any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located.

9. Penalty; Withdrawal of Classification

- A. Change in Use - If classified open space land no longer meets the requirement for classification, it may be withdrawn from classification by the assessor(s) or at the request of the owner. Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed.
- B. Exception - Penalties shall be applied as a result of a change in use and the withdrawal of a portion of a classified parcel except when withdrawal is caused by a transfer resulting from the exercise or threatened exercise of the

power of eminent domain. Change from Farmland to Open Space or Open Space to Tree Growth or Open Space to Farmland may not be penalized if parcel also meets eligibility requirements of the new classification.

- C. Determination of Penalty - The penalty shall be an amount equal to one of the following:
1. An amount equal to 30% of the difference between the 100% open space valuation (of the classified land on the assessment date immediately preceding withdrawal) and the 100% fair market value of the property on the date of withdrawal.
 2. If the land has been classified for more than 10 years, the following percentages shall apply to the difference between the open space valuation and the assessed fair market value:

10 years or less	30%
11 years	29%
12 years	28%
13 years	27%
14 years	26%
15 years	25%
16 years	24%
17 years	23%
18 years	22%
19 years	21%
20 years or more	20%

- D. Assessed Fair Market Value - Assessed fair market value at the time of withdrawal is the assessed value of comparable property in the taxing jurisdiction adjusted by the certified assessment ratio to 100%.

IMPORTANT. In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, Section 8: " . . . a minimum penalty equal to the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest, upon such reasonable and equitable basis as the Legislature shall determine. Any statutory or constitutional penalty imposed as a result of a change of use, whether imposed before or after the approval of this subsection, shall be determined without regard to the presence of minerals."