

§1109. Schedule; investigation

1. Schedule. The owner or owners of farmland subject to taxation under this subchapter shall submit a signed schedule, on or before April 1st of the year in which the owner or owners wish to first subject the land to taxation under this subchapter, to the assessor upon a form prescribed by the State Tax Assessor identifying the land to be taxed under this subchapter, indicating the number of acres of each farmland classification, showing the location of the land in each classification and representing that the land is farmland as defined in section 1102, subsection 4. In determining whether the land is farmland, the assessor shall take into account, among other things, the acreage of the land, the portion of the land that is actually used for farming or agricultural operations, the productivity of the land, the gross income derived from farming or agricultural operations on the land, the nature and value of the equipment used in connection with farming or agricultural operations on the land and the extent to which the tracts comprising the land are contiguous. If the assessor determines that the land is farmland as defined in section 1102, subsection 4, the assessor shall classify it as farmland and apply the appropriate 100% valuations per acre for farmland and that land is subject to taxation under this subchapter.

The assessor shall record, in the municipal office of the town in which the farmland is located, the value of the farmland as established under this subchapter and the value at which the farmland would have been assessed had it not been classified under this subchapter.

[PL 2011, c. 240, §7 (AMD).]

2. Provisional classification. The owner of a parcel of land of at least 5 contiguous acres on which farming or agricultural activities have not produced the gross income required in section 1102, subsection 4 per year for one of the 2 or 3 of the 5 preceding calendar years, may apply for a 2-year provisional classification as farmland by submitting a signed schedule in duplicate, on or before April 1st of the year for which provisional classification is requested, identifying the land to be taxed under this subsection, listing the number of acres of each farmland classification, showing the location of the land in each classification and representing that the applicant intends to conduct farming or agricultural activities upon that parcel. Upon receipt of the schedule, the land must be provisionally classified as farmland and subjected to taxation under this subchapter. If, at the end of the 2-year period, the land does not qualify as farmland under section 1102, subsection 4, the owner shall pay a penalty that is an amount equal to the taxes that would have been assessed had the property been assessed at its fair market value on the first day of April for the 2 preceding tax years less the taxes paid on the property over the 2 preceding years and interest at the legal rate from the dates on which those amounts would have been payable.

[PL 1999, c. 731, Pt. Y, §4 (AMD).]

3. Open space land qualification. The owner or owners of land who believe that land is open space land as defined in section 1102, subsection 6 shall submit a signed schedule on or before April 1st of the year in which that land first becomes subject to taxation under this subchapter to the assessor on a form prescribed by the State Tax Assessor that must contain a description of the land, a general description of the use to which the land is being put and other information required by the assessor to aid the assessor in determining whether the land qualifies for classification as open space land and for which of the valuation categories set forth in section 1106-A the land is eligible. The assessor shall determine whether the land is open space land as defined in section 1102, subsection 6 and, if so, that land must be classified as open space land and subject to taxation under this subchapter. In determining whether the restriction of the use or preservation of the land provides a public benefit in one of the areas set forth in section 1102, subsection 6, the assessor shall consider all facts and circumstances pertinent to the land and its vicinity. A factor that is pertinent to one application may be irrelevant in determining the public benefit of another application. A single factor, whether listed below 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; [PL 1989, c. 748, §4 (NEW).]
- B. The likelihood that development of the land would contribute to degradation of the scenic, natural, historic or archeological character of the area; [PL 1989, c. 748, §4 (NEW).]
- C. The opportunity of the general public to appreciate significant scenic values of the land; [PL 1989, c. 748, §4 (NEW).]
- D. The opportunity for regular and substantial use of the land by the general public for recreational or educational use; [PL 1989, c. 748, §4 (NEW).]
- E. The importance of the land in preserving a local or regional landscape or resource that attracts tourism or commerce to the area; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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; [PL 1989, c. 748, §4 (NEW).]
- 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 12, section 544-B; the laws governing wildlife sanctuaries and management areas under Title 12, section 10109, subsection 1 and sections 12706 and 12708; the laws governing the State's rivers under Title 12, chapter 200; the natural resource protection laws under Title 38, chapter 3, subchapter 1, article 5-A; and the Maine Coastal Barrier Resources Systems under Title 38, chapter 21; [PL 2007, c. 627, §29 (AMD).]
- 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; or [PL 2003, c. 619, §3 (AMD).]

O. Whether there is a written management agreement between the landowner and the Department of Inland Fisheries and Wildlife or the Department of Agriculture, Conservation and Forestry as described in section 1102, subsection 10. [PL 2003, c. 619, §4 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

If a parcel of land for which the owner or owners are seeking classification as open space contains any principal or accessory structures or any substantial improvements that are inconsistent with the preservation of the land as open space, the owner or owners in their schedule shall exclude from their application for classification as open space a parcel of land containing those buildings or improvements at least equivalent in size to the state minimum lot size as prescribed by Title 12, section 4807-A or by the zoning ordinances or zoning map pertaining to the area in which the land is located, whichever is larger. For the purposes of this section, if any of the buildings or improvements are located within shoreland areas as defined in Title 38, chapter 3, subchapter 1, article 2-B, the excluded parcel must include the minimum shoreland frontage required by the applicable minimum lot standards under the minimum guidelines established pursuant to Title 38, chapter 3, subchapter 1, article 2-B or by the zoning ordinance for the area in which the land is located, whichever is larger. The shoreland frontage requirement is waived to the extent that 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. The shoreland frontage requirement may be waived at the discretion of the legislative body of the municipality if it 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.

[PL 2011, c. 240, §8 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

4. Investigation. The assessor shall notify the landowner, on or before June 1st following receipt of a signed schedule meeting the requirements of this section, whether the 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 subchapter.

The assessor or the assessor's duly authorized representative may enter and examine lands subject to taxation under this subchapter and may examine any information submitted by the owner or owners.

The assessor may require the owner to respond within 60 days of the receipt of notice in writing by certified mail, return receipt requested, to written questions or interrogatories the assessor considers necessary to obtain material information about those lands. If the assessor determines that the required material information regarding those lands cannot reasonably be obtained through written questions or interrogatories, the assessor may require the owner, upon notice in writing by certified mail, return receipt requested, or by another method that provides actual notice, to appear before the assessor at a reasonable time and place designated by the assessor and answer questions or interrogatories the assessor considers necessary to obtain material information about those lands.

If the owner of a parcel of land subject to taxation under this subchapter fails to submit the schedules required by this section, fails to respond to written questions or interrogatories of the assessor as provided in this subsection or fails to appear before the assessor to respond to questions or interrogatories as provided in this subsection, that owner or owners are deemed to have waived all rights of appeal.

[PL 2007, c. 438, §27 (AMD).]

5. Owner obligation. It is the obligation of the owner to report to the assessor any change of use or change of classification of land subject to taxation under this subchapter by the end of the tax year in which the change occurs and to report to the assessor on or before April 1st of every 5th year the gross income realized in each of the previous 5 years from acreage classified as farmland.

If the owner fails to report to the assessor as required by this subsection, the assessor shall assess those taxes required to be paid, shall assess the penalty provided in section 1112-C and shall assess an

additional penalty equal to 25% of the penalty provided in section 1112-C. The assessor may waive the additional penalty for cause.

[PL 2021, c. 630, Pt. C, §11 (AMD).]

6. Recertification. The assessor shall determine annually whether any classified land continues to meet the requirements of this subchapter. Each year the assessor shall recertify any classifications made under this subchapter. If any classified land no longer meets the requirements of this subchapter, the assessor shall either remove the classification or, if he deems it appropriate, allow the land to have a provisional classification as detailed in subsection 2.

[PL 1977, c. 467, §11 (AMD).]

7. Transition.

[PL 2009, c. 434, §18 (RP).]

SECTION HISTORY

PL 1975, c. 726, §2 (NEW). PL 1977, c. 467, §§7-11 (AMD). PL 1977, c. 509, §§24-27 (AMD). PL 1981, c. 364, §23 (AMD). PL 1981, c. 698, §181 (AMD). PL 1987, c. 728, §§6-8 (AMD). PL 1989, c. 748, §§4,5 (AMD). PL 1993, c. 452, §§10,11 (AMD). PL 1995, c. 603, §1 (AMD). PL 1999, c. 731, §Y4 (AMD). PL 2003, c. 414, §B51 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2003, c. 619, §§2-4 (AMD). PL 2007, c. 438, §§27, 28 (AMD). PL 2007, c. 627, §29 (AMD). PL 2009, c. 434, §18 (AMD). PL 2011, c. 240, §§7, 8 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2021, c. 630, Pt. C, §11 (AMD).

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