

# House Bill 2088

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes city to define "area" as city in which property is located, for purposes of certain ad valorem property taxation statutes.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to assessment for purposes of ad valorem property taxation; creating new provisions;  
3 amending ORS 308.149, 308.156, 308A.300, 308A.306, 308A.309, 308A.315, 358.480 and 358.487; and  
4 prescribing an effective date.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. For purposes of ORS 308.149, 308A.300 and 358.480, a city may adopt an or-**  
7 **dinance or resolution defining "area" to mean the city.**

8 **SECTION 2.** ORS 308.149 is amended to read:

9 308.149. As used in ORS 308.149 to 308.166:

10 (1) "Area" means:

11 (a) The county in which property, the maximum assessed value of which is being adjusted, is  
12 located [*except that "area" means*];

13 (b) **The city in which property, the maximum assessed value of which is being adjusted,**  
14 **is located, if the city has adopted an ordinance or resolution pursuant to section 1 of this**  
15 **2017 Act; or**

16 (c) This state, if the property for which the maximum assessed value is being adjusted is prop-  
17 erty that is centrally assessed under ORS 308.505 to 308.681.

18 (2)(a) "Average maximum assessed value" means the value determined by dividing the total  
19 maximum assessed value of all property in the same area in the same property class by the total  
20 number of properties in the same area in the same property class.

21 (b) In making the calculation described under this subsection, the following property is not  
22 taken into account:

23 (A) New property or new improvements to property;

24 (B) Property that is partitioned or subdivided;

25 (C) Property that is rezoned and used consistently with the rezoning;

26 (D) Property that is added to the assessment and tax roll as omitted property; or

27 (E) Property that is disqualified from exemption, partial exemption or special assessment.

28 (c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of av-  
29 erage maximum assessed value in the case of property centrally assessed under ORS 308.505 to  
30 308.681.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (3)(a) "Average real market value" means the value determined by dividing the total real market  
2 value of all property in the same area in the same property class by the total number of properties  
3 in the same area in the same property class.

4 (b) In making the calculation described under this subsection, the following property is not  
5 taken into account:

- 6 (A) New property or new improvements to property;
- 7 (B) Property that is partitioned or subdivided;
- 8 (C) Property that is rezoned and used consistently with the rezoning;
- 9 (D) Property that is added to the assessment and tax roll as omitted property; or
- 10 (E) Property that is disqualified from exemption, partial exemption or special assessment.

11 (c) Paragraph (b)(B), (C), (D) and (E) of this subsection does not apply to the calculation of av-  
12 erage real market value in the case of property centrally assessed under ORS 308.505 to 308.681.

13 (4) "Lot line adjustment" means any addition to the square footage of the land for a real prop-  
14 erty tax account and a corresponding subtraction of square footage of the land from a contiguous  
15 real property tax account.

16 (5) "Minor construction" means additions of real property improvements, the real market value  
17 of which does not exceed \$10,000 in any assessment year or \$25,000 for cumulative additions made  
18 over five assessment years.

19 (6)(a) "New property or new improvements" means changes in the value of property as the result  
20 of:

- 21 (A) New construction, reconstruction, major additions, remodeling, renovation or rehabilitation  
22 of property;
- 23 (B) The siting, installation or rehabilitation of manufactured structures or floating homes; or
- 24 (C) The addition of machinery, fixtures, furnishings, equipment or other taxable real or personal  
25 property to the property tax account.

26 (b) "New property or new improvements" does not include changes in the value of the property  
27 as the result of:

- 28 (A) General ongoing maintenance and repair; or
- 29 (B) Minor construction.

30 (c) "New property or new improvements" includes taxable property that on January 1 of the  
31 assessment year is located in a different tax code area than on January 1 of the preceding assess-  
32 ment year.

33 (7) "Property class" means the classification of property adopted by the Department of Revenue  
34 by rule pursuant to ORS 308.215, except that in the case of property assessed under ORS 308.505 to  
35 308.681, "property class" means the total of all property set forth in the assessment roll prepared  
36 under ORS 308.540.

37 **SECTION 3.** ORS 308.156 is amended to read:

38 308.156. (1) If property is subdivided or partitioned after January 1 of the preceding assessment  
39 year and on or before January 1 of the current assessment year, then the property's maximum as-  
40 sessed value shall be established as provided under this section.

41 (2) If property is rezoned and, after January 1 of the preceding assessment year and on or before  
42 January 1 of the current assessment year, the property is used consistently with the rezoning, the  
43 property's maximum assessed value shall be established under this section.

44 (3)(a) For the first tax year for which property is added to the property tax account as omitted  
45 property, the property's maximum assessed value shall be established under this section.

1 (b) For tax years subsequent to the first tax year for which property is added to the property  
 2 tax account as omitted property, the property’s maximum assessed value shall be determined as  
 3 otherwise provided by law, taking into account the maximum assessed value of the property as de-  
 4 termined under this section.

5 (4)(a) If property was subject to exemption, partial exemption or special assessment as of the  
 6 January 1 assessment date of the preceding assessment year and is disqualified from exemption,  
 7 partial exemption or special assessment as of the January 1 of the current assessment year, the  
 8 property’s maximum assessed value shall be established under this section.

9 (b) If property described in this subsection is eligible for a different type of exemption, partial  
 10 exemption or special assessment as of January 1 of the current assessment year, the property’s  
 11 maximum assessed value shall be established under the provision granting the partial exemption or  
 12 special assessment.

13 (5) The property’s maximum assessed value shall be the sum of:

14 (a) The maximum assessed value determined under ORS 308.146 that is allocable to that portion  
 15 of the property not affected by an event described in subsection (1), (2), (3) or (4)(a) of this section;  
 16 and

17 (b) The product of the real market value of that portion of the property that is affected by an  
 18 event described in subsection (1), (2), (3) or (4)(a) of this section multiplied by the ratio, not greater  
 19 than 1.00, of the average maximum assessed value over the average real market value for the as-  
 20 sessment year *[in the same area and property class]*.

21 (6) The property’s assessed value for the year shall equal the lesser of:

22 (a) The property’s maximum assessed value; or

23 (b) The property’s real market value.

24 (7) The Department of Revenue shall provide by rule the method by which the allocations de-  
 25 scribed in subsection (5) of this section are to be made.

26 **SECTION 4.** ORS 308A.300 is amended to read:

27 308A.300. As used in ORS 308A.300 to 308A.330, unless a different meaning is required by the  
 28 context:

29 **(1) “Area” means:**

30 **(a) The county in which property, the maximum assessed value of which is being ad-**  
 31 **justed, is located; or**

32 **(b) The city in which property, the maximum assessed value of which is being adjusted,**  
 33 **is located, if the city has adopted an ordinance or resolution pursuant to section 1 of this**  
 34 **2017 Act.**

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

37 ~~(1)~~ **(3) “Open space land” means:**

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

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

41 (A) Conserve and enhance natural or scenic resources;

42 (B) Protect air or streams or water supply;

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

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

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

3 (F) Enhance recreation opportunities;

4 (G) Preserve historic sites;

5 (H) Promote orderly urban or suburban development; or

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

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

10 [(3)] (4) "Owner" means the party or parties having the fee interest in land, except that where  
11 land is subject to a real estate sales contract, "owner" shall mean the contract vendee.

12 (5) "Property class" means the classification of property adopted by the Department of  
13 Revenue by rule pursuant to ORS 308.215.

14 **SECTION 5.** ORS 308A.306 is amended to read:

15 308A.306. An owner of land desiring current open space use assessment under ORS 308A.300 to  
16 308A.330 shall make application to the county assessor upon forms prepared by the Department of  
17 Revenue and supplied by the county assessor. The owner shall describe the land for which classi-  
18 fication is requested, the current open space use or uses of the land, and shall designate the para-  
19 graph of ORS 308A.300 [(1)] (3) under which each such use falls. The application shall include such  
20 other information as is reasonably necessary to properly classify an area of land under ORS  
21 308A.300 to 308A.330 with a verification of the truth thereof. Applications shall be made to the  
22 county assessor during the calendar year preceding the first assessment year for which such clas-  
23 sification is requested. If the ownership of all property included in the application remains un-  
24 changed, a new application is not required after the first year for which application was made and  
25 approved.

26 **SECTION 6.** ORS 308A.309 is amended to read:

27 308A.309. (1) Within 10 days of filing in the office of the assessor, the assessor shall refer each  
28 application for classification to the planning commission, if any, of the governing body and to the  
29 granting authority, which shall be the county governing body, if the land is in an unincorporated  
30 area, or the city legislative body, if it is in an incorporated area. An application shall be acted upon  
31 in a city or county with a comprehensive plan in the same manner in which an amendment to the  
32 comprehensive plan is processed. In determining whether an application made for classification un-  
33 der ORS 308A.300 [(1)(b)] (3)(b) should be approved or disapproved, the granting authority shall  
34 weigh:

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

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

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

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

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

- 1 (a) Conserve or enhance natural or scenic resources;
- 2 (b) Protect air or streams or water supplies;
- 3 (c) Promote conservation of soils, wetlands, beaches or tidal marshes;
- 4 (d) Conserve landscaped areas, such as public or private golf courses, which enhance the value
- 5 of abutting or neighboring property;
- 6 (e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves,
- 7 nature reservations, sanctuaries, or other open spaces;
- 8 (f) Enhance recreation opportunities;
- 9 (g) Preserve historic sites;
- 10 (h) Promote orderly urban or suburban development; or
- 11 (i) Affect any other factors relevant to the general welfare of preserving the current use of the
- 12 property.

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

16 **SECTION 7.** ORS 308A.315 is amended to read:

17 308A.315. (1) The maximum assessed value and assessed value of land classified as open space  
 18 land under ORS 308A.300 to 308A.330 shall be determined as provided in this section.

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

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

25 (4)(a) For the first tax year for which the land is classified as open space land, the land shall  
 26 have a maximum assessed value equal to the land's open space value determined under subsection  
 27 (5) of this section multiplied by the ratio of the total maximum assessed value of all open space land  
 28 [*within the county*] over the total open space value of all open space land in the [*county*] **same area**  
 29 **and property class.**

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

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

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

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

41 (b) Valuing the improvements on the land, if any, as required by ORS 308.205.

42 **SECTION 8.** ORS 358.480 is amended to read:

43 358.480. As used in ORS 358.480 to 358.545, unless the context requires otherwise:

44 (1) "Americans with Disabilities Act" means the Americans with Disabilities Act of 1990 (P.L.  
 45 101-336), as amended.

**(2) “Area” means:**

**(a) The county in which property, the maximum assessed value of which is being adjusted, is located; or**

**(b) The city in which property, the maximum assessed value of which is being adjusted, is located, if the city has adopted an ordinance or resolution pursuant to section 1 of this 2017 Act.**

[(2)] (3) “Certify,” “certified” and “certification” refer to the approval of historic property by the State Historic Preservation Officer for classification and special assessment under ORS 358.495.

[(3)] (4) “Classified” and “classification” refer to the recognition of property by the State Historic Preservation Officer as historic property as defined in this section.

[(4)] (5) “Commercial building” means improved property used in a trade or business or held for the production of income, not including residential rental property.

[(5)] (6) “Condominium” means, with respect to property submitted to the provisions of ORS 100.005 to 100.627:

(a) The land, if any, whether fee simple, leasehold, easement or other interest or combination thereof, and whether contiguous or noncontiguous;

(b) Any buildings, improvements and structures on the property; and

(c) Any easements, rights and appurtenances belonging to the property.

[(6)] (7) “Condominium unit” means a part of the property:

(a) That is described in ORS 100.020 (3);

(b) That is intended for any type of independent ownership; and

(c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

[(7)] (8) “Condominium unit owner” means, except to the extent the declaration or bylaws provide otherwise, the person owning fee simple interest in a condominium unit, the holder of a vendee’s interest in a condominium unit under a recorded installment contract of sale or, in the case of a leasehold condominium, the holder of the leasehold estate in a condominium unit.

[(8)] (9) “Contributing resource” means a building, site or structure that adds to the historic significance of a historic property or historic district.

[(9)] (10) “Developer” means, with respect to a condominium, a declarant who records a declaration under ORS 100.100 or a supplemental declaration under ORS 100.110 or any person who purchases an interest in a condominium from a declarant, successor declarant or subsequent developer for the primary purpose of resale.

[(10)] (11) “Governing body” means the city or county legislative body having jurisdiction over the property that is the subject of an application for historic property special assessment under ORS 358.487 to 358.543.

[(11)] (12) “Historic property” means real property that:

(a) Is currently listed, either individually or as a contributing resource, in the National Register of Historic Places established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665);

(b) Is currently not a contributing resource in a listed national register district or property but that, in the opinion of the State Historic Preservation Officer, is eligible to become a contributing resource as a result of a proposed preservation plan; or

(c) Has been determined to be eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer.

[(12)] (13) “Historic rehabilitation standards” means the United States Secretary of the Interior’s

1 Standards for Rehabilitation as in effect on September 28, 2009.

2 [(13)] (14) “Maintenance” means action taken to mitigate wear and deterioration of a historic  
 3 property without altering the historic character of the property, including action taken to protect  
 4 and repair the condition of the property with the least possible impact on the historic character of  
 5 the property.

6 [(14)] (15) “Owner” means a purchaser of real property under a recorded instrument of sale. In  
 7 the case of multiple purchasers, “owner” may be a designee of the purchasers.

8 [(15)] (16) “Preservation”:

9 (a) Means the act or process of applying measures necessary to sustain the existing form, in-  
 10 tegrity and materials of an historic property, including but not limited to the ongoing maintenance  
 11 and repair of historic materials.

12 (b) Does not include the extensive replacement of historic materials or new construction.

13 [(16)] (17) “Preservation plan” means a written document, photographs and drawings that outline  
 14 the work of preservation, maintenance and rehabilitation proposed for completion while the property  
 15 is receiving historic property special assessment or completed not more than 24 months before the  
 16 date of application for historic property special assessment.

17 **(18) “Property class” means the classification of property adopted by the Department of**  
 18 **Revenue by rule pursuant to ORS 308.215.**

19 [(17)] (19) “Rehabilitation” means the process of repairing or altering a historic property in or-  
 20 der to return the property to a state of utility in which an efficient contemporary use is possible,  
 21 while preserving those portions and features of the property that are significant to the historic, ar-  
 22 chitectural and cultural values of the property.

23 [(18)] (20) “Seismic improvement” means construction or other measures that improve the seis-  
 24 mic performance or structural stability of property or that reduce the potential for heavy structural  
 25 damage to property or harm to people in or adjacent to the property in the event of an earthquake.

26 [(19)] (21) “Sustainability” means, with respect to historic property, fulfilling present and future  
 27 needs by using, without harming, renewable resources and unique human and environmental systems  
 28 of a site, including air, water, land, energy, human ecology and other sustainable systems.

29 **SECTION 9.** ORS 358.487 is amended to read:

30 358.487. (1) An owner of historic property desiring classification and special assessment under  
 31 ORS 358.487 to 358.543 for the property shall apply to the State Historic Preservation Officer on  
 32 forms approved by the officer.

33 (2) The application must include or be accompanied by:

34 (a) A preservation plan as defined in ORS 358.480. The preservation plan must commit the ap-  
 35 plicant to expend, within the first five years for which historic property special assessment is  
 36 granted, an amount not less than 10 percent of the historic property’s real market value determined  
 37 as of the assessment date for the first tax year to which the historic property special assessment  
 38 applies. The focus of the preservation plan must be on exterior features, especially those visible from  
 39 a public way, and structural members of the property. The treatment of significant interior features,  
 40 as determined by the State Historic Preservation Officer, may also be included in the plan, but un-  
 41 less specifically required by the officer, work in bathrooms, kitchens, basements and attics is not  
 42 included in the preservation plan. Work proposed in the plan must meet the historic rehabilitation  
 43 standards.

44 (b) Payment of an application fee equal to:

45 (A) One-tenth of one percent of the assessed value of the property, as of the assessment date,

1 for the year in which application is made; or

2 (B) For property that does not have an assessed value, one-tenth of one percent of the product  
3 of the real market value of the property for the tax year in which the application is made multiplied  
4 by the ratio of the average maximum assessed value over the average real market value for that tax  
5 year of property in the same area and property class.

6 (c) A copy of the property's current tax statement.

7 (d) Proof that the owner has property insurance on the property in an amount equal to the re-  
8 placement value of the property.

9 (e) The written consent of the owner to the viewing of the property by the State Historic Pres-  
10 ervation Officer.

11 (3) The application must be made before April 1 of the assessment year for which classification  
12 and special assessment as historic property are desired.

13 (4)(a) Property must be classified as historic property in order to be certified for historic prop-  
14 erty special assessment.

15 (b) Notwithstanding paragraph (a) of this subsection, property may be certified for historic  
16 property special assessment upon a determination of eligibility by the State Historic Preservation  
17 Officer under ORS 358.480 [(11)(b) or (c)] **(12)(b) or (c)**. Property certified under this paragraph must  
18 become listed in the National Register of Historic Places within two years of certification under  
19 ORS 358.490.

20 (5) Classification and special assessment pursuant to an application made under this section are  
21 granted for 10 consecutive property tax years, starting in the tax year beginning on July 1 of the  
22 assessment year described in subsection (3) of this section.

23 (6) The application fee required under subsection (2) of this section shall be deposited in the  
24 State Parks and Recreation Department Fund for use by the State Parks and Recreation Director  
25 or for transfer to the Oregon Property Management Account established under ORS 358.680 to  
26 358.690, upon the advice of the State Advisory Committee on Historic Preservation. The application  
27 fee becomes nonrefundable after certification as described in ORS 358.495.

28 **SECTION 10. This 2017 Act takes effect on the 91st day after the date on which the 2017**  
29 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

30