

**Howard County Appraisal District**

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**(Referenced)**

**Property Tax Code  
Section 23.51**

**Guidelines to Qualify for  
1-d-1 Open Space Land Appraisal  
And  
Wildlife Management**

**Revised 10-03-2018**

Dear Property Owner:

The Texas Constitution permits agricultural productivity appraisal only if the land and its owner meet specific requirements as defined by Section 23.51 of the Property Tax Code standards for open space productivity use. Land does not qualify simply because it is vacant, rural or has some connection with agriculture.

The Tax Code defines agricultural use as follows: “agricultural use includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; and planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure and wildlife management.

The Comptroller’s manual for agricultural appraisal notes that production of any commercially valuable livestock, fish, or poultry product probably constitutes agricultural use as well.

The "Texas Property Tax, “Manual for the Appraisal of Agriculture Land" (Texas Comptroller of Public Accounts),and Section 23.51 of the Property Tax Code set the standards for determining whether land qualifies for a special use valuation for open space agriculture land.

"Open Space Qualified land"... is currently and actively devoted principally to production of agricultural products to the degree of intensity generally accepted in the area with **intent to produce income** and has been devoted principally to production of **agricultural products...for five (5) of the preceding seven (7) years...**

The definition encompasses several key qualifying factors that both the land and the landowner must meet:

1. The land must be currently and actively devoted to agricultural use.
2. The land must be used principally for agricultural use.
3. The land must be devoted to an agricultural use to the degree and intensity that is typical in an area.
4. The owner must have intent to produce income.
5. Land must have been used principally for agricultural use for any five (5) of the preceding seven (7) years.
6. The property owner must file a timely and valid application form.

### **Current and Active Devotion to Agricultural Use**

Currently devoted to agriculture means that a qualifying agricultural use is evident as of January 1 of the tax year... According to the Texas Property Tax Manual for the Appraisal of Agricultural Land, The Texas Comptroller of Public Accounts, April 1990, Page 9, "The land must be currently devoted to agricultural use. The land must qualify on January 1 st ...."

The land must stay in a qualifying use throughout the year. The agriculture valuation can be removed at any time due to non-compliance. This is a productivity value and therefore the property needs to be producing either livestock, livestock offspring or crops. Simply maintaining livestock will not qualify the property.

### **Agricultural Production Must be the Land's Primary Use**

Land that is currently and actively devoted to agricultural production will not qualify for productivity appraisal unless agricultural production is the land's primary use. If the owner uses the land for more than one purpose, the most important or primary use must be agriculture.

### **Primary uses (Non-Qualifying)**

Here are some examples of Non-Qualifying Primary uses:

- Pleasure and/or personal use gardening.
- Exotic game primarily used for hunting.
- Land used primarily to train, show, or race horses, to ride horses for recreation, to keep or use horses in some manner that is not strictly incidental to breeding horses.
- Harvesting of native plants or wildlife.
- Processing of plants and animals.
- Processing constitutes any activities that take place after the crop or animal has been raised and harvested and any activity a non-producer carries out on agricultural products. Processing begins at the first level of trade beyond production. Processing begins when activities occur that enhance the value of primary agricultural products.
- Personal consumption of crops or livestock produced by owner.
- Raising cattle, goats, or sheep for FFA and 4H projects.
- Token agricultural use which occurs in an effort to obtain tax relief

### **Degree of Intensity Test**

*Intensity of agricultural production is the central issue or standard of agricultural use qualification.*

**The law does not state what degree of intensity qualifies a particular type of land. In a state as large as Texas, no statutory definition could cover all the possible agricultural uses. The Chief Appraiser is responsible for setting degree of intensity standards for the types of agriculture production in the area, with the assistance of the Agricultural Advisory Board.**

To qualify for agricultural productivity appraisal, land must be used to the degree of intensity generally accepted in the area and to the extent that is typical for similar operations in the area.

The degree of intensity test is intended to exclude from productivity appraisal land on which token agricultural activity occurs simply to get tax relief.

In most cases, property owners must prove that they are following the common production steps for their type of operation and using typical amounts of labor, management, and investment.

See the degree of intensity chart included in this guideline.

### **Intent to Produce Income**

The owner must use the land with the intent to produce income. Like the degree of intensity test, this test excludes those owners who are not using the land for agriculture to produce income and who are trying to use productivity appraisal to avoid paying property taxes on the land's market value. Whether or not the owner has the intent to produce income is determined by the Chief Appraiser.

### **Historical Use Requirement**

Land used primarily for agriculture for five (5) of the previous seven (7) years may qualify for agricultural productivity appraisal. This historical use attaches to the land.

In order to build a history an owner must be engaged in an appropriate agricultural activity for a five (5) year period. The owner will file an agricultural application for every year for five (5) years. The property will be field checked and a report will be filed for each year. The owner will file in the sixth (6) year and if the requirements have been met during the preceding five (5) years, then the property will be eligible to receive the agricultural valuation.

### **Improvements**

- Agricultural value applies only to the land and not to improvements (structures) on the land, minerals, or agricultural products.
- The land beneath farm buildings and other agricultural improvements does qualify due to their use in connection with the agricultural process.

### **Products of agricultural operations**

- Products in the hand of the producer are generally exempt from taxation. See Texas Property Tax Code, Section 11.16.
- Farm and ranch equipment designed and used primarily for agricultural/husbandry activities are also exempt. See Texas Property Tax Code, 11.161.

### **Appurtenances**

- Appurtenances to the land (canals, water wells, roads, stock tanks, and other similar reshaping of the soil) are included in the value of the land and not appraised separately.

**Native pasture** is defined as those pastures that have native vegetation, with minimal improvements.

**Improved pasture** is defined as those pastures, with native and improved vegetation, that have had improvements made to them including but not limited to fertilizer application, weed and brush control (mechanical or chemical) or over seeding with winter grass.

**Wasteland (WL)** This includes land that the typical operator would/could not use. The amount of wasteland allowed open space designation is normally restricted to less than 20% of the total tract of land. The land can consist of creeks, draws, or other areas that are not financially feasible to utilize. This can also apply to small tracts that have been split by roads, creeks, and rivers. This land must be an integral part of one or more of the other land classifications.

**Hay Production** Standard practices: tillage, fertilizing, cutting, baling, hauling, feeding or marketing. In normal years, 2-3 cuttings can be achieved. Hay production should be approximately 3,000 lbs. per acre. The hay must be a marketable product. The cutting and baling of unmanaged vegetation is not considered hay production.

**Commercial Fish/Crawfish Production** differs from keeping fish for purely sporting or recreational purposes. This difference is not necessarily related to the scale of the operation, nor is it related to any intent to produce income or make a profit. Raising fish is a qualified agricultural land use when all the elements of a bulk harvest are present. Taking fish by individual line is clearly a recreational activity.

The information collected below was a result of on-site inspections of agricultural property in Howard County and meetings with the Agricultural Advisory Board. The purpose of this information is to help establish typical guidelines and/or intensity levels. All application approvals will be on a case by case basis.

**Howard County Appraisal District Agriculture Land Guidelines- Typical Levels**

<p>Native/Imp Pasture Must be fenced Water Source <b><u>Cattle</u></b></p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately twenty (20) acres is required.</li> <li>2. At least 75% is open space for grazing.</li> <li>3. At least two (2) head of reproducing cows.</li> <li>4. Larger tracts should have one (1) cow to every fifty (50) to sixty (60) acres.</li> </ol>
<p>Native/Imp Pasture Must be fenced Water Source <b><u>Horses</u></b></p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately twenty (20) acres is required.</li> <li>2. At least 75% is open space for grazing.</li> <li>3. Breeding operations only with a minimum of six (6) reproducing mares.</li> <li>4. Provide proof of sale of offspring.</li> <li>5. Typically, operations set up strictly for boarding, training, and showing of horses do not support an agricultural purpose.</li> </ol>
<p>Native/Imp Pasture Must be fenced Water Source <b><u>Goats</u></b></p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately twenty (20) acres is required.</li> <li>2. Land can be partially wooded but must have enough grasses and other food sources to support one (1) goat per four (4) acres.</li> <li>3. A minimum of twenty (20) reproducing nannie goats.</li> <li>4. Proof of sale of offspring.</li> </ol>
<p>Native/Imp Pasture Must be fenced Water Source <b><u>Sheep</u></b></p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately twenty (20) acres is required.</li> <li>2. Land can be partially wooded but must have enough grasses and other food sources to support one (1) sheep per five (5) acres.</li> <li>3. A minimum of twenty (20) reproducing ewes.</li> <li>4. Proof of sale of offspring.</li> <li>5. Sheep operations should be raising sheep for wool, mutton or sale as livestock and not strictly for sale as show animals.</li> </ol>
<p>Hay Field/ Alfalfa</p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately ten (10) acres is required.</li> <li>2. Typically, proof of one (1) cutting in years of normal rainfall.</li> <li>3. There should be no animals on a hayfield during growing season. Animals may be wintered on hayfields.</li> </ol>
<p>Orchard/Vineyards</p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately five (5) acres is required.</li> <li>2. Approval on a case by case basis.</li> </ol>
<p>Truck Farms</p>	<ol style="list-style-type: none"> <li>1. A minimum of approximately two (2) acres is required.</li> <li>2. Small operations may qualify if managed intensively.</li> <li>3. Proof of produce sold wholesale to the public.</li> </ol>
<p>Dry Crop Irrigated Crop</p>	<ol style="list-style-type: none"> <li>1. Minimum approximately 20 acres.</li> <li>2. Approved on a case by case basis</li> </ol>

### **Wildlife Management Guidelines**

1. Land must have been qualified and appraised as open-space agriculture land or as timber land in the year prior to conversion to wildlife management use.
2. The primary use of the land must be for managing wildlife.
3. Property must be “actively managed” to sustain a breeding, migrating, or wintering population of indigenous wild animals for human use. (the term sustained breeding population was changed to “breeding population to be consistent with the Tax Code” and because the term sustained refers to breeding, migrating and wintering populations of wildlife, the definition is the same)
4. Must submit an application and a management plan between January 1 and April 30 of the tax year.
5. Management plan must be submitted on the Texas Parks and Wildlife form:  
“TPWD 885-W7000”.
6. Must perform at least 3 of the following 7 management practices each year.
  1. Habitat Control
  2. Erosion Control
  3. Predator Control
  4. Provide Supplemental Water
  5. Provide Supplemental Food
  6. Provide Shelter
  7. Conduct Census Counts to Determine Population

**Howard County Appraisal District uses Comptroller rule 9.2005 for calculating Wildlife use to a tract that has had a reduction in acreage in the year immediately preceding the application for Wildlife Management Use or has subsequently had a reduction in acreage. It is a formula that determines the minimum acreage standard requirement. The District will use 94% for individual land owners and 92% for Wildlife Property Management Associations.**

**The Chief Appraiser will require an annual report on the form prescribed by the Texas Parks and Wildlife Department describing how the management plan was implemented during the year.**

Wildlife land is revenue neutral from its previous agricultural use, meaning that it will be taxed at the same rate as it was taxed previously. If the land was previously taxed as native pasture it will continue to be taxed at the same rate per acre as native pasture. If the land was previously taxed as improved pasture it will continue to be taxed at the same rate per acre as improved pasture and so on for all classes of agricultural and timberland.

### **Agriculture Use Guidelines for Bees**

Texas Property Tax Code Subchapter D, 23.51:

Agriculture use includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 acres or more than 20 acres. (HB 2049)

**Minimum of 6 colonies (hives) on first 5 acres.**

**For each additional 2.5 acres one additional hive is required.**

**Section 131.001 Texas Agriculture Code definition of an Apiary- A place where six (6) or more colonies of bees or nuclei of bees are kept. A colony is the hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.**

#### **Typical Management Practices**

- Hive structure maintenance.
- Monitor bee health.
- Provide supplemental food.
- Control pests.
- Harvest and market products.

AG Advisory Committee met 10-01-2018

Chief Appraiser approved 10-01-2018

Board of Directors approved 10-10-2018