

# **BASTROP CENTRAL APPRAISAL DISTRICT**

## **AG-USE AND OPEN-SPACE AGRICULTURAL/TIMBERLAND**

Qualification Guidelines and Definitions

Revised March 2019

## LAND PRODUCTIVITY VALUATION

Two amendments to the Texas Constitution permit agricultural and open-space land to be taxed generally on its agricultural use, or productivity value. This means that taxes would be assessed against the productive value of the land instead of the selling price of the land in the open market.

The legal basis for special land appraisal is found in the Texas Constitution in Article VIII, Sections 1-D and 1-D-1. The two types of land and valuation are commonly called "ag-use" or "1-D" and "open-space" or "1-D-1". The corresponding provisions of the Texas Property Tax Code are Sections 23.41 through 23.46, Agricultural Land; and Sections 23.51 through 23.57, Open-Space Land.

The purpose of the two provisions is similar. Under both provisions, the land must be in agricultural use and valued in the same manner. However, there are differences in the qualifications that must be met in order to receive the productivity valuation.

### 1. AG-USE, 1-D, qualifications include:

- \* The land must be owned by a natural person. Partnerships, corporations or organizations may not qualify.
- \* The land must have been in agricultural use for three (3) years prior to claiming this valuation.
- \* The owner must apply for the designation each year and file a sworn statement about the use of the land.
- \* The agricultural business must be the land owner's primary occupation and source of income.

### 2. Open-Space, 1-D-1, qualifications include:

- \* The land may be owned by an individual, corporation, or partnership.
- \* The land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.

\* The land must have been devoted to a qualifying agricultural use for at least five (5) of the past seven (7) years.

\* Agricultural business need not be the principal business of the owner.

Once the application for 1-D-1 is filed and approved, a landowner is not required to file again as long as the land qualifies unless the chief appraiser requests another application to confirm current qualifications.

The possibility for a "rollback tax" exists under either form of special land valuation. This liability for additional tax is created under 1-D valuation by either sale of the land or a change in use of the land. It extends back to the three years prior to the year in which the change or sale occurs.

Under 1-D-1, a rollback is triggered by a change in the use to a non-agricultural purpose that would not qualify for productivity valuation. Taxes are rolled back or recaptured for the five years preceding the year of the change.

The additional tax is measured by the difference between taxes paid under productivity valuation provisions and the taxes which would have been paid if the land had been put on the tax roll at market value.

These provisions are effective only if applications are filed with the appraisal district office in a timely manner. Applications should be filed after January 1 and before May 1.

Guidelines have been established by the Bastrop Central Appraisal District for the implementation of these provisions. It is the opinion of the Bastrop Central Appraisal District that the guidelines are valid for mass appraisal purposes and can be applied uniformly throughout the district.

These guidelines are supported by Section 183 of the I.R.S. Regulations.

It should be noted that these guidelines are to be used as a general guide for qualifying agricultural land. Exceptions to the general rule will be handled on a case by case basis.

#### 1. Definitions of Key Words/Phrases:

A. **PRUDENT** - capable of making important management decisions; shrewd in the management of practical affairs. Specifically the law states that the land must be utilized as would an ordinary and prudent manager.

B. **TYPICAL** - exhibiting the essential characteristics of a group. Specifically, the law states that Ag Land will be utilized as would a typical (ordinary)

manager. Statistically, a typically prudent manager is the median farmer or rancher.

**C. AGRICULTURAL USE TO THE DEGREE OF INTENSITY GENERALLY ACCEPTED IN THE AREA** - farming or ranching to the extent that a typically prudent manager in the area of the taxing unit would farm or ranch on a typical operation when the tract is devoted principally to agricultural use. A better understanding of this definition can be gained by identifying the key elements of the definition and explaining each as following:

1. Degree of intensity generally accepted in the area shall mean that the farming and ranching practices (cropping patterns, planting rates, fertilization methods, harvesting and marketing techniques, etc.) are those of a typically prudent farm or ranch manager.
2. Typically prudent farm or ranch managers are ordinary farmers in terms of acres farmed as well as management ability. Given all other factors remain constant, the number of acres farmed determines the farmer's capital structure. Typically prudent ranch managers located in the Bastrop Central Appraisal District are assumed to have similar equipment of similar value and utility.
3. Area is interpreted to be that land inside the jurisdiction boundaries of the Bastrop Central Appraisal District.
4. Principally means the more important use in comparison with the other uses to which the land is put.

## GUIDELINES FOR DETERMINATION OF INTENSITY OF AG-USE

### I. SIZE OR ACRES OF LAND UNDER AGRICULTURAL PRODUCTION

A. Land under agricultural production must be specifically identified and products produced clearly stated. The land shall be described legally and physically. Physical description of the land identifies the land in categories or classifications of land such as dry-land cropland and native pasture; as well as stating the number of acres in production. Productive capacity of the land must be described to allow measurements of agricultural production intensity.

Intensity of agricultural production is the central issue or standard of agricultural use qualification. Intensity of use for our area is based on information gathered from several local sources and statistical data from USDA. A typical livestock operation to the degree of intensity generally accepted in this area, such as grazing cattle or livestock is seven (7) animal units year round. The acreage typically needed to support this operation depends on the type of pasture and the operator's management practices. An animal unit is defined as a 1,000 pound cow, five (5) sheep or goats, or two (2) 500 pound calves. Year round means twelve (12) months. **The following typical acreages for the different land categories listed below are intended to be used as general guidelines based upon typically stocking rates. Exceptions to the general rule will be handled on a case by case basis.**

1. **IRRIGATED ORCHARD** - typically, 5 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.
2. **DRYLAND ORCHARD** - typically, 10 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.
3. **NATIVE ORCHARD** - typically, 10 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.
4. **IRRIGATED ROWCROP** - typically, 20 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.
5. **DRYLAND ROWCROP** - typically, 20 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

6. **SMALL GRAINS** - typically, 20 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

7. **IMPROVED PASTURE GOOD** - typically, 14 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

8. **IMPROVED PASTURE AVERAGE** - typically, 21 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

9. **IMPROVED PASTURE POOR** - typically, 35 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

10. **NATIVE PASTURE GOOD** - typically, 35 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

11. **NATIVE PASTURE AVERAGE** - typically, 56 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

12. **NATIVE PASTURE POOR** - typically, 84 acres of land is required to achieve minimum standard of production to qualify agricultural use given prudent management.

15. **EXCEPTIONS:**

a) Typically 10 acres or less is considered as agricultural land **ONLY** if it is leased or run as a part of a larger agricultural operation.

\* If a small tract is used as part of a larger grazing operation it may qualify. Written verification of participation in a larger operation **MUST** be filed with the Bastrop Central Appraisal District. This written documentation can be a written lease and or written affidavit statement from the property owner that an oral agreement is in effect. If a statement is used, the location of property, parties involved and length of agreement must be stated.

\* Small acreage that is not used as part of a larger operation with a home built upon the tract is primarily residential in nature, with agricultural use secondary. Open-Space Land **MUST** have agricultural use as its **PRIMARY** use in order to qualify.

b) Small parcel of land that is not contiguous with other parcels being held in common ownership or under lease, but is principally devoted to agricultural use for such use as product storage, equipment storage, or livestock feeding or handling. Generally such uses compliment agricultural use of other land parcels qualifying under agricultural use as farming or ranching operations and achieves intensity of use typically accepted in the area.

## **II. GROSS ANNUAL RECEIPTS OR INCOME FROM THE SALE OF AGRICULTURAL PRODUCTS**

A. If the land is under agricultural use there should be sales of products.

1. Internal Revenue Service Schedule F Tax Form supplied by owner may be requested to provide data.

2. Statement by owner declaring products produced and gross income earned to land.

B. Land left idle as part of a government agricultural or conservation program can also qualify for an agricultural appraisal provided that (1) under normal circumstances and under prudent management, production of agricultural products on the subject property can achieve intensity of use typical for the area, and (2) documentation of participation in the government program is submitted to the Appraisal District no later than April 30 of the year in which the program is in place.

C. Property owners may elect to allow their land to remain fallow as part of the prudent management of their property for up to two years out of a seven year period without forfeiting their agricultural appraisal. Property owners who wish to take this course of action should send a letter to the Appraisal District stating their intent to do so no later than April 30 of the year in which the land is to remain fallow.

a. Section 23.522 of the Texas Property Tax Code offers additional leeway for a property owner to allow his/her land to remain fallow during a drought declared by the Governor. Property owners wishing to take advantage of these provisions should send a letter to the Appraisal District stating their intent to do so no later than April 30 of the year in which the land is to remain fallow. Such requests will be reviewed by the Appraisal District staff and approved or denied on a case-by-case basis.

# **GUIDELINES FOR TYPICAL FARMING AND RANCHING OPERATIONS**

## **BASTROP CENTRAL APPRAISAL DISTRICT AGRICULTURAL**

### **ADVISORY BOARD**

#### **ORCHARDS**

Standard practices:

- 14 to 100 trees per acre
- Weed control
- Water available for establishment
- Insect control
- Fertilizer
- Prune trees
- Manage for and harvest

#### **ROWCROP**

Standard practices:

- Shredding previous crop
- Tillage
- Planting
- Fertilize
- Apply herbicide
- Insect control
- Maintained in a workman-like manner
- Harvest

#### **IMPROVED PASTURE**

##### **HAY PASTURE**

Standard practices:

- Fertilize.
- Apply herbicide
- Baling

##### **IMPROVED GRASS PASTURE**

Standard practices:

- Fertilize
- Weed control
- Fences maintained
- Stock water
- Marketing

Stocking Ratio:

GOOD - 1 animal unit per 2 to 3 acres

AVERAGE - 1 animal unit per 3 to 5 acres

POOR - 1 animal unit per 5 to 10 acres

## **NATIVE PASTURE**

Standard practices: Weed

control Fences

maintained Stock

water Marketing

Stocking ratio:

GOOD - 1 animal unit per 5 to 8 acres

AVERAGE - 1 animal unit per 8 to 12 acres

POOR - 1 animal unit per 12+ acres

## LAND TYPE CLASSIFICATION

1. **IPG - (IMPROVED PASTURE GOOD)** Consist of improved grasses that are typically used for hay. The pasture is fertilized once or twice each year and herbicide applied once a year. It is typically cut for hay twice a year then it is grazed the remainder of the year.

Stocking rate: 1 animal unit per 2 to 3 acres

2. **IPA - (IMPROVE PASTURE AVERAGE)** Consist of improved grasses, the pasture is fertilized and herbicide is applied once a year.

Stocking rate: 1 animal unit per 3 to 5 acres

3. **IPP - (IMPROVE PASTURE POOR)** Consist of pasture that at one time was improved pastures, which has been neglected and has not been fertilized or herbicide applied.

Stocking rate: 1 animal unit per 5 to 10 acres

4. **NPG - (NATIVE PASTURE GOOD)** Consists of low land pasture (native pasture). This type of land would not be fertilized.

Stocking rate: 1 animal unit per 5 to 8 acres

5. **NPA - (NATIVE PASTURE AVERAGE)** Consist of pastures that have native grasses that is open pasture to lightly covered with brush (Post Oak, Mesquite, Pine). This type of land would not be fertilized.

Stocking rate: 1 animal unit per 8 to 12 acres

6. **NPP - (NATIVE PASTURE POOR)** Consist of pasture that is covered with heavy dense brush, such as Post Oak with Youpon underbrush or Pine trees. Native Pasture Poor has minimum amount of grazeable forage for livestock.

Stocking rate: 1 animal unit per 12+ acres

7. **WTL - (WASTELAND)** Land that the typical operator would/could not use. Consisting of creeks, draws or other areas that are not financially feasible to utilize. Normally restricted to less than twenty percent of the total tract of land. This type of pasture is used typically in conjunction with other types of pasture.

8. **TP3 - (TIMBER PINE)** Land where softwoods or evergreen trees comprise more the two-thirds of the stems that are free to grow.
9. **TM3 - (TIMBER MIXED)** Land where neither hardwoods or softwoods comprise two-thirds or more of the stems that are free to grow.

## **ORCHARDS**

1. **PECANS**
  - Native Pecans (14 trees per acre)
  - Improved Pecans (35 trees per acre)
2. **PEACHES** - 100 trees per acre

### **SUGGESTED MINIMUM REQUIREMENTS FOR 1-D-1 TIMBERLAND USE CLASSIFICATION**

1. A written Forest Management Plan prepared by a properly trained forester.
2. Records of improvements and Forest Management Treatments as prescribed in the plan (Cost Records).
3. Commercial Timber Stocking (Pine or Cedar).
4. Documented Timber Harvest
  - As prescribed in Forest Management Plan
  - Approximately 7 to 10 year intervals
  - Exception for Immature Stands
5. On Immature Stands, must have 300 stems of commercial timber per acre that are not over-topped, that is being released.
6. Must have a soil site index of 65 or greater for pine trees.

## **GUIDELINES FOR QUALIFICATIONS OF AGRICULTURAL LAND IN WILDLIFE MANAGEMENT USE**

These interim *Guidelines for Qualification of Agricultural Land in Wildlife Management Use* will discuss the requirements that land must meet to qualify for wildlife management use, how to value this land, and each of the seven wildlife management activities mandated by state law.

- I. Land must be qualified for Chapter 23, Subchapter (1-d-1) Agricultural Appraisal at the time the owner changes use to wildlife management use. In other words, the property must have been qualified and appraised as agricultural land during the year prior to the year the owner changes to the wildlife management use.

Land qualified for timber appraisal is not eligible to qualify for the wildlife management use.

- II. Land must be used to generate a sustaining breeding, migrating, or wintering population of indigenous wild animals. An indigenous animal is a native animal that originated in or naturally migrates through an area and that is living naturally in that area as opposed to an exotic animal or one that has been introduced to the area (one that is native to Texas). (Contact the Texas Parks and Wildlife Department to determine if an animal species is considered indigenous.)

The law requires an owner to propagate the wildlife population for human use. Human use may include food, medicine or recreation. Land will not qualify unless the owner propagates the population of wild animals for a human purpose. These uses result in a product and require active participation.

- III. Is the land used for three or more of the following activities? Under the law, an owner must perform at least three of seven listed wildlife management activities on the land. An owner may qualify by doing more than three, but may not engage in fewer than three of the activities. See the following:

- \* Habitat Control (Habitat Management)
- \* Erosion Control
- \* Predator Control (Predator Management)
- \* Providing Supplemental Supplies of Water
- \* Providing Supplemental Supplies of Food
- \* Providing Shelter
- \* Conduct Census Counts to Determine Population

For a thorough discussion of these components, please refer to the State Comptroller's Property Tax Assistance Division's "Manual for the Appraisal of Agricultural Land."

#### IV. Primary Use

The law requires agriculture to be the primary use of the land. Wildlife management is an agricultural use under the law.

#### V. Degree of Intensity for Wildlife Management Use. Wildlife management land usually requires a management of the land that encourages long-term maintenance of the population.

Facts that would aid in determining your qualifications for Wildlife Management Use:

\*\* An active, written wildlife management plan that shows the owner is engaging in activities necessary to preserve a sustaining breeding population on the land. A Plan is clear evidence of the owner's use of the land primarily for wildlife management. A good plan will usually list wildlife management activities with the appropriate season and/or sequence of events.

\*\* Has the owner engaged in the wildlife management practices necessary to sustain and encourage the population?

\*\* Are there improvements—appropriate fencing, for example—necessary to control or sustain the wildlife population?

Because wildlife management activities are elements of the degree of intensity determination, an owner must be engaging in three (3) of seven (7) activities to the degree of intensity typical for the area.

#### VI. Notifying the Chief Appraiser of change to Wildlife Management Use

When an owner changes agricultural uses to wildlife management, the owner must notify the Chief Appraiser in writing before May 1 of the year in which the owner wants to qualify under wildlife management use. The Chief Appraiser will then determine if the land qualifies for wildlife management use. Likewise, an owner must notify the Chief Appraiser if land is switched from wildlife management use to another qualifying agricultural use.

If you have any further questions please contact the State Comptroller's Property Tax Assistance Division.

## STAND COUNTS FOR DEER

Stand counts will be utilized for harvest recommendations on ranches that standard census techniques cannot be used such as on smaller acreages and/or ranches with extremely dense vegetation.

### Guidelines for Stand Count

1. One stand per 100 acres of deer habitat with counts conducted in at least 2 stands at a time.
2. A minimum of five sittings (observation recording periods) per stand.
3. A minimum 2-hour observation recording period per stand sitting (rec. first or last hours of daylight).
4. All stands in an area should have observers at the same time (simultaneous effort) for each sitting.
5. Be careful not to record the same deer twice during the same sitting.
6. Complete stand sittings between August 1 – September 15.

### INTERNAL REVENUE SERVICE "HOBBY" FARM GUIDELINES (REFERENCE SECTION 183-2 OF THE I.R.S. REGULATIONS)

1. **Manner in which the taxpayer carries on the activity.** Does the taxpayer go about the activity in a business-like fashion keeping books and records, and does he operate as similar businesses are operated?
2. **The expertise of the taxpayer or his advisors.** Where the taxpayer has no expertise, does he seek it, and does he follow the advice once found?
3. **The time and effort expended by the taxpayer in carrying on the activity.** Are either the efforts of the taxpayer or his qualified assistants consistent with the size of the investment and a profit motive?
4. \* **Expectation that assets used in activity may appreciate in value.** Lack of current income may be offset by the possibility of asset appreciation.
5. **The success of the taxpayer in carrying on other similar or dissimilar activities.** A long uninterrupted history of losses will be harmful, but the presumption noted above will operate if the taxpayer has a profit in two years out of five (or seven).
6. \* **The taxpayer's history of income or losses with respect to the activity.**

7. **The amount of occasional profits, if any, which are earned.** If profits are generated, their size in relation to prior or later losses will be considered.
8. **The financial status of the taxpayer.** If the taxpayer has sufficient wealth to suffer losses, that may indicate a nonprofit motive.
9. **Elements of personal pleasure or recreation.** If the taxpayer has personal motives or engages in the activity for recreational purposes, his overall profit motives will be suspect.

\* Exemption Department should disregard. Not applicable under the Texas State Property Tax Board Guidelines.

This shows that even the IRS has trouble in identifying actual farming endeavors or just "write-offs".

## GUIDELINES FOR BEEKEEPING

### Degree of Intensity for Beekeeping

Beekeeping is an agricultural use and shall qualify for agricultural use productivity valuation if used for pollination or for the production of human food or other tangible products having a commercial value. (Sec. 23.51(2) Tax Code)

*Acreage Requirement:* the State of Texas has set a minimum of 5 acres and a maximum of 20 acres to qualify beekeeping as an agricultural use.

Our degree of intensity standard is set a minimum of six colonies and 5 acres. The minimum degree of intensity was established using Section 131.001 Texas Agriculture Code's definition of an apiary, which is a place where six 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.

For each additional 2.5 acres one additional hive is required. If additional acreage is less than 2.5 acres, no additional hive is required. For example, if a property owner has 14.6 acres of land used for beekeeping, nine hives would be needed to qualify.

First 5 acres	6 hives
Additional 7.5 acres	3 hives
<u>Remaining 2.1 acres</u>	<u>0 hives</u>
-	
Total Hives required	9 hives

When property owners initially qualify for agricultural appraisal, they must show proof of history for agricultural use/beekeeping for any of the five (5) preceding seven (7) years. One way to do this is to ask for export, import or intra-state permits, which are required by the Texas Apiary Inspection Service to transport hives.

**BASTROP CENTRAL APPRAISAL DISTRICT  
RATIO FOR WILDLIFE MANAGEMENT USE**

The following percentages were adopted by the Bastrop Central Appraisal District Board of Directors on April 16, 2003.

These percentages are not to be rounded either up or down. (Amended 1-15-2004)

1. 94% for wildlife use
2. 91% for wildlife use for properties within a wildlife management property association
3. 91% for wildlife use for a property in an area designated by the Texas Parks & Wildlife Department as habitat for endangered species, a threatened species, or a candidate species for listing as threatened or endangered

Example of calculation:

Total acres	15.0000
Minus 1 acre	<u>- 1.0000</u>
Equals	14.0000
Divide by total acres	15.0000
Equals	93.3%

## **GUIDELINES FOR AGRICULTURAL USE (OPEN-SPACE 1-D-1)**

If the property you have recently purchased was designated for use as agricultural land and was previously receiving the ag-use valuation and if you would like to continue the use of the land, you would need to keep the property in some type of ag-use such as farming or ranching. You would then need to bring in or mail a signed copy of your deed with a current mailing address, to the Bastrop Central Appraisal District, 212 Jackson, P. O. Drawer 578, Bastrop, TX 78602.

If the property has had an ownership or acreage change the exemptions will be removed as of January 1. The ag-use valuation will remain on the property for the remainder of the current year and be removed as of January 1 of the following year, until you re-file your application. Our office will mail ag-use applications along with a cover letter notifying you that you are required to re-file your ag-use valuation with our office. These applications will be mailed out no later than January 31 of the year you are required to renew your application. The property **MUST** currently be in ag-use and the principal use must remain agricultural use when you apply for the ag-use valuation.

The application must be returned between January 1st and no later than April 30th. If you return the application after the April 30th deadline and no later than July 10th it will be considered a late application and will be subject to a 10% late penalty which is the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

If you would like to request an application for ag-use, the Bastrop Central Appraisal District will put you on the mailing list to receive a new ag-use application to file after the first (1st) of the year.

If the property you have recently purchased has not previously been designated as agricultural land, but you are going to start using the land for farming or ranching. In this case, this is the first time filing for agricultural use on this property. The property needs to have 5 out of 7 years history of agricultural use farming or ranching. The owner would have to supply documentation for those 5 out of 7 years. The principal use of the land needs to remain in agricultural use.

Example:            Schedule F forms (from your income tax return)  
                         Receipts for buying, selling, breeding of livestock,  
                         feed bills, vet bills, fertilizer, seeds, harvesting, purchases of  
                         Farming equipment etc....

“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, 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 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.

If you should have any further questions, please contact our office at (512) 303-1930 extension 29 and ask for Marilyn Wilson.