



**SMITH COUNTY APPRAISAL DISTRICT
GUIDELINES FOR QUALIFICATION FOR
1D1 OPEN-SPACE AND TIMBERLAND
APPRAISAL**

REVIEWED 2/17/2022

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THE BURDEN OF PROOF IS THE RESPONSIBILITY OF THE LANDOWNER

It should be noted that these guidelines are to be used as a general guide for qualifying agricultural land. Applications are reviewed on a case-by-case basis. All contiguous parcels, under the same ownership, will be considered as one piece of property.

Qualifications for Agricultural Use

“The Texas Constitution permits special agricultural appraisal only if land and its owner meet specific requirements defining farm and ranch use. Land won’t qualify simply because it is rural or has some connection with agriculture. Neither will it qualify because it is open land that has no other possible use. The law does not guarantee a tax break for everyone who makes a living from the land. Casual uses such as home vegetable gardens do not really constitute agriculture.”
– Manual for the Appraisal of Agricultural Land, 2020

The “Manual for the Appraisal of Agricultural Land”, Property Tax Division, Comptroller of Public Accounts, October 2020, supports these guidelines. The Texas Constitution permits qualified open-space land to be taxed generally at a productivity value instead of market value. The legal basis for this type of special valuation called “Ag Use Open Space” or “1-d-1” is found in the Texas Constitution, Article VIII, Section 1-d-1. The Texas Property Tax Code (TPTC), Sections 23.51 – 23.57 provide the core provisions for implementation.

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.

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.

Owners wishing to receive special agriculture valuation on their land **must show** the Chief Appraiser that the land meets the standards for agriculture appraisal. These standards include: 1) primary use, 2) current use 3) intensity, and 4) time-period tests.

To show the land meets the qualifications the owner must apply and must give the Chief Appraiser all the information needed to determine whether the land qualifies.

Time Period Test

Pursuant to Section 23.51 (1) of the Texas Property Tax Code, land must have been devoted principally to agricultural use for five of the preceding seven years preceding the year when an application is filed. As long as agriculture was the principal use of the land in the preceding years, the land qualifies, even if the agricultural use did not meet the degree of intensity requirement for all or part of those preceding years.

Current Use Test

The land must be in agricultural use as of January 1st of the tax year. In the event that agricultural use is not evident on January 1st, the Chief Appraiser will grant agricultural use only if the owner can show Smith County Appraisal District evidence that they intend to put the land into agricultural use and that agricultural use will be the primary use of the land for the bulk of the calendar year covered by the application.

Primary Use Test

According to the statute, Section 23.51(2) Property Tax Code, land must be devoted principally to an agricultural use. If the land is used for more than one purpose, the most important or primary use must be agriculture. For example, pleasure gardening is not the principal use of residential land, nor is livestock grazing the principle use of residential tracts. Other uses do not prevent land from qualifying if the primary use is agriculture. For example, land used to graze cattle could also be leased for hunting. Leasing land for hunting is compatible with a primary use of land for cattle grazing. The Chief Appraiser must determine which use is primary. If another use replaces agriculture as the primary use of the land, then the land is no longer principally devoted to agriculture use and cannot qualify for agricultural appraisal. Small tracts of land that have been developed for residential use and are of inadequate size to support an economically feasible agriculture activity will not typically qualify for agriculture use valuation.

Intensity of Use Test

The degree of intensity test measures whether the land is being farmed or ranched to the extent typical for agricultural operations. To receive a productivity appraisal the land must be used to the degree of intensity typical in the area as defined by the Chief Appraiser and the Agriculture Advisory Board. This test is intended to exclude land on which token agricultural uses occurs, in an effort to obtain tax relief.

Examples of Qualifying Activities

1. Cultivating the soil.
 - a. Production of crops for human consumption, animal feed, or production of fibers.
 - b. Cultivation of ornamentals and flowering plants.
 - c. Cultivation of grapes.
 - d. Cultivation of fruits, vegetables, flowers, herbs, and other plants.
2. Breeding / Raising livestock such as meat or dairy cattle, horses, goats, and sheep.
3. Donkeys or llamas used for guard purposes, if part of a sheep, goat, or cattle breeding operation.
4. Horses used in ranching operations if part of a sheep, goat, or cattle breeding operation.
5. Raising exotic game for commercial use.
6. Participation in a government program and normal crop rotation. Land left idle to participate in a government program that is used for agriculture. Land left idle for crop rotation qualifies until left idle for longer than the typical period.
7. Wildlife Management.
8. Bee Keeping

Non - Qualifying Activities

1. Harvesting of native plants or wildlife.
2. Processing of timber, plants, or 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.)
3. Pleasure and/or personal use gardening.
4. Exotic game primarily used for hunting.
5. Personal consumption of crops or livestock produced by owner.
6. Token agricultural use which occurs to obtain tax relief.
7. Horses being used for recreational use (riding, showing, or training)

AG use surveys can be sent out from time to time to verify agriculture use and the data collected can be used to update agriculture productivity values.

CATEGORIES OF AGRICULTURAL LAND

Native/Wooded Pastures-(Livestock Grazing) (Recommended min of 10-20 acres)

Pastureland that is used to either produce and/or raise livestock. Wooded Pasture used for grazing must be used in connection with land that is devoted primarily to either native or improved pasture.

Management Practices:

1. Adequate Fencing – suitable to contain livestock, securable gate.
2. Economic return generated – sale of livestock or produced.
3. Land may be left idle for the following reasons:
 - A normal crop of livestock rotation, as required by participation in a government program and/or to serve some other agricultural necessity such as but not limited to fence repair, water replacement or repair, soil shaping, etc. If land is idle for the above stated purpose, it must be evident that these improvements are in progress and being accomplished within a reasonable period.
4. Stocking rates are expected to correspond to the carrying capacity of the land use.
5. Small acreage landowners may find guidance in the Texas AgriLife Publication “Livestock for Small Acreage Landowners” -
<https://agrilifeextension.tamu.edu/library/ranching/livestock-for-small-acreage-landowners/>

TYPICAL STOCKING RATES FOR NATIVE/ WOODED PASTURE

1 Animal unit = 1000 lbs. Animal
Minimal animal units - 2

Animal Unit	Animal Unit (AU) Equivalent	Typical Stocking Rates
>2yr. Cows/Bulls	1	1 Head / 10 ac
<2yr. Calves	0.8	2 Head / 10 ac
Sheep or Goats	0.15	7 Head / 10 ac
Alpaca	0.15	7 Head / 10 ac
Llama	0.5	2 Head /10 ac
>2 yr. Equine	1	1 Head / 10 ac
<2 yr. Equine	0.8	2 Head / 10 ac
Donkeys	0.5	2 Head / 10 ac

Any acreage under the amount of 20 acres, when grazing livestock, a landowner must show the ability to provide supplemental feeding.

Improved Pastures (Recommended minimum of 5 - 10 acres)

Pastureland that is maintained to produce hay or produce and/or raise livestock.

Management Practices:

1. Grasses present that have been planted or sprigged (Coastal Bermuda, Tifton 85, Bahia,)
2. Adequate Fencing – suitable to contain livestock, securable gate for livestock grazing containment.
3. Fertilized and weed controlled (mechanical or chemical) prudent for geographic location, soil type, weather conditions.
4. Control of insects (grasshoppers, armyworms) and pest (moles, gophers) Control of insects (grasshoppers, armyworms) and pest (gophers)
5. Economic return generated – sale of livestock or hay produced.

6. Land may be left idle for the following reasons:

A normal crop of livestock rotation, as required by participation in a government program and/or to serve some other agricultural necessity such as but not limited to fence repair, water replacement or repair, soil shaping, etc. If land is idle for the above stated purpose, it must be evident that these improvements are in progress and being accomplished within a reasonable period.

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7. Stocking rates are expected to correspond to the carrying capacity of the land use.

TYPICAL STOCKING RATES FOR IMPROVED PASTURE

1 Animal unit = 1000 lbs. Animal
Minimal animal units - 2

Animal Unit	Animal Unit (AU) Equivalent	Typical Stocking Rates
>2yr. Cows/Bulls	1	1 Head / 5 ac
<2yr. Calves	0.8	2 Head / 5 ac
Sheep or Goats	0.15	7 Head / 5 ac
Alpaca	0.15	7 Head / 5 ac
Llama	0.5	2 Head / 5 ac
>2 yr. Equine	1	1 Head / 5 ac
<2 yr. Equine	0.8	2 Head / 5 ac
Donkeys	0.5	2 Head / 5 ac

Any acreage under the amount of 10 acres, when grazing livestock, a landowner must show the ability to provide supplemental feeding. Any total acreage under 5 acres will not be eligible for a 1d1 Agricultural Open Space Appraisal.

Hay intensity standards (recommended minimum acreage 5 acres)

1. Only the area that hay can be produced will qualify
2. Minimum 2-3 4x4 rolls or 30-40 square bales of hay per acre per cutting
3. At least 2 cuttings per year (severe drought years will be reviewed)

Fruit and Nut Orchards (Recommended minimum of 5 acres)

These operations are in the business of cultivating trees or grapevines that produce nuts or fruits (such as pecans, peaches, and grapes) which are sold commercially. Typically, these operations have a regular schedule of pruning, spraying, and cultivation as well as keeping the area around the trees or vines mowed or disked. Must be a wholesale operation.

Management Practices:

1. Economic Return Generated – Orchard should be managed to maximize fruit or nuts sales. Home use of fruit or nuts will generally not qualify.
2. Spraying – As recommended in the Texas AgriLife Extension publication, “Homeowners’ Fruit and Nut Spray Schedule.”
3. Fertilizing – At least one fertilizer application per year per tree.
4. Weed control – weeds should be controlled either mechanically or chemically.
5. Irrigation – Drip or some other means of adequate irrigation for establishment.
6. Harvesting – Harvest techniques to maximize yield.

Density

Trees should be planted at a density that is consistent with recommended horticultural practices for the area. Some general guidelines are listed below.

Nut Bearing Trees

Number of trees per acre

1 – 15 years old – 17 trees

15 – 40 years old – 8 plus

40 + years old – 4 plus

Suggested spacing for bearing trees is no closer than 35 feet in the east and 30 feet in the west. Wider spacings are recommended for growers who will not be able to thin as trees crowd.

If growers are unable to cut trees down or expand the orchard by moving crowded trees, the trees should not be planted closer than 50 feet.

Fruit Bearing Trees

Number of trees per acre

70 – 100 trees

A row spacing of 22 to 24 feet apart is sufficient. A suggestion for spacing non-irrigated or cultivated orchards 24 X 24 feet this will allow for equipment passage and larger soil volume for the tree to draw from in times of drought.

Vineyards for Wine grapes

600 vines/ac (suggested)

Vineyard spacing, training, pruning, and trellis system needs to match the soil influence on vine vigor.

Trellising

- A high wire Single Curtain is a low-cost system, can give high yields, and is adapted to mechanical pruning and harvesting.
- Bilateral Cordon has been used well for 20 years.
- Vertical Shoot Positioning (VSP) on both wide or close spacing is used for top quality fruit, but it is expensive to establish and manage with no increase in yield.
- Quadrilateral Lyre for vigorous soil is a large VSP system which can give both yield and quality.

Blueberries

320 plants/acre (suggested)

Commercial blueberry plantings in Texas can yield from 5,000 to 9,000 pounds per acre per year.

Space the plants at least 6 feet apart in rows that are at least 12 feet apart. More space can be left between the rows of hedgerow plantings that are harvested by machine.

Cropland (Recommended minimum of 5 acres)

Management Practices

1. Land must be free of brush
2. Shred and/or disk to destroy stalks and form a mulch
3. Chisel and/or plow three times (Conservation till is acceptable with proof of chemicals used)
4. Apply fertilizer according to soil test or typical for area
5. Plant
6. Cultivate
7. Crops are grown for income purposes (contract, farmers market, store)
8. Must try to harvest average county yield

Bee Keeping (Minimum 5 to 20 acres maximum)

Bee keeping is an agricultural use and shall qualify for agricultural use productivity valuation if used for pollination or to produce human food or other tangible products having a commercial value. (Sec. 23.51(2) Property Tax Code)

23.51 Text of sub. (2)

(2) "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... The term also 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 or more than 20 acres.

Acres Requirement

The State of Texas (set by HB 2049) has set a minimum of five (5) acres and a maximum of twenty (20) acres to qualify beekeeping as an agricultural use.

Intensity Requirement

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 two (2.5) acres, one additional hive is required. If additional acreage is less than two (2.5) acres, no additional hive is required.

HIVE QUANTITIES PER ACRE

ACRES	HIVES
First 5 acres	6
7.5	7
10	8
12.5	9
15	10
17.5	11
20	12

ALL HIVES MUST BE ACTIVELY MANAGED AND MAINTAINED ON THE PROPERTY FOR AT LEAST 7 MONTHS OF THE CALENDAR YEAR AND FOR 5 OUT OF THE 7 YEARS TIME FRAME.

History Requirement

When property owners initially qualify for an agricultural appraisal, they must show proof of history for agricultural use / bee keeping for any of the five preceding seven years. One way to do this is to provide export, import or intra-state permits, which are required by the Texas Apiary Inspection Service to transport hives. Also, historic financial records indicating active honey production and /or leases.

CATEGORIES OF TIMBER LAND

Qualifications for Timberland (Recommended 10 acres minimum)

The Texas constitution allows timber productivity only if land and its owner meet specific requirements defining timber use. **Land will not qualify simply because it has standing timber on it.** Timberland that is primarily used for aesthetic or recreational purposes will not qualify.

The “Texas Property Tax, Manual for the Appraisal of Timberland”, Texas comptroller of public Account and Section 23.72 of the Property Tax Code sets the standards for qualifying land. “Land qualifies for appraisal... if it is currently and actively devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with the intent to produce income and has been devoted principally to production of timber or forest products or to agricultural use that would qualify the land for appraisal... for five (5) of the preceding seven (7) years.”

Eligibility Requirements

To qualify land for timber productivity appraisal landowners must meet each of the following six eligibility requirements:

1. The land must be currently and actively devoted to timber production.
2. The land must be used principally for timber production.
3. The land must be devoted to timber production to the degree of intensity generally accepted for the area.
4. The owner must have an intent to produce income.
5. The land must have been dedicated principally to agriculture or timber production for any five of the preceding seven years.
6. The property owner must file a timely and valid application form.

A Timber Management Plan SHALL be required to complete the timber application.

More information on preparing a timber management plan is available through the Texas Forestry Service. <https://tfsweb.tamu.edu/ForestLandownerResources/>

Current and Active Devotion to Timber Use

Currently devoted to timber means that a qualifying timber use is evident January 1, of the tax year, according to “Texas property Tax Manual for the Appraisal of Timber Land”. If timber is not evident January 1, the Chief Appraiser may request if the owner can show that the land will be devoted to active timber production for the calendar year for which the owner is applying by reason or evidence and active devotion.

The following are some indications of current, active devotion.

Timber activity records

Is the owner able to produce records showing timber management activity? Some records that indicate timber management activity are documents showing timber has been harvested, canceled checks for services, contracts of sale, and land leases.

Forest Management Plan (Required to be submitted)

The owner operates under a current, written forest management plan. A forest management plan must be developed for the present time. An outdated plan is of no use as a management document. The plan also should be in writing and signed by the individual who prepared it. However, the existence of a current management plan does not always mean the owner is following the plan. The owner should be able to show that he or she is using or intends to use the plan for timber production. Knowledgeable timberland owners may prepare their own plans. If the owner of a marginal tract cannot afford a privately developed forest management plan, is on a waiting list to have a plan developed by a public agency or lacks the expertise to develop his or her own plan, the chief appraiser should look for other evidence of current and active devotion.

Timber cost-sharing programs

The owner receives Texas Reforestation Foundation (TRe), Environmental Quality Incentive Program (EQIP), Conservation Reserve Program (CRP) or Forest Land Enhancement Program (FLEP) cost sharing funds for reforestation and timber stand improvement. The Texas Forest Service coordinates the federal EQIP, CRP, and FLEP programs. TRe is a privately funded cost-sharing program administered jointly by the Texas Forest Service and the Texas Forest Association.

Efforts to sell timber

The owner has letters or other documents showing efforts to sell the timber.

Salvage activity

The owner has documentation showing that he or she has attempted to salvage damaged or dead timber that continues to have value.

Certified tree farm

A certified tree farm is privately owned, protected, and managed timberland. Timberland must meet standards adopted by the American Forest Foundation for certification. Standards include management for sustainable forests and timely reforestation with desirable species. A certified tree farm is inspected by professional foresters before it may qualify for the program and is periodically re-inspected. Most certified tree farms are easily recognized by the green diamond-shaped "TREE FARM" marker placed in front of the property.

Memberships in associations

The owner is a member of one of the following: the Texas Forestry Association; a county or local timber growers association; or a county or local timberland owners association.

Assistance programs

Does the owner participate in a forest industry landowner assistance program? Many firms in the forest products and the pulp and paper industry have entered into agreements with private timberland owners to manage their timber in exchange for first chance to buy the timber when it is ready to harvest.

Timber Production must be the Land's Primary Use

Land that is currently and actively devoted to timber production will not qualify for productivity appraisal unless timber production is the land's primary use. If the owner uses the land for more than one purpose, the principal use must be growing timber. For example, an owner may use land principally to grow timber and lease it for hunting. However, if hunting activities are the primary use of the land, and the timber is used to create an environment for wildlife production, then the land would not qualify for timber productivity appraisal.

Degree of Intensity

To qualify for productivity appraisal, timberland must be used to the degree of intensity generally accepted for prudent timber growers in the area. The degree of intensity test is intended to exclude from productivity appraisal land on which token timber 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. However, a timber growing operation is not disqualified simply because it differs from the typical operation in some respects.

In accordance with Section 23.72(b) and 23.9802(d) of the Property Tax Code, in determining whether land is currently and actively devoted principally to the production of timber or forest products to the degree of intensity generally accepted in an area, a chief appraiser may not consider the purpose for which a portion of a parcel of land is used if the portion is: (1) used for

the production of timber or forest products, including a road, right-of-way, buffer area, or firebreak; or (2) subject to a right-of-way that was taken through the exercise of the power of eminent domain.

A parcel or combination of size of ten (10) acres is considered the minimum for viable operation but each parcel will be evaluated on a case-by-case basis.

Intent to Produce Income

The owner must use the land with an intent to produce income. Like the degree of intensity test, this test excludes those owners who aren't producing timber and who are trying to use productivity appraisal to avoid paying property taxes on the land's market value¹. Whether the owner has an intent to produce income is a fact question for the chief appraiser to decide.

Examples of evidence of intent to produce income are:

- Receipt of revenues through sale of timber.
- Letters or other documents showing that the owner has attempted to sell the timber.
- A contract of sale.
- Receipts, canceled checks, and other evidence that the owner has had expenses or income related to the timberland's use.
- Investments in improvements to enhance the value of the existing timber.
- Purchase of easements to allow loggers access to land-locked tracts.
- Investments in substantial amounts of reforestation or smaller amounts if other parts of the tract are already in commercial timber.
- Attempts to salvage timber that has value but that is damaged or dead.
- Using a consulting forester to help manage the land.
- Hiring someone to conduct a timber sale.
- Seeking recommendations of a public forester before making a timber sale.

Historical Use Requirement

Land used primarily for either timber or agricultural production during any five of the previous seven years may qualify for timber productivity appraisal. A landowner may point to a history of agricultural use that would qualify the land for productivity appraisal in meeting this requirement.

*These guidelines are a general rule only. Each application will be considered on its own merit, as there may be circumstances in an operation that would allow a tract to qualify. **Therefore, final discretion is left to the Chief Appraiser.***

Endnotes

¹In Texas Attorney General Letter Opinion LO-88-89, the Attorney General stated that land used solely for cutting wood to build fences for ranch operations does not qualify for timber appraisal.

Helpful Publications

Manual for the Appraisal of Agricultural Land

<https://comptroller.texas.gov/taxes/property-tax/docs/96-300.pdf>

Manual for the Appraisal of Timberland

<https://comptroller.texas.gov/taxes/property-tax/docs/96-357.pdf>

Guidelines for Qualification of Agricultural Land in Wildlife Management Use

<https://comptroller.texas.gov/taxes/property-tax/docs/96-354.pdf>

Livestock for small acreage Landowners

<https://agriflifeextension.tamu.edu/library/ranching/livestock-for-small-acreage-landowners/>

Wildlife Management Planning Guidelines

https://tpwd.texas.gov/landwater/land/private/agricultural_land/pwood2010/

https://tpwd.texas.gov/landwater/land/private/agricultural_land/pobl2010/

Texas Beekeepers Association

<https://texasbeekeepers.org/ag-valuation/>