

# **Agricultural Land Use Guidelines and Standards**

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# Introduction

The Wise County Appraisal District (WCAD) believes that the attached Agricultural Land Use Guidelines and Standards are valid for mass appraisal purposes and can be applied uniformly throughout the WCAD jurisdiction. The *Manual for the Appraisal of Agricultural Land*, State Property Tax Board, April 1990, supports these guidelines. The Texas Constitution permits qualified open-space land to be taxed generally at productivity value instead of market value. The legal basis for this type of special valuation, typically referred to as "ag-use", "open-space land", or "1-d-1 land" is found in the Texas Constitution, Article XIII, section 1-d-1. The Texas Property Tax Code, §23.51-23.60 contain the core provisions for taxation of open-space land. Please note that these guidelines are to be used as a general guide for qualifying agricultural land. Operations not covered in these guidelines and exceptions to this guide will be handled on a case-by-case basis.

## History of Agricultural Appraisal

In 1966 voters approved the first agricultural appraisal law for ad valorem (property) taxes in the State of Texas. This first law, known as 1-d, intended to protect the family farm from being taxed out of existence as Texas became more urbanized and market prices of agricultural land steadily rose. Section 1-d is very restrictive as it applies only to land owned by families or individuals. Under 1-d, agriculture must be the owner's primary occupation and primary source of income. As Texas became more urbanized and the number of agricultural producers began to drop, a new section was added to the Texas Constitution by voters in 1978. The law was amended to allow a second, more liberal agricultural appraisal law known as 1-d-1. Section 1-d-1 substantially expanded eligibility for productivity appraisal by individuals as well as corporations. Income and primary occupation do not apply under 1-d-1. In 1996 Wildlife Management Use was added as a subsection of 1-d-1 which allows the management of native species, using state guidelines, as a qualification for productivity value.

## 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, 1990*

Agricultural appraisal applies only to land. Only to the acreage that is used in the agricultural operation may qualify for agriculture use valuation. Improvements (such as buildings, barns, homes, silos, etc.) are appraised separately at their market value. Minerals (oil, gas, and hard minerals) are appraised separately at market value. Agricultural products (livestock, fruit, vegetables, grains, etc.) in the hands of the producer are generally exempt from taxation due to other provisions of the Texas Constitution. Also, farm and ranch machinery and equipment that are used in the production of farm or ranch products are exempt from ad valorem taxes. Some man-made alterations of, or additions to, agricultural land (fences, canals, water wells, roads, stock tanks, etc.) are valued as part of the land and not separately appraised. 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.

**The burden of proof is the responsibility of the landowner.**

## **Time Period Test**

The land must have been used principally for an agricultural use for five of the 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 1<sup>st</sup> of the tax year. In the event that agricultural use is not evident on January 1<sup>st</sup>, the Chief Appraiser will grant agricultural use only if the owner can show 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. If we drove to your property today, would the principal use of the property that you are seeking to qualify be agriculture use? If the answer is no, we probably cannot help you as the current use is not agricultural.

## **Primary Use Test**

According to the statute, 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 isn't 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 occur in an effort to obtain tax relief.

## **Minimum Acreage Requirements**

To qualify for special agricultural appraisal, the tract of land being used must be greater than 5.01 acres (unimproved) and must be greater than 6.01 acres with no more than 1.00 acre being occupied by improvements. Area occupied by your residence, commercial buildings, animal training facilities, driveways, or other structures cannot be included in this total minimum acreage amount. Wildlife appraisal minimums must be at least 14.30 acres for individual tracts or 12.50 acres for members of a wildlife association. Again area occupied by structures, drives, or other facilities cannot be included in the minimum acreage amount.

## **Land Ineligible for Appraisal for Open – Space Land**

Land is not eligible for appraisal as provided by this subchapter if:

- (1) the land is located inside the corporate limits of an incorporated city or town, unless:
  - (A) the city or town is not providing the land with governmental and proprietary services substantially

equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density;

(B) the land has been devoted principally to agricultural use continuously for the preceding five years

## Application

A property owner claiming that their land is eligible for special appraisal through agricultural use must file a valid application with the appraisal district. The application must be filed before May 1<sup>st</sup> and must be filed with the Chief Appraiser of the appraisal district where the property is located. If the tract of land crosses county lines then an application must be filed with the appraisal district in each of the counties. Property owners may obtain an application from the WCAD office, the WCAD website, or the Texas Comptroller of Public Accounts website. If more time is needed, an extension to the deadline may be granted by the Chief Appraiser. The request should be in writing, show good cause for an extension, and be received by WCAD before May 1<sup>st</sup>. Late applications may be submitted after the April 30<sup>th</sup> deadline and up until the appraisal district's appraisal rolls are approved by the appraisal review board (typically by mid July). However, late applications which are approved will be assessed a 10% penalty for late filing (see example of late penalty on page 11). If a person fails to file a valid application before approval of the property appraisal rolls then the land is ineligible for agriculture appraisal in that year.

Once the application is submitted to the Appraisal District and approved, the land continues to receive agriculture appraisal until ownership of the land changes, the land's eligibility changes, or the Chief Appraiser requests a new application. Ownership changes include transferring land to another party, transferring land into a trust, adding a party to the ownership, or deleting a party from the ownership. If eligibility for agriculture use valuation ends for a property or the property has a change in the category of agriculture use then the landowner is required to notify WCAD. Notification to WCAD must be given in writing by May 1<sup>st</sup> after the end of eligibility or change of agriculture category. Failure to timely notify WCAD will result in a tax penalty being assessed on the property.

## Types of Agricultural Operations

There are numerous types of agricultural operations in WCAD's jurisdiction. Some properties also have more than one operation being run on the property. Agricultural operations can be grouped into the following categories: livestock operations, equine breeding operations, exotic animal operations, beekeeping operations, wildlife management operations, farming operations, orchard and vineyard operations, and participation in governmental programs. Each of these operations except wildlife management requires the same criteria for eligibility for agricultural appraisal. Wildlife management contains additional criteria, which will be discussed in its section of these guidelines. Variations of the above listed operations and non-typical operations will be handled on a case by case basis by the appraisal district.

### ***Livestock Operations***

Livestock operations raise and keep cattle, sheep, or goats. Operations can be described as cow and calf operations, cattle stocker and feeder operations, sheep operations for meat or wool production, or goat operations for meat or mohair production. Livestock operations in WCAD's jurisdiction must have a **minimum of two** animal units of animals. Operations with larger properties need more animal units. See page 12 for more information on stocking rates and animal unit equivalencies. This type of operation, depending on the species of animal, requires an "adequate" fence for animal containment. All livestock operations will be required to have "adequate" fencing to control the livestock in order to qualify.

## **Equine Operations**

The operation may include any breeds of horses, donkeys, or other equines. Supplemental feeding is a given fact of a horse operation. The minimum operation is two animals, with more required for larger tracts of land. Land used to train, show, or race horses, to ride for recreation, or to keep or use horses in some other manner that is not strictly incidental to raising horses does not qualify as an agriculture use. Also, land used as a stable, where horses are kept, fed, and cared for, is not being used primarily for an agricultural purpose, unless the stable is incidental to raising horses. If a property is principally used to raise horses and also has other uses, such as training or boarding, then the areas of the other uses will not qualify for agricultural use valuation. This type of operation requires a "adequate" fence for animal containment.

## **Exotic Animal Operations**

Exotic animal refers to grass-eating or plant-eating, single-hoofed or cloven-hoofed mammals that are not indigenous or native to Texas and are known as ungulates, including animals from the deer and antelope families that landowners have introduced into this state. This includes, but is not limited to Aoudad sheep, Axis deer, Elk, Sika deer, Fallow deer, Blackbuck antelope, and Nilgai antelope. Exotic animal operations raise the animals for production of meat or other commercially viable products such as leather, feathers, or byproducts used in cosmetics or for medicinal purposes. Some exotic animal operations produce breeding stock for other exotic operations. Verification of commercial use is required to qualify for agriculture use valuation with exotic animals. Hunting is not considered a commercial product of exotics; it is considered a recreational activity. If hunting is the principle use of the exotic animals then the land will not qualify for agricultural use valuation. This type of operation, depending on the species of animal, requires a "deer-proof" high fence. A minimum of 2 animal units of animals are required to qualify. Most exotic animal operations are on larger-acreage tracts and will require more than 2 animal units. The Animal Unit Equivalency Chart located in the appendix lists some of the common exotic animals found in WCAD's jurisdiction.

## **Beekeeping Operation**

The Wise County Appraisal Districts degree of intensity is (6) hives on the first (5) acres with one hive per additional 2.5 acres up to 20 acres. Any additional acreage (above the 5.00 acre minimum) less than 2.5 acres would not require an additional colony (hive).

Acres	Hives
5	6
7.5	7
10	8
12.5	9
15	10
17.5	11
20	12

The minimum degree of intensity was established using the previous definition of an apiary from Section 131.001, of the Texas Agricultural Code. The previous definition of an apiary, was defined as "a place where six or more colonies of bees or nuclei of bees are kept." House Bill 4538 was introduced in the 2023 legislative session. This bill related to the regulation of beekeeping, which amended the definition of an apiary

by removing the six colony minimum. The new definition of an apiary went into effect September 1<sup>st</sup>, 2023, which is now defined as a place where colonies of bees or nuclei of bees are kept.

Texas Property Tax Code Section 23.51 (2) "Agricultural 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.

Upon qualification the property should qualify for an agricultural productivity valuation that considers both income and expenses that would be typical for the usage.

The hives must be:

- Maintained and kept alive;
- Located on the property for a majority of the year.

Hives should be situated up off the ground. Flowering plants should be planted to support hives, if the hives are in areas where there is limited vegetation that requires pollination.

### ***Cropland / Improved Pasture Operations***

Cropland operations include growing small grain crops, sorghum hay, improved grass hay, and row crop. The most common type of cropland operation in WCAD's jurisdiction is the small grain and sorghum hay. These two types of operations are usually part of a grazing operation, but not in all cases. Improved pastureland is usually improved with a permanent grass such as coastal Bermuda or Klein grass. This type of land is usually baled in the spring and early summer if irrigation is not available. If the land is irrigated, the land may be baled until early fall. Cropland in WCAD's jurisdiction requires supplemental fertilization and is usually a part of the typical farming operation. Much of the land that is not irrigated is grazed during part of the year, usually during the winter months. Small grain and sorghum hay operators will normally plant their fields on an annual basis and combine the grain or bale hay for at least one cutting. Landowners should follow the practices that are typical for land in WCAD's jurisdiction. A typical size field in WCAD's jurisdiction has a minimum of five acres.

### ***Orchard and Vineyard Operations***

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. A typical size orchard or vineyard in WCAD's jurisdiction has a minimum of five acres.

### ***Truck Farming Operations***

This type of operation is in the business of cultivating the soil for planting vegetables. This type of operation depends on a good source of water for irrigation purposes. It is typical for this type of operation to utilize some type of irrigation system. There are some crops (such as okra) that do well in dry land areas and may not require irrigation, so each operation should be considered separately. Examples of crops grown in truck farming operations include tomatoes, squash, potatoes, peppers, and carrots. A minimum size of three acres is considered typical for this type of operation in WCAD's jurisdiction.

### ***Wildlife Management Operations***

Property Tax Code Section 23.51 (7) "Wildlife management" means: (A) actively using land that at the time the wildlife-management use began was appraised as qualified open-space land under Chapter 23, Subchapter D or as qualified timber land, Chapter 23, Subchapter E. . Wildlife management may qualify your

land for the agricultural use valuation. A tract of land can qualify for agricultural appraisal based on wildlife management use if:

**The first requirement** for open space land special tax appraisal based on wildlife management use is that the land must have been qualified and appraised as open-space agricultural land in the year prior to conversion to wildlife management use.

**The second requirement** for qualified wildlife management use is that the 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. In this context, an *indigenous* animal is one that is native to Texas. A group of animals need not permanently live on the land, provided they regularly migrate across the land or seasonally live there.

A *sustaining breeding* population is a group of indigenous wild animals that is large enough to live independently over several generations. The definition implies that the population will not die out.

A *migrating* population of indigenous wild animals is a group of animals moving between seasonal ranges. A *wintering* population of indigenous wild animals is a group of animals living on its winter range.

**The indigenous wildlife population must be produced 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.

Recreational use may be either active or passive and may include any type of use for pleasure or sport. Bird watching, hiking, hunting, photography, and other non-passive recreational hobby-type activities are qualifying recreational uses.

**At least three or more of the following are required:** Under the law, the owner must perform at least three of seven listed wildlife management activities on the land.

**Habitat Control** (Habitat Management) - Habitat control or management means actively using the land to create or promote an environment that is beneficial to wildlife on the land.

**Erosion Control** - Any active practice that attempts to reduce or keep soil erosion to a minimum for the benefit of wildlife.

**Predator Control** - (Predator Management) This term means practices intended to manage the population of predators (if any) to benefit the owner's target wildlife population.

**Providing Supplemental Supplies of Water** - Owner actively providing water in addition to natural sources.

**Providing Supplemental Supplies of Food** - Owner supplies supplemental food by providing food or nutrition in addition to the level naturally produced on the land.

**Providing Shelter** - Actively creating or maintaining vegetation or artificial structures that provide shelter from the weather, nesting and breeding sites or "escape cover" from enemies.

**Making Census Counts to Determine Population** - Census counts are periodic surveys and inventories to determine the number, composition or other relevant information about a wildlife population to measure if the current wildlife management practices are serving the targeted species.

Wildlife management must meet all the requirements to qualify for agricultural use, defined in Section 23.51 (i) Tax Code as follows: primary use, degree of intensity, and historical use requirement.

**Minimum Acreage Requirements** - Wise County has designated a ratio devoted to wildlife management use. The minimum acreage requirement for individual land owner is 14.30 acres (93%). If your property is a part of a wildlife association the minimum acreage requirement is 12.50 acres (92%). And if your property's target animal is candidate, threatened, or endangered the minimum acreage is 11.10 acres (91%).

In addition to the 1-d-1 agricultural use application, a state wildlife management plan (state form PWD 885-W7000) must be submitted. **In addition, an annual Wildlife Management Plan Update must be filed using Texas Parks & Wildlife Form PWD888-W7000.**

Further information concerning the rules and requirements of agricultural use through wildlife management may be found on the Texas Comptroller of Public Accounts website (<http://www.window.state.tx.us/taxinfo/proptax/agrland/>) and the Texas Parks and Wildlife Department website ([http://www.tpwd.state.tx.us/landwater/land/private/agricultural\\_land/](http://www.tpwd.state.tx.us/landwater/land/private/agricultural_land/)).

### ***Government Program Operations***

Land may be eligible to receive agricultural use value if it is part of some government programs. The programs require landowners to plant cover crops or leave their land idle. These programs include the Conservation Reserve Program (CRP), the Continuous Conservation Reserve Program (CCRP), and the Environmental Quality Incentive Program (EQIP). Other governmental programs such as brush or cedar control or crop subsidies are normal and prudent ranch management practices and those programs will not qualify the land for agriculture valuation on their own.

### **Land Leases**

Leases are an acceptable agricultural use for the owner of the property provided the lessee is using the land to the standards of agricultural use for WCAD and the lessee has enough contiguous land (either owned or leased) to suffice the minimum standards of size. An owner applying for agricultural use valuation using a lease agreement needs to include with the application a copy of the lease if a written lease is used. If there is an oral agreement in place then the lessee needs to provide a letter stating the kind of agricultural use, the number of livestock run on the property or acres planted, duration of the lease, and contact information of the lessee.

### **Example of Penalty for Late Filing**

When a property owner files for agriculture use valuation after the April 30<sup>th</sup> deadline but before the certification of the appraisal record (typically July 20<sup>th</sup>) then they are subject to a late filing penalty. If the late application is approved the owner must pay a penalty equal to ten percent of the difference in taxes between agricultural productivity value and market value.

Example: One acre of land has a market value of \$5,000 and agricultural productivity value of \$80. The cumulative tax rate is \$1.75 per \$100 of valuation.

Taxes for one acre of land at market value =  $\$5,000 \times \$1.75 / \$100 = \$87.50$

Taxes for one acre of land at agriculture productivity value =  $\$80 \times \$1.75 / \$100 = \$1.40$

Late penalty on one acre of land =  $(\$87.50 - \$1.40) \times .10 = \$8.61$

## Example of 1-d-1 Rollback Tax Penalty

Landowners need to be aware that if land receiving agricultural productivity valuation changes to a nonagricultural use then a roll back tax may be imposed. The rollback tax is a penalty for taking agricultural land out of production. Rollback taxes will be assessed for the previous three years, if the land received agricultural productivity values for all three years. The rollback tax is the difference in actual taxes paid based on productivity value and taxes that would have been paid on market value.

## Definitions of Key Words / Phrases

- A. *Adequate* – enough or good enough; in the quantity and quality to provide containment of animals 24 hours a day. Imaginary boundary containments are not adequate to meet qualification guidelines.
- B. *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 in the area of the taxing unit.
- C. *Substantial* – ample to satisfy; considerable in quantity. Specifically, the law states that the agricultural land must be an identifiable and substantial tract of land. This means that the tract must be of adequate size to be economically feasible to farm or ranch. Thus, when two small tracts are used together, they may become a substantial amount of land; when used separately they may not be.
- D. *Typical* – exhibiting the essential characteristics of a group. Specifically, the law states that Ag land will be utilized as would a typically (ordinary) prudent manager. Statistically, a typically prudent manager is the median farmer or rancher.
- E. *Agricultural Use to the Degree of Intensity Generally Accepted in the Area* – farming or ranching to the extent that the typically prudent manager in the area of the taxing unit would farm or ranch on an identifiable and substantial tract of land when the tract is devoted principally to agricultural use. A better understanding of the definition can be gained by identifying the key elements of the definition and explaining each as follows:
  - a. 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.
  - b. Typically prudent farm or ranch managers are ordinary farmers in terms of acres farmed as well as management ability. Given that all other factors remain constant, the number of acres farmed determines that farmer's capital structure. Typical prudent farmers or ranch managers located in Wise County are assumed to have similar equipment of similar value and utility.
  - c. Simply stated, a substantial tract is a tract of land large enough to be farmed by itself in a typically prudent manner.
  - d. Area is interpreted to be that land inside the jurisdictional boundaries of the Wise County Appraisal District.

- e. Principally means the more important use in comparison with other uses to which the land is put.

## Stocking Rate

Stocking rates are measured in terms of animal units. Typically an animal unit is the equivalent of 1000 pounds of live animal weight. The amount land required to support one animal unit depends on the soils of the land. Typically in WCAD's jurisdiction one animal unit requires twenty to twenty-five acres of native range during years of normal rainfall. A prudent manager would typically stock their land to the animal unit capacity to maximize their production.

## Animal Unit Equivalency Chart

Animal Type Animal Units

Cow and Calf Pair	1.00
Mature Bull	1.50
Weaned Calf to 1 Year	0.50
Steer (one year old)	0.70
Steer (two years old)	0.90
Horse	1.00
Miniature Horse	0.50
Donkey or Mule	1.25
Miniature Donkey/Burro	0.50
Bull Elk	0.60
5 Ewes	1.00
5 Rams or Buck Sheep	1.00
8 Lambs (weaned to 1 year)	1.00
5 Nanny Goats or Does	1.00
5 Billy Goats or Bucks	1.00
10 Kid Goats (weaned to 1 year)	1.00
5 Mature Mutton Goats	1.00
3 Llamas	1.00
5 Alpacas	1.00
1 Bison	1.00
5 Axis or Sika Deer	1.00
6 Fallow Deer	1.00
5 Aoudad	1.00
7 Sika Deer	1.00
2 Red Deer	1.00
2 Scimitar-Horned Oryx	1.00
1 Eland	1.00
3 Emus	1.00
2 Ostriches	1.00
7 White-tailed Deer	1.00
9 Blackbuck Antelope	1.00

# WISE COUNTY APPRAISAL DISTRICT

## Agricultural Guidelines / Stocking & Density Rates

## **LIVESTOCK**

## **ANIMAL UNIT (AU)**

- 2 - 500 Pound Calves = 1 animal unit
- 1 - Cow & Calf = 1 animal unit
- 1 - Bull = 1 1/2 animal unit
- 1 - Horse = 1 animal unit
- 5 - Sheep or goats = 1 animal unit
- 2 - Miniature horses or donkeys = 1 animal unit

Chickens and Pigs can qualify depending on how they are being used.

Ag will only be granted on the area(s) that adequate fencing provides for confinement. Adequate fencing is defined as fencing capable of containing livestock for more than a temporary period. Hot wire fencing and panels can be used to maintain temporary livestock control, but permanent fencing will be required to continue the exemption. And under no circumstance will imaginary non existing barrier qualify.

## TREES

### 10-15 Scattered Pecan trees for 1 acre

## 15-20 Fruit Trees for one acre

## QUALIFICATIONS FOR AGRICULTURE APPRAISAL

1. Property must have been used for 5 out of the past 7 years for Ag use.
2. The land must be used to the degree and intensity that it can carry.
3. There must be intent to show profit from the land.
4. **BEGINNING JANUARY 1, 2012 THE MINIMUM ACREAGE REQUIREMENT MUST BE OVER 5.01 ACRES FOR AGRICULTURE APPRAISAL. WILDLIFE MINIMUM ACREAGE OVER 14.30 ACRES.**

If you have further questions, please contact the office at:

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