

**COLORADO COUNTY APPRAISAL DISTRICT
AG GUIDELINES**

**APPLICATION REQUIREMENTS
AND
AGRICULTURAL INTENSITY STANDARDS
FOR 1-d-1 OPEN-SPACE LAND VALUATION
AND WILDLIFE MANAGEMENT**

**A SUPPLEMENT TO THE STATE OF TEXAS PROPERTY TAX MANUAL FOR
THE APPRAISAL OF AGRICULTURAL LAND AND WILDLIFE MANAGEMENT
ACTIVITIES AND PRACTICES**

**2018 – Ag Advisory Board
Amended Minimum Acreage Requirement
Up from 6 to 10 acres for 2019 and forward
2020 – Guidelines Updated to Reflect
86th Legislative Session Changes**

Introduction

In 1978, voters amended Article VIII, Section 1-d of the Constitution by passing Section 1-d-1 to allow expanded eligibility, corporation eligibility and erased occupation and income standards. From the beginning, the Colorado County Central Appraisal District has encouraged property owners to change to the 1-d-1 valuation. The qualifications are less restrictive, and the property is not penalized for change in ownership as in Section 1-d.

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 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, Sections 23.51 - 23.57 provide the core provisions for implementation.

Authorization

The authority to tax land at a productivity value is granted in the Texas Constitution by the following two articles:

Article VIII, Sec. 1-d. Assessment of Lands Designated for Agricultural Use. All land owned by natural persons which is designated for agricultural use in accordance with the provisions of this Section shall be assessed for all tax purposes on the consideration of only those factors relative to such agricultural use.

Article VIII, Sec. 1-d-1. Open-Space Land. To promote the preservation of open-space land, the legislature shall provide by general law for taxation of open-space land devoted to farm or ranch purposes on the basis of its productive capacity and may provide by general law for taxation of open-space land devoted to timber production on the basis of its productive capacity. The legislature by general law may provide eligibility limitations under this section and may impose sanctions in furtherance of the taxation policy of this section.

In 1996, HB 1358 amended the Constitution to include wildlife management in agricultural appraisal. Agricultural appraisal applies to land only. Other properties that may be connected with the land such as improvements on the land or minerals do not qualify for agricultural appraisal. The land must be currently devoted principally to agricultural use to the degree of intensity that is typical in the area. Land within the boundaries of a city or town will not qualify unless:

- the city does not provide the land with general services comparable to those provided in other parts of the municipality or;
- the land has been devoted principally to agricultural use continuously for the preceding five years.

Texas Property Tax Code **Subchapter D Appraisal of Agricultural Land**

Only particular Sections Pertinent to the Colorado County Appraisal District Ag Guidelines are Cited in the Following:

Sec. 23.51. Definitions.

In this subchapter:

(1) **[Effective until January 1, 2021]** "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year.

(1) **[Effective January 1, 2021]** “Qualified open-space land” means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university and that has been used principally in that manner by a college or university for five of the preceding seven years. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshaping of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year.

(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; 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; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. 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.

(3) “Category” means the value classification of land considering the agricultural use to which the land is principally devoted. The chief appraiser shall determine the categories into which land in the appraisal district is classified. In classifying land according to categories, the chief appraiser shall distinguish between irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste. The chief appraiser may establish additional categories. The chief appraiser shall further divide each category according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, the Natural Resources Conservation Service of the United States Department of Agriculture, and other recognized agricultural sources for the purposes of determining the categories of land existing in the appraisal district.

(4) “Net to land” means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation. For land that qualifies under Subdivision (7) for appraisal under this subchapter, the chief appraiser may not consider in the calculation of net to land the income that would be due to the owner under a hunting or recreational lease of the land.

(5) “Income capitalization” means the process of dividing net to land by the capitalization rate to determine the appraised value.

(6) “Exotic animal” means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, other cloven-hoofed ruminant mammals, or exotic fowl as defined by Section 142.001, Agriculture Code.

(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 this subchapter or as qualified timber land under Subchapter E in at least three of the following ways to propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation:

- (i) habitat control;
- (ii) erosion control;
- (iii) predator control;

- (iv) providing supplemental supplies of water;
- (v) providing supplemental supplies of food;
- (vi) providing shelters; and
- (vii) making of census counts to determine population;

(B) actively using land to protect federally listed endangered species under a federal permit if the land is:

- (i) included in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code; or
- (ii) part of a conservation development under a federally approved habitat conservation plan that restricts the use of the land to protect federally listed endangered species; or

(C) actively using land for a conservation or restoration project to provide compensation for natural resource damages pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et seq.), the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), or Chapter 40, Natural Resources Code.

(8) "Endangered species," "federal permit," and "habitat preserve" have the meanings assigned by Section 83.011, Parks and Wildlife Code.

Sec. 23.52. Appraisal of Qualified Agricultural Land.

(a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter of each category of open-space land owned by that landowner and shall make each value and the market value according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The comptroller by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51. The rules, before taking effect, must be approved by the comptroller with the review and counsel of the Department of Agriculture .

(e) For the purposes of Section 23.55 of this code, the chief appraiser also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

(g) The category of land that qualifies under Section 23.51(7) is the category of the land under this subchapter or Subchapter E, as applicable, before the wildlife-management use began.

Sec. 23.521. Standards for Qualification of Land for Appraisal Based on Wildlife Management Use.

(a) The Parks and Wildlife Department, with the assistance of the comptroller, shall develop standards for determining whether land qualifies under Section 23.51(7) for appraisal under this subchapter. The comptroller by rule shall adopt the standards developed by the Parks and Wildlife Department and distribute those rules to each appraisal

Sec. 23.522. Temporary Cessation of Agricultural Use During Drought.

The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

- (1) a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and
- (2) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

Sec. 23.53. Capitalization Rate.

The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Farm Credit Bank of Texas or its successor on December 31 of the preceding year plus 2-½ percentage points, whichever percentage is greater.

Sec. 23.54. Application.

(a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

- (1) be on a form provided by the appraisal office and prescribed by the comptroller; and
- (2) contain the information necessary to determine the validity of the claim.

(c) The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The comptroller, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported. The form must include a space for the claimant to state the claimant's date of birth. Failure to provide the date of birth does not affect a claimant's eligibility to have the claimant's land appraised under this subchapter.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, subject to Section 23.551, if the chief appraiser has good cause to believe that land is no longer eligible for appraisal under this subchapter, the chief appraiser may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible for appraisal under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty

is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the five preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility has ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

Sec. 23.541. Late Application for Appraisal As Agricultural Land.

(a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of 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.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Sec. 23.55. Change of Use of Land.

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would

have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of five percent calculated from the dates on which the differences would have become due. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether a change in the use of the land has occurred.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) Subject to Section 23.551, a determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of:

- (1) a sale for right-of-way;
- (2) a condemnation;
- (3) a transfer of the property to the state or a political subdivision of the state to be used for a public purpose; or

(4) a transfer of the property from the state, a political subdivision of the state, or a nonprofit corporation created by a municipality with a population of more than one million under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) to an individual or a business entity for purposes of economic development if the comptroller determines that the economic development is likely to generate for deposit in the general revenue fund during the next two fiscal bienniums an amount of taxes and other revenues that equals or exceeds 20 times the amount of additional taxes and interest that would have been imposed under Subsection (a) had the sanctions provided by that subsection applied to the transfer.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year.

(i) The use of land does not change for purposes of Subsection (a) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

(j) The sanctions provided by Subsection (a) do not apply to a change in the use of land if: (1) the land is located in an unincorporated area of a county with a population of less than 100,000;

(2) the land does not exceed five acres;

(3) the land is owned by a not-for-profit cemetery organization;

(4) the cemetery organization dedicates the land for a cemetery purpose;

(5) the cemetery organization has not dedicated more than five acres of land in the county for a cemetery purpose in the five years preceding the date the cemetery organization dedicates the land for a cemetery purpose; and

(6) the land is adjacent to a cemetery that has been in existence for more than 100 years.

(k) In Subsection (j), "cemetery," "cemetery organization," and "cemetery purpose" have the meanings assigned those terms by Section 711.001, Health and Safety Code.

(l) The sanctions provided by Subsection (a) of this section do not apply to land owned by an organization that qualifies as a religious organization under Section 11.20(c) of this code if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.20 of this code within five years.

(m) For purposes of determining whether a transfer of land qualifies for the exemption from additional taxes provided by Subsection (f)(4), on an application of the entity transferring or proposing to transfer the land or of the individual or entity to which the land is transferred or proposed to be transferred, the comptroller shall determine the amount of taxes and other revenues likely to be generated as a result of the economic development for deposit in the general revenue fund during the next two fiscal bienniums. If the comptroller determines that the amount of those revenues is likely to equal or exceed 20 times the amount of additional taxes and interest that would be imposed under Subsection (a) if the sanctions provided by that subsection applied to the transfer, the comptroller shall issue a letter to the applicant stating the comptroller's determination and shall send a copy of the letter by regular mail to the chief appraiser.

(n) Within one year of the conclusion of the two fiscal bienniums for which the comptroller issued a letter as provided under Subsection (m), the board of directors of the appraisal district, by official board action, may direct the chief appraiser to request the comptroller to determine if the amount of revenues was equal to or exceeded 20 times the amount of taxes and interest that would have been imposed under Subsection (a). The comptroller shall issue a finding as to whether the amount of revenue met the projected increases. The chief appraiser shall review the results of the comptroller's finding and shall make a determination as to whether sanctions under Subsection (a) should be imposed. If the chief appraiser determines that the sanctions provided by Subsection (a) shall be imposed, the sanctions shall be based on the date of the transfer of the property under Subsection (f)(4).

(o) The sanctions provided by Subsection (a) do not apply to land owned by an organization that qualifies as a charitable organization under Section 11.18(c), is organized exclusively to perform religious or charitable purposes, and engages in performing the charitable functions described by Section 11.18(d)(19), if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.18(d)(19) within five years.

(p) The sanctions provided by Subsection (a) do not apply to real property transferred to an organization described by Section 11.181(a) if the organization converts the real property to a use for which the real property is eligible for an exemption under Section 11.181(a). This subsection does not apply to the sanctions provided by Subsection (a) in connection with a change in use described by this subsection that are due to a county or school district unless the governing body of the county or school district, as applicable, waives the sanctions in the manner required by law for official action by the body.

(q) The sanctions provided by Subsection (a) do not apply to land owned by an organization that qualifies as a school under Section 11.21(d) if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.21 within five years.

Sec. 23.56. Land Ineligible for Appraisal As 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; or

(C) the land:

(i) has been devoted principally to agricultural use or to production of timber or forest products continuously for the preceding five years; and

(ii) is used for wildlife management;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

Sec. 23.57. Action on Applications.

(a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant: (1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the applicant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action and a full explanation of the reasons for denial of the application.

Although referred to by many as an exemption (Ag Exemption), agricultural appraisal is a special valuation (Productivity Value) rather than an exemption.

- *An agricultural special valuation has nothing to do with the market value, but the basis is that taxable value is the productivity value and not the market value (PTC Sec. 23.52 Appraisal of Qualified Agricultural Land)*

Productivity Value – A value based solely on the land's capacity to produce agricultural products.

Market Value - The price a buyer would pay for land in an ordinary market transaction.

Determining Net to Land Values

Net to Land income is the average annual net income that a class of land would be likely to generate over the five-year base period. Under a lease method, net to land is the rent that would be due to the property owner under a cash lease, share lease or other typical lease agreement, less expenses typically paid by the owner. In a cash lease, the rent is a fixed amount. In a share lease, the rent is a share of the gross receipts for the year, less a share of certain expenses.

“Tax Code Sections 23.53 and 23.74 prescribe the methods for determining the cap rate used to calculate agricultural and timberland values. Appraisal districts divide the average net-to-land for a five-year period by the annual cap rate to arrive at the land's productivity value.”

- <https://comptroller.texas.gov/taxes/property-tax/caprates.php>

“For agricultural or open-space land, Tax Code Section 23.53 requires appraisal districts to use a cap rate that is the greater of 10 percent or the interest rate specified on the previous Dec. 31 by the Farm Credit Bank of Texas plus 2.5 percent.”

- <https://comptroller.texas.gov/taxes/property-tax/caprates.php>

The Texas Comptroller's Property Tax Assistance Division (PTAD) publishes annually in January the cap rate to use for agricultural and timberland values. Please contact the Colorado County Appraisal District for the most current cap rates and agricultural and timberland values.

Intensity of agricultural production generally accepted in the area 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.

Area is interpreted to be that land inside the jurisdiction boundaries of the Colorado County Appraisal District

INTENSITY STANDARDS FOR OPEN SPACE LAND

Intensity standards are derived from what is typical in the local area for the different agriculture operations. In order to help the Appraisal Districts define these standards, the State Legislature provided for an outside advisory committee to be formed for this purpose. In order to qualify, open-space land must meet or exceed these minimum standards for Colorado County. The tract must have at least seventy (70) to seventy-five (75%) percent use to qualify the entire tract and the tract must be used a minimum of six months of the year for grazing if applicable.

Operational Definitions: Only those operations that are truly commercial in nature were considered for defining these standards. The “Manual for the Appraisal of Agricultural Land” tasks the Appraisal Districts with eliminating casual agricultural operations in Colorado County. These categories are Cropland, Pastureland and Special Operations. Within each category there are subcategories as follows:

Cropland Operations	Grazing Operations	Special Operations
Row Crop Orchard Hay Crop Truck Farm Vineyards Irrigated-Cropland	Improved Pasture Native Pasture Brush Land Wasteland	Dairy Feedlot Hog Operations Bee/Honey Permaculture Floriculture Domesticated Fowl Christmas Trees Aquaculture Turf Grass Farm Timber

The three categories are separated primarily by use; cropland assumes soil cultivation, fertilization, and harvesting; pastureland will involve some type of grazing operation. Special operations are those endeavors that do not fall into cropland or pastureland categories.

Cropland Operations: The following subcategories for cropland are listed below with a brief description of each activity:

Row Crop – This operation involves the cultivation of the soil for planting grain crops with the intent of harvest for sale or for feed such as corn, wheat, milo, cotton, soybeans and other grains. A high degree of cultivation must be evident in order to qualify. Cropland that is not being farmed and is in the Federal Program to receive subsidies is still classified as row cropland.

Orchards / Vineyards – This operation is in the business of cultivation and growing of trees or grapevines that produce crops of nuts or fruits. A regular schedule of pruning and spraying and cultivation or close mowed turf grass as brush and weed control must be evident. This operation like truck farming can yield good harvests off small acreage, thus a minimum size requirement would be ten acres.

Hay Crop – This operation involves the cultivation (fertilizing) of planted or maintained grasses such as hybrid Sorghum grasses or coastal Bermuda. These grasses are then cut, baled and marketed or used for personal livestock feed. Weed and brush control are usually evident. Ten acres is a minimum size requirement for this type of operation. Proof of sales of hay crop, proof of ownership of livestock and baling receipts may be required.

Truck Farming – This operation is in the business of cultivation the soil for planting vegetables. This type of operation depends on a good source of water; thus, some type of irrigation equipment should be evident. This type of operation typically requires a minimum of ten acres.

Irrigated Cropland – This operation involves the cultivation of the soil for rice production, with the intent to harvest for sale. The tract must be prepared for controlled flood irrigation with a series of levees, and a large reliable source of water. During the dry seasons, rice straw may be cut and baled for livestock feed. Irrigated cropland that is not being farmed and is in the Federal Program to receive subsidies is still considered irrigated cropland. 3-year crop rotation is the most typical being 1 year in rice production and 2 years in pasture.

Grazing Operation – Grazing operations may fall into one or more of the following subcategories:

- 1) Improved pastures – are composed of grasses that are not native to the area such as coastal Bermuda, Alicia, Bahia, Jiggs, Tifton etc. High intensity management practices such as fertilization, weed control, shredding, rotated grazing or harvesting grass for hay are common. Stocking rates for intensely managed improved pastures may be as great as one grown head per acre.
- 2) Native pasture – are composed of grasses that are native to the area. A low level of management is common. Native pastures that are intensely managed are considered to be equivalent to improved pasture. Stocking rates will vary greatly. Some weak soil areas such as the piney woods may need as much as 50 to 60 acres to graze a grown cow and the better soils may graze 1 cow to 2 acres.

Beef Cow/Calf – This operation is in the business of raising beef for sale to either processors or to other operators as breeding stock. These operators include the purebred operations, also the commercial breeder who sells calves to the local stock markets. Typical requirements include a minimum herd size of five grown head of breeding age animals. One cow/calf pair or a mature individual is considered to be equivalent to one animal unit.

Feeder/Stocker Calf – This operation is in the business of raising beef for processors. This operation involves acquiring calves at a certain weight from cow/calf operators and raising the calves until they gain weight (feed lot or slaughter weight). Although both heifer and steer calves can be found in these types of operations, steer calves are the most prevalent. Typical requirements include a minimum herd size of ten head. Two calves are equal to one animal unit.

Sheep/Goats – This operation is in the business of providing two by-products, wool/mohair and meat. Commercial operations would not require any particular type of breed and is usually in the business of meat production only. Purebred operations are normally primarily in the business of producing wool/mohair, meat or animals for sale to other producers as breeding stock. Typical requirements include a minimum herd size of twenty-five head.

Horse Farm – This operation is directed to breeding operations. The by-products are colts and fillies. This operation involves having brood mares and either stud (stallion) on location or A/I service. This operation will involve facilities for the care, breeding, and raising of brood stock and their offspring together with intensive training of colts or fillies if operation involves any number of breeds and is not limited to thoroughbred and quarter horse breeds. Typical pastures are of the improved variety such as coastal and alfalfa. Typical requirements include a minimum of three head, with at least two being brood mares.

Working Horses – Acreage used to graze horses that are used in conjunction with ranching or farming qualifies for open-space ag valuation. The minimum number of animal units and the minimum acreage sizes are not required as long as the horse or horses are used in ranch or farm work.

Recreational Horses – Land that is used to graze recreational horses that are not used in a breeding operation or used for ranch work can qualify. The minimum acreage required for this type operation is the ten-acre minimum for native pasture and the minimum number of animal units is 3.

Miniature Horses/Shetland Horses – Refer to the above section on horse breeding operations. Typical requirements are six miniature horses or four Shetland horses. Two miniature horses equal one animal unit; one Shetland horse is equal to one animal unit.

Exotics – This operation involves the raising of deer breeds that are not native to Texas for supplying meat and/or leather for the specialty markets. Production and sale of breeding stock can also qualify, but proof of sales may be required. The pastures that are involved in this type of operation require a seven to eight-foot perimeter fence. This fence is made up of wire mesh and may have barbed wire at the top. In order

to qualify, the operator should be able to provide the district a harvesting schedule. Typical requirements include fifteen grown deer minimum.

Special Operations – These special operation subcategories are as follows: (Note: These operations are intensive in nature thus requiring special handling from a value standpoint.)

Dairy Cow/Calf – This operation is the business of producing milk/cheese products. This operation involves dairy type breeds such as Holstein and Jersey. Typical operation involves a bull on location or A/I service to several head of breeding age cows. Calf production is necessary for the continual production of milk, and thus also is a secondary crop for the dairy producer. Calves are weaned very early from mother cows and fed out to sell to processors as veal or to local stock markets to supply the stocker calf operators. Heifer calves are returned to the herd as milk producers. Dairy herds are confined to improved pastures and in great numbers that requires a great amount of supplemental feeding. Dairies have also involved some cultivating of grain crops or fodder to support this supplemental food need. Typical requirements include a minimum of twenty-five head. One cow/calf or one mature individual is equal to one animal unit.

Feedlot – These operations that take calves and feed them for finishing purposes before slaughter. On the part used for this operation would qualify.

Hog Operations – This operation involves the raising of hogs for the pork meat market. Typically, the hogs are confined to small pen areas. Also, large numbers of hogs can be kept on small acreage. Minimum intensity requirement is five breeding sows or thirty feeder pigs. Only the land involved with the pen area will qualify.

Bee/Honey – This operation involves the placing of hives in order for the honeybee to produce honeycomb. This honeycomb is processed into pure honey food product for human consumption. The hives are placed in groups in an open pasture. A minimum of six (6) mainframe hives to be placed on the minimum five (5) acres. A minimum of twelve (12) mainframe hives to be placed on the maximum (20) acres.

Permaculture – This operation is in the business of cultivating herbs and medicinal type plants not native to this area using the native plant cover to protect the budding plants. This operation is intensive on small acreage; there are no minimum acreage requirements.

Floriculture – This operation is in the business of cultivating plants or nursery stock in pots on top of the ground. This stock is then sold wholesale to nurseries. Intensive conditions exist on small acreages; there are no minimum acreage requirements for these tracts.

Domesticated Fowl – This operation involves the raising of domesticated fowl, such as: chickens, turkeys and quail, as meat for human consumption. Chicken operations may involve also the harvesting of eggs as well. This operation involves raising the birds in large barns holding thousands of birds. The barns then with some surrounding land for access would qualify.

Exotic Birds – This operation involves the raising of exotic birds for breeders, zoo, or specialty markets. To qualify for open-space these cases must be reviewed on an individual basis by the chief appraiser.

Christmas Trees – This operation is in the business of cultivating evergreen trees to market as Christmas trees. A regular schedule of pruning and spraying and cultivation, along with mowed turf grass as brush and weed control must be evident. Some reliable source of water should be present. Intensive conditions exist on small acreages; a minimum size requirement would be three acres.

Aquaculture – This operation involves the raising and harvesting of fish, shrimp, crayfish, or other aquatic animals for human consumption. Intensive conditions exist on small ponds. 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.

Turf Grass Farms – This operation is in the business of cultivating turf type grasses for wholesale to landscapers and builders. A high degree of weed and pest control must be evident. This operation always involves irrigation and thus should be evident as well. The minimum acreage is ten acres.

Procedures for Qualifying Timber Productivity

Sec. 23.72. Qualification for Productivity Appraisal.

(b) 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.

Sec. 23.9802. Qualification for Appraisal As Restricted-Use Timber Land.

(b) Land qualifies for appraisal as provided by this subchapter if:

- (1) timber was harvested from the land in a year in which the land was appraised under Subchapter E; and
- (2) the land has been regenerated for timber production to the degree of intensity generally accepted in the area for commercial timber land and with intent to produce income.

Timberland – Land where softwoods or evergreen trees comprise more than two-thirds of the stems that are free to grow. This operation is currently and has been devoted principally to the production of timber or forest products with the intent to produce income for five of the last seven years.

Standard Practices for Timber:

- a. A written Forest Management Plan prepared by a properly trained forester.
- b. Records of improvements and Forest Management. Treatments as prescribed in the plan (Cost Records)
- c. Commercial Timber Stocking (Pine or Cedar)
- d. Document Timber Harvest
 1. As prescribed in Forest Management Plan
 2. Approximately 7 to 10-year intervals
 3. Exception for Immature Stands
 4. On Immature Stands, must have 300 stems of commercial timber per acre that not overtopped, that is being released
- e. Must have a soil site index of 65 or greater for pine trees
- f. Evidence of harvesting, marketing, and replanting should be supplied on request.

Temporary Interruption – If a tract shows no activity and this lack of activity is because of:

- A) Disaster (drought, flood, no water source for livestock etc.) reasons, these standards may be set aside for the year that the disaster occurs. Prudent management during extreme drought conditions may dictate that all grazing animals be removed for short periods. It is recommended that the CAD office be notified if this drought situation is for a period greater than 12 months. The open-space ag value can continue under the above circumstances.
- B) Fence construction (estate settlements, partition, condition), a temporary interruption may be granted for a maximum of one year except when litigation is pending.

Land Used in Conjunction—with larger tracts may qualify if used to store farm equipment, working ranch horse(s), bull pastures, weaning pastures if there is no residential or commercial endeavor on the property and is used with adjoining agricultural use property owned

Periodic Adjustments – These standards are subject to periodic review by the Agricultural Advisory Board to keep them current with what is typical agriculture practice in Colorado County. Also, from time to time, adjustments will be needed to comply with changes in either Texas Comptroller of Public Accounts appraisal manual or Texas Property Tax Code.

MINIMUM ACREAGE REQUIREMENTS FOR LAND

Type of Land	Minimum # of Acres
Native Pasture	10
Improved Pasture	10
Hay Production	10
Orchards/Vineyards	10
Tree Farms	10
Grass Farm	10
Irrigated Crop (Typically Rice)	10
Aquaculture	10

TYPICAL HERD SIZE REQUIREMENTS

Type of Operation	Minimum Size
Beef Cow/Calf	5
Dairy Cow/Calf	25
Feeder/Stocker	10
Sheep/Goats	25
Horses (24+ mo)	3
Miniature Horse	6
Shetland Horse	4
Exotic Deer	15
Llamas	4

MINIMUM TREES PER ACRE REQUIREMENTS

Pecan orchards	14 trees/acre
Peach orchards	40 trees/acre
Timber	400 trees/acre
Christmas tree farm	700 trees/acre

**BEEKEEPING AS AG PRACTICE FOR 1D1 (OPEN-SPACE) AGRICULTURAL USE
APPRAISAL
(Ag Productivity Land Valuation/ "Ag Exemption")**

Texas law, effective January 1, 2012, made it possible for beekeeping to qualify for an Ag Valuation on property taxes. This is covered in the Property Tax Code under Chapter 23, Subchapter D, Sect. 23.51 (1) and:

(2) "...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".

The Colorado County Appraisal District (CAD) allows for Pollinating-Solitary Nesting Bees, typically Mason Bees, (**bees for pollination**) or Honeybees (**production of human food**).

*Note – One Mason Bee Box = One Honeybee Hive

Under Open-Space productivity valuation, values are calculated using a modified income approach to determine the per acre value. This is done using cash lease rates that are collected each year through survey mailed to landowners. The challenge with determining a productivity value for beekeeping using the cash lease method is usually beekeepers do not lease the land on which the hives are located. In most instances, a property owner who has hives located on the land do not have an open-spaces valuation and are performing the practices to establish the history for an agricultural use valuation.

Using the basic Income/Rate/Value formula for developing an income approach to value, we have developed a productivity value for beekeeping, and it is used for all Beekeeping.

In Texas, it is estimated that a hive will produce an average of 74 pounds of honey per year. With the assistance of local beekeepers, there is an estimated average of \$60.00 per hive of expenses per year. The five-year average wholesale price for honey per pound is used for the Beekeeping agricultural use value calculation. The following is an **EXAMPLE ONLY** of Colorado CAD's Beekeeping agricultural use value calculation:

Five-year average of net to land (V) = \$315.92
 Capitalization Rate (R) = 10.00%
 Gross Productivity Value (V/R) = (\$315.92 / .1000) = \$3,159.20
 Maximum Hives per Maximum Acreage = 0.6 (12 hives/20 acres)
 20-acre owner contribution to total bee range = 17.68%
 Productivity Value: \$3,159.20 x .6 x .1768 = \$335.13 Rounded to \$335.00/acre

Intensity Standards for Beekeeping

Number of Acres	Number of Hives/Nesting Boxes Needed
5	6
6-10	7
11-12	8
13-14	9
15-16	10
17-18	11
19-20	12

AGRICULTURE CODE
TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS
SUBTITLE A. BEES AND NONLIVESTOCK ANIMAL INDUSTRY
CHAPTER 131. BEES AND HONEY
SUBCHAPTER A. GENERAL PROVISIONS

Section 131.001. DEFINITIONS.

- 1) "Abandoned apiary, equipment, or bees" means an apiary, equipment, or a colony of bees that is not regularly maintained or attended in accordance with this chapter or rules or quarantines adopted under this chapter.
- 2) "Apiary" means a place where six or more colonies of bees or nuclei of bees are kept.
- 3) "Beekeeper" means a person who owns, leases, or manages one or more colonies of bees for pollination or the production of honey, beeswax, or other by-products, either for personal or commercial use.
- 4) "Bee" means any stage of the common honeybee, *Apis mellifera* species.
- 5) "Colony" means the hive and its equipment and appurtenances including bees, comb, honey, pollen, and brood.
- 6) "Director" means the director of the Texas Agricultural Experiment Station.
- 7) "Disease" means American foulbrood, European foulbrood, any other contagious or infectious disease of honeybees, or parasites or pests that affect bees or brood.
- 8) "Equipment" means hives, supers, frames, veils, gloves, tools, machines, or other devices for the handling and manipulation of bees, honey, pollen, wax, or hives, including, storage or transporting containers for pollen, honey, or wax, or other apiary supplies used in the operation of an apiary or honey house.
- 9) "Inspector" means the chief apiary inspector.
- 10) "Label" as a noun, means written or printed material accompanying a product and furnishing identification or a description. The term includes material attached to a product or its immediate container and material inserted in an immediate container or other packaging of a product.
- 11) "Label" as a verb, means to attach or insert a label.
- 12) "Nucleus" means a small mass of bees and combs of brood used in forming a new colony.
- 13) "Pollen" means dust-like grains formed in the anthers of flowering plants in which the male elements or sperm are produced.
- 14) "Pure honey" means the nectar of plants that has been transformed by, and is the natural product of, bees and that is in the comb or has been taken from the comb and is packaged in a liquid, crystallized, or granular form.
- 15) "Queen apiary" means an apiary in which queen bees are reared or kept for sale, barter, or exchange.