



San Jacinto County Appraisal District

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(Referenced)

Property Tax Code

Section 23.51

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

Revisions and Updates

Reviewed and/or revised and approved by the Ag Advisory Board

Reviewed 2012

Reviewed 2013

Reviewed 2014

Reviewed 2015

Reviewed 2016

Reviewed 2017

Reviewed 2018

Reviewed 2019

Reviewed 2020

Dear Property Owner:

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

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

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

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

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

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

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

Current and Active Devotion to Agricultural Use

Currently devoted to agriculture means that a qualifying agricultural use is evident as of January 1 of the tax year. Land under agricultural production must be specifically identified and products clearly stated. The land shall be described physically and legally. Physical description identifies the land in categories or classifications such as dry cropland or native pasture, as well as the number of acres in production. The productivity capability of the land must be described to allow for measurement of agricultural production intensity. The land must stay in a qualifying use throughout the year. The agriculture valuation can be removed at any time due to non-compliance.

Agricultural Production Must be the Land's Primary Use

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

Primary uses (Non-Qualifying)

Here are some examples of Non-Qualifying Primary uses:

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

Degree of Intensity Test

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

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

To qualify for agricultural productivity appraisal, land must be used to the degree of intensity generally accepted in the area and to the extent that is typical for similar operations in the area. The degree of intensity test is intended to exclude from productivity appraisal land on which token agricultural activity occurs simply to get tax relief.

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

A management/business plan with rotation schedules (if applicable) will be required and must be submitted with your application.

See the degree of intensity chart included in this guideline.

Intent to Produce Agriculture Products

For a tract of land to qualify for productivity value, it must be substantial. Substantial is defined as a tract of land adequate in size to support a typically prudent operation.

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

Historical Use Requirement

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

In order to build a history an owner must be engaged in an appropriate agricultural activity for a five (5) year period. The owner may file an agricultural application for every year for five (5)

years. (paper trail) The property will be field checked, and a report will be filed for each year. The owner will file in the sixth (6) year and if the requirements have been met during the preceding five (5) years having been devoted principally to agriculture use and meets the degree of intensity test then the property would be eligible to receive the agricultural valuation.

Improvements

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

Products of agricultural operations

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

Appurtenances

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

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

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

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

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

The information collected on the next pages was a result of on-site inspections of agricultural property in San Jacinto County, meetings with the Agricultural Advisory Board, and several other sources. The purpose of this information is to help establish typical guidelines and/or intensity levels.

All application will be considered on a case by case basis. Typical Levels

<p>Native/Imp Pasture Must be fenced Water Source <u>Cattle</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> fifteen (15) acres is required. 2. At least 75% is open space for grazing. 3. At least five (5) head of reproducing cows. 4. The approx. minimum acreage listed above will require a high level of forage management. 5. Larger tracts should have enough animal units to match the carrying capacity of the land. 6. Typical management practices for this type of operation include, but are not limited to adequate fencing suitable for containment of livestock, continuous water supply suitable for the number of livestock, a fertilization and weed control program (mechanical or chemical), receipts for purchases and sales of animals, breeding receipts for off-site breeding, and proper management of land for long-run forage.
<p>Native/Imp Pasture Must be fenced Water Source <u>Horses</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> fifteen (15) acres is required. 2. At least 75% is open space for grazing. 3. <u>BREEDING OPERATIONS ONLY</u> with a minimum of four (4) reproducing mares. A breeding operation involves having brood mares and either a stud (stallion) on location or using artificial insemination for breeding the mares. 4. The approx. minimum acreage listed above will require a high level of forage management. 5. Larger tracts should have enough animal units to match the carrying capacity of the land. 6. Typical management practices for this type of operation include, but are not limited to adequate fencing suitable for containment of the stock, continuous water supply suitable for the number of animals being stocked, a fertilization and weed control program (mechanical or chemical), receipts for purchases and sale of animals, and proper management of land for long-run forage. 7. Operations set up strictly for boarding, training, and showing of horses do not support an agricultural purpose.
<p>Native/Imp Pasture Must be fenced Water Source <u>Goats</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> ten (10) acres is required. 2. Land can be partially wooded but must have enough grasses and other food sources to support ten (10) goats per five (5) acres. 3. A minimum of twenty (20) reproducing nannie goats. 4. The approx. minimum acreage listed above will require a high level of forage management. 5. Larger tracts should have enough animal units to match the carrying capacity of the land. 6. Typical management practices for this type of operation include, but are not limited to adequate fencing suitable for containment of the stock, continuous water supply suitable for the number of animals being stocked, a fertilization and weed control program (mechanical or chemical), receipts for purchases and sales of animals, and proper management of land for long-run forage.

<p>Native/Imp Pasture Must be fenced Water Source</p> <p><u>Sheep</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> ten (10) acres is required. 2. Land can be partially wooded but must have enough grasses and other food sources to support ten (10) sheep per five (5) acres. 3. A minimum of twenty (20) reproducing ewes. 4. The approx. minimum acreage listed above will require a high level of forage management. 5. Larger tracts should have enough animal units to match the carrying capacity of the land. 6. Typical management practices for this type of operation include, but are not limited to adequate fencing suitable for containment of stock, continuous water supply suitable for the number of stock, a fertilization and weed control program (mechanical or chemical), receipts for purchases and sales of animals, and proper management of land for long-run forage.
<p><u>Hay Field</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> ten (10) acres is required. 2. Typically, proof of two (2) cuttings in years of normal rainfall. 3. Land should be fertilized heavily at first of year and top dressed later as needed. 4. There should be no animals on a hayfield during growing season. Animals may be wintered on hayfields.
<p><u>Orchard</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> five (5) acres is required. 2. 12 trees per acre with 50' spacing. Fertilize 3 times/year. 3. Typical management practices for this type of operation include, but are not limited to a written production plan, fertilization and weed control program (mechanical or chemical), irrigation system, pest management plan, receipts for purchase of seeds, trees and sale of crops, and proper management of land in a workman-like manner, and harvest.
<p><u>Truck Farms</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> three (3) acres is required. 2. Small operations may qualify if managed intensively. 3. Proof of produce sold wholesale commercially or to the public. 4. Written production plan, fertilization and weed control program (mechanical or chemical), water supply and irrigation system, pest management plan, receipts for purchase of seeds or root stock and sale of crops, and proper management of land in a workman-like manner, and harvest.
<p><u>Christmas Tree Farms</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> five (5) acres is required. 2. Yearly trimming required. 3. 400 trees per acre. 4. Written production plan, fertilization and weed control program (mechanical or chemical), water supply and irrigation system.
<p><u>Floriculture</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> five (5) acres is required. 2. Greenhouses and Outdoor production. 3. Cultivation & management of ornamental & flowering plants. 4. Proof of plants sold wholesale commercially. 5. Written production plan, fertilization and weed control program (mechanical or chemical), water supply and irrigation system, pest management plan, receipts for purchase of seeds or root stock and sale of plants, and proper management of land in a workman-like manner.

<p><u>Nursery</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> five (5) acres is required. 2. Greenhouses and Outdoor production. 3. Nursery crops such as shrubs, trees, and vines. 4. Proof of plants sold wholesale commercially. 5. Written production plan, fertilization and weed control program (mechanical or chemical), water supply and irrigation system, pest management plan, receipts for purchase of seeds or root stock and sale of plants, and proper management of land in a workman-like manner.
<p><u>Vineyards</u></p>	<ol style="list-style-type: none"> 1. A minimum of <u>APPROXIMATELY</u> five (5) acres is required. 2. Cultivation and harvesting of grapes for wine making. 3. Typical management practices for this type of operation include, but are not limited to a written production plan, fertilization and weed control program (mechanical or chemical), irrigation system, canopy management, pest management plan, receipts for purchase of seeds, vine root stock and sale of crops, and proper management of land in a workman-like manner, and harvest.

Wildlife Management Guidelines

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

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

The Chief Appraiser will require an annual report on describing how the management plan was implemented during the year.

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

Agriculture Use Guidelines for Bees

Texas Property Tax Code Subchapter D, 23.51:

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

Hives must be located on property for at least 7 months of the year.

A copy of registration of Apiary is required. Texas Apiary Inspection Service 979-845-9714

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

For each additional 2.5 acres one additional hive is required.

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

Typical Management Practices

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

The District will also require that each Beekeeping operation submit a 3 to 5-year plan for the operation. The plan must state what type of production will occur on the property. What is the primary operation and any secondary uses of the bees. Plans for expansion, contingency plan in case of a catastrophic disaster such as all hives die. This plan should be submitted with the application for special valuation. In addition to a 3 to 5-year plan, an annual report will be required by all Beekeeping operations. This annual report should give the District an overview of activities throughout the past calendar year. Examples of items to include in the annual report would be how much honey was produced, were the bees used for pollination primarily, what by-products were produced, any products that were purchased for the operation, maintenance of the hives, supplemental feeding, additional bees purchased and any other information that which may be important to the operation.

Beekeeping cont.

Management practices for this type of operation include maintaining the required number of hive boxes, providing adequate shade and water for the bees, providing adequate pest control, receipts for purchases and sales of equipment, bees, and products. The landowner does not need to own the bees, but the hives must be located on the property seeking open-space agricultural appraisal. The landowner may choose to lease the land to a beekeeper who manages the bees on the leased land. If the property is leased to a commercial Beekeeper to manage bees on the property, a lease agreement must accompany the application. An annual report will be required of the lessee/lessor during the duration of the lease.

Typical equipment for this type of operation include, but is not limited to, protective clothing (head net, suit, gloves), smoker, hive tool, hive boxes (deep brood boxes, honey supers, etc.) Just as a reminder to all Beekeeping operations, this special valuation is subject to the same set of standards as all other agricultural operations. Failure to comply with the standards may result in removal of the special valuation and a rollback tax.