

# **Liberty County Appraisal District**

## **Agricultural Land Qualification Guidelines**

### **Introduction**

These guidelines are intended to set out both eligibility requirements and appraisal procedures. The *Manual for the Appraisal of Agricultural Land*, Property Tax Division, Comptroller of Public Accounts, April 1990, supports these guidelines. Legislative changes to these subchapters since 1990 are not found in the state-adopted 1990 manual.

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

### **Qualification Guidelines**

- A property owner must apply for agricultural appraisal before the deadline.
- The agricultural appraisal applies only to land, fences, and certain appurtenances. It doesn't apply to improvements. Improvements such as barns and houses are appraised at market value.
- 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.
- Products in the hand of the producer are generally exempt from taxation. Farm and ranch equipment designed and used primarily for agricultural/husbandry activities are also exempt.
- The land must be devoted to an agricultural use to the degree of intensity that is typical in the county. Degrees of intensity are discussed in the proceeding paragraphs.
- The land must have been used principally for agriculture production for any five of the preceding seven years. Discussed in the proceeding paragraphs.
- Land that is located within an incorporated city or town must meet one of the following to be considered for qualifications.
  - 1) The city must not provide the land with general services comparable to those provided in other parts of the city; or
  - 2) The land must have been devoted principally to agricultural use continuously for the preceding five (5) years.

## **Agricultural Use**

Accepted agriculture use may include the following activities:

- Cultivating the soil.
- Producing crops.
- Participation in government programs and normal crop rotation crop rotation
- Floriculture. Floriculture is the cultivation and management of ornamental and flowering plants.
- Viticulture. Viticulture is the production of grapes.
- Horticulture. Horticulture is the cultivation of fruits, vegetables, herbs or other plants.
- Raising exotic game for commercial use.
- Raising or keeping livestock. Livestock includes meat or dairy cattle, horses, goats, swine, poultry and sheep. Wildlife is not livestock.

Agriculture related activities that do *not* qualify:

- 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.
- Land used to train, show, or race horses, or to ride horses for recreation, or to keep or use horses in some manner that is not strictly incidental to breeding or raising horses.
- Waiver of owner's right to 1-d-1 special valuation. A property owner may waive the 1-d-1 appraisal is effective for 25 years and applies to the land even if the ownership changes.

This list is not exhaustive.

## **Degree of Intensity**

The degree of intensity test measures whether the land is being farmed or ranched to the extent that is typical for the area. This test is intended to exclude land on which token agriculture use occurs in an effort to obtain tax relief.

Degrees of intensity may vary from one geographic area to another. Terrain, soil type, and water levels are just a few of the conditions that could affect what constitutes a minimum level of intensity. Certain tracts within a defined area may demonstrate

unique geographic or topographic characters that may increase or decrease the minimum level of intensity for that parcel.

### **Land Classifications**

There are 10 classifications of land in Liberty County. Please see attached Productivity Valuation Guidelines Grid.

### **Time Period Test**

The popular name for the time period test is agricultural use history requirement or simply “History Requirement”. History use requirement differs for 1-d and 1-d-1 agricultural valuation. 1-d appraisal requires land to be used principally for agriculture the three years preceding the application. 1-d-1 appraisal requires land to be used principally for agriculture any five of the preceding seven years. As long as the principal use of the land was agriculture, the land qualifies even if it did not meet the degree of intensity standards during the preceding years. (Note: Landowners in Liberty County apply for 1-d-1 appraisal, since 1-d appraisal requires an income test to qualify.)

Land within the boundaries of a city often will not qualify. Land located within incorporated city or town must meet all previous requirements and must meet one of two other requirements. Either the city must not provide the land with general services comparable to those provided in the other parts of a municipality having similar features and population, or the land must have been devoted principally to agriculture use continuously for the preceding five years.

If a tract of land does not meet the History Requirement, it will be considered to not have a history of agricultural use on the property. If this occurs, the owner must build an agricultural history on the property to qualify for the agricultural value. To build a history, an owner must be engaged in an appropriate agricultural activity for a five-year period. Evidence may be submitted showing receipts, pictures, statements and other evidence showing the land was in production for the previous five-year period. A property owner may begin the five-year requirement and have the above evidence as well as request that the appraisal district staff field check the property each year. The owner will file an application in the sixth year; and, if the requirements have been met during the preceding five years, then the property will meet the history requirement.

### **Application**

A property owner must file a valid application form with the chief appraiser. It is important to note that a new owner must file this application to maintain the agricultural valuation. The agricultural valuation is built to a specific legal ownership and does not follow the land. Therefore, if a piece of property changes ownership, a new application must be filed.

To be valid, the application for agricultural appraisal must be on a form provided by the appraisal district. This form has been adopted by the Comptroller’s Property Tax

Assistance Division. The application form for 1-d-1 appraisal appears at the end of this document. The 1-d appraisal form is available upon request.

The appraisal district has an agricultural survey that is randomly mailed to farmers and ranchers in the county to determine typical farming and ranching practices. Surveys are also given to owners applying for 1-d-1 or 1-d appraisal. The survey is voluntary and not required to receive the agricultural appraisal. The survey instrument is at the end of this document.

### **Filing Deadline**

The deadline for application is before May 1. For good cause and only at the property owner's request, the chief appraiser may extend the filing deadline in individual cases for not more than 60 days without penalty. An extension must be requested before the May 1 deadline.

The Property Tax Code does not define "good cause". However, it is commonly something the applicant can't control. Being sick or injured and not able to conduct business for a period that effectively prevents filing on time is usually good cause. Being out of town on business or vacation or simply forgetting about the filing deadline is not considered good cause.

### **Late Applications**

The property owner may file a late application until the Appraisal Review Board approves the roll. An application filed after April 30 is subject to a penalty equal to 10% of the difference between the tax imposed at market value and the tax imposed at the agricultural productivity value. If the chief has extended the deadline for the property owner, then the penalty does not apply.

### **Failure to File the Application Form**

If a person does not file a valid application before the Appraisal Review Board approves the roll, the land is ineligible for an agricultural valuation for that year.

### **One Time Application**

Once a 1-d-1 application has been filed and approved the land will continue to receive the agricultural value unless one of three things occurs:

- The ownership changes.
- The use of the land changes.
- The chief appraiser requests a new application.

### **Notification of Changes**

The property owner must notify the appraisal district in writing before the next May 1 if the land's ownership, eligibility, or use-type changes. If the owner fails to do so, one or more penalties will apply.

Appraisers observe qualified properties in general to check for change of use or use that is below the degree of intensity. If an appraiser observes a change of use, the appraiser

notes that change and gives to the chief appraiser. The appraisal district will send a certified letter with a new application and a survey to the owner. If the appraiser observes a use below the degree of intensity, the appraisal district will send a certified letter explaining why the land no longer qualifies.

### **Application Denial**

If the chief appraiser denies in application, he must deliver notice of denial to the applicant. The notice must contain a brief explanation of procedures for protesting denial to the Appraisal Review Board. The owner has 30 days from the date on the denial letter to file a written protest. At a protest hearing the owner must provide supporting documentation.

### **Rollback Procedures**

A rollback tax will be imposed on 1-d-1 property when the owner changes the use of the land to something other than agricultural production. If only a portion of the land is changed to a non-agricultural use, then only the portion changed will receive the rollback.

The chief appraiser will send a written notice of the determination that a change of use has occurred. The owner has 30 days to file a protest on that determination. If the owner does not file a written protest of the determination or the Appraisal Review Board decides that a change of use has occurred, a tax bill will be sent that includes the amount of rollback tax and interest that is due. Simply selling the property does warrant a rollback on the land.

### **Change of Use for Rollback Tax**

- Physical change from agriculture to non-agriculture use.
- The physical act of subdividing property to sell as non-qualifying tracts of land, such as the cutting of roads or the installation of utilities.
- The placing of restrictions that limit the use to non-agricultural activities resulting from the free will of the owner.

### **Change of Use that do not cause Rollback Tax**

- The lowering of the intensity level below the qualified level by choice or agricultural necessity, but continued agriculture use.
- Property condemned or sold as right of way.
- Property sold to most government entities.
- Filing of a waiver from special valuation.
- Filing of the owner's homestead on part of the qualified property due to the building of a house.
- Property changed to a nonprofit cemetery association.

- Property sold to a religious organization that qualifies under Section 11.20(c) of Property Tax Code.
- Certain land used for economic development that is transferred from the state, a political subdivision, or a nonprofit corporation under the Development Corporation Act and for which the Texas Comptroller has determined certain economic benefits.

### **Rollback Taxes Due Date**

The rollback tax is due the date the tax bill is mailed. It becomes delinquent on the February 1 that is at least 20 days after the bill is mailed.

### **Rollbacks on Property Bought by Exempt Organizations**

Exemptions that apply to ordinary property taxes do not apply to rollbacks taxes. Even if the land might be exempt from ordinary taxes in the new owner's hands, the rollback taxes still become due if that owner takes the property out of agricultural use. When a political subdivision buys the land and changes the use, the rollback is triggered but the lien cannot be enforced. However the lien against the land continues and could be enforced against a later buyer.

| CLASSIFICATION  | CODE | CROP             | MINIMUM<br>ACREAGE | COMMENTS   |
|-----------------|------|------------------|--------------------|--|
| IRRIGATED CROPS | DA   | RICE             | 50                 | 3 YEAR CROP ROTATION   |
| DRY CROPLAND    | DB   | SOYBEANS         | 50                 |  |
|                 | DC   | CORN/SORGHUM     | 50                 |  |
| PASTURE         | DE   | NATIVE           | 15                 | FENCED WITH ACCESS TO WATER.MAINTAIN 1 ANIMAL UNIT PER 7AC.<br>WITH A MINIMUM OF 5 ANIMAL UNITS.AN ANIMAL UNIT = 1 COW;1 BROOD<br>MARE; 5 GOATS,SHEEP OR HOGS. |
|                 | DD   | IMPROVED         | 10                 | SAME AS NATIVE EXCEPT 1 ANIMAL UNIT PER 3 ACRES.   |
|                 | DD   | HAY              | 10                 | FERTILIZE AND CUT TWICE PER YEAR WEATHER PERMITTING.<br>3 ROUNDS OR 50 SQUARE BALES PER ACRE.  |
| HORTICULTURE    | DF   | TURF GRASS       | 30                 | ALL HORTICULTURE MUST BE WHOLESALE OPERATION.  |
|                 | DL   | PECAN ORCHARD    | 10                 | 12 TREES PER ACRE WITH 50' SPACING. FERTILIZE 3 TIMES/YEAR   |
|                 | DM   | NURSERY          | 5                  |  |
|                 | DT   | CHRISTMAS TREES  | 5                  | 400 TREES PER ACRE LESS THAN 10' TALL.SHAPED TWICE PER YEAR  |
|                 | DB   | TRUCK FARM       | 5                  |  |
| OTHER AG        | WL   | WILDLIFE MGT.    | 50                 | MUST HAVE QUALIFIED FOR AG OR TIMBER THE YEAR PRIOR TO CONVERSION.<br>WILDLIFE MANAGEMENT PLAN REQUIRED.   |
|                 | DK   | CATFISH/CRAWFISH | 5                  | MAN MADE TANKS WITH PROOF OF STOCKING & SALES  |
| TIMBER          | DG   | PINE             | 10                 | TIMBER MANAGEMENT PLAN SUGGESTED FOR ALL TIMBER TYPES.   |
|                 | DH   | MIXED            | 10                 |  |
|                 | DJ   | HARDWOOD         | 10                 |  |
| TIMBER-SPECIAL  | FZ   | AMZ              |                    | 10 YEAR TIMBER WITH A 50SQ.FT. BASAL AREA .MANAGEMENT PLAN   |
|                 | FZ   | CWHZ             |                    | MUST HAVE ENDANGER PLANT OR ANIMAL.MANAGEMENT PLAN.  |
|                 | FZ   | SMZ              |                    | INTERMITTENT OR PERENNIAL STREAM, RIVER, LAKE OR WETLAND.<br>MAY BE 50'-200' DEPENDING ON SLOPE.MANAGEMENT PLAN.   |
|                 | REG  | REGENERATION     |                    | REPLANT WITHIN 2 YEARS.MANAGEMENT PLAN DETAILING<br>REFORESTATION EFFORTS.APPRAISED AT 50% OF VALUE FOR 10 YRS.  |
|                 | T    | TRANSITION       |                    | CONVERSION FROM AG TO TIMBER.SAME AG CATEGORY FOR 15 YRS.<br>MUST BE CLASSIFIED AG USE FOR 5 YEARS PRIOR TO CONVERSION.  |

## NOTES TO PRODUCTIVITY GUIDELINES

1. To qualify for AG use, land must be used for agricultural purposes to the degree of intensity typical in the area. This test is intended to exclude “hobby” farms or ranches and land on which token agricultural use occurs in an effort to obtain tax relief. In addition, to qualify for agricultural value the law requires agricultural use to be the **primary use**.
2. According to the property tax code, timberland must be managed with intent to produce income, while agricultural land does not have this requirement.
3. 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 AG Board and Chief Appraiser have established minimum acreage guidelines for all major AG and Timber categories.
4. Variance in degrees of intensity will be considered on a case by case basis for persons 65 or older who live on the property.
5. To qualify the property must have a history of AG or Timber use for five (5) of the last seven (7) years.
6. For qualification purposes, other land owned or leased may be combined to satisfy degree of intensity guidelines.
7. Horses raised and sold to the public qualifies for AG use. Horses stabled, trained or used for recreational purposes do not normally qualify the land for AG use.
8. These guidelines should be used as a general rule. There may be other circumstances or factors which merit consideration. These variances from the general rule will be handled on a case by case basis.
9. Property must be in use, under cultivation or animals on land by **MAY 1** of year of application to qualify for that year.
10. No determination to rollback AG or Timber property will be made unless an actual change of use occurs; not discontinued use.
11. Typical evidence of timber are as follows:
  - a. Documented record of timber sale activity.
  - b. Documented record of timber management plan.
  - c. Recipient of TR3, ACP, or SIP cost sharing funds for approved timber management activities.
  - d. Letters from buyers seeking to purchase timber.
  - e. Timber cruise estimates.
  - f. Attempt to salvage damaged or killed timber (if it has value).

- g. Registration as a tree farm.
  - h. Member of a county forest landowners/timber growers association.
  - i. Participant in forestry industry landowners assistance program.
  - j. Member of the Texas Forestry Association.
  - k. Participant in forestry extension activities.
  - l. Painted boundary lines.
  - m. Property management expense receipts.
  - n. Timber management plan.
12. Typical evidence of AG use are as follows:
- a. Lease agreements
  - b. Expense receipts or canceled checks.
  - c. Product or livestock sales receipts.
  - d. Pictures (i.e. hay bales)
  - e. Member FSA or farm program.
  - f. Member of livestock or farm associations.
13. Wildlife management is considered agricultural use under the law. The owner of land used for wildlife management must perform three (3) of the following seven (7) activities.
- a. *Habitat control (habitat management)* – means activity using land to create or promote environment that is beneficial to wildlife.
  - b. *Erosion control* – means practices that attempt to reduce or control soil erosion.
  - c. *Predator control* – means practices intended to manage population of predators to benefit target wildlife population.
  - d. *Supplemental water supplies* – means owner actively provides food in addition to level produced naturally on land.
  - e. *Supplemental food supplies* – means owner actively provides food in addition to level produced naturally on land.
  - f. *Providing shelter* – means actively creating or maintaining vegetation or artificial structures that provide shelter from weather, escape cover from enemies, or nesting and breeding sites.
  - g. *Census counts* – means periodic surveys to determine number and composition of target wildlife population and effectiveness of management program.
14. Restricted-Use Timberland includes:
- a. “**Aesthetic Management Zone**” – means timber land on which timber harvesting is restricted for aesthetic or conservation purposes, including:
    - (1) Maintaining standing timber adjacent to public rights-of-way, including highways and roads; and preserving an area in a forest, as defined by Sec. 152.003, natural resources code, that is designated by the director of the Texas Forest Service as special or unique because of the area’s natural beauty, topography or historical significance.
  - b. “**Critical Wildlife Habitat Zone**” – means timber land on which the timber harvesting is restricted so as to provide at least three (3) of the following benefits for the protection of an animal or plant that is listed as endangered or threatened under the endangered species act of 1973 (16 U.S.C. Section 1531 ET Seq.) And is

subsequent amendments or as endangered under section n68.002, parks and wildlife code:

- (1) Habitat control
  - (2) Erosion control
  - (3) Predator control
  - (4) Providing supplemental supplies of water
  - (5) Providing supplemental supplies of food
  - (6) Providing shelters; and
  - (7) Making of census counts to determine population
- c. **“Streamside Management Zone”** – means timber land on which timber harvesting is restricted in accordance with a management plan to:
- (1) Protect water quality; or
  - (2) Preserve a waterway, including a lake, river, stream or creek
- d. **“Harvested/Regenerated Forest Land”** – means timber harvested in a year in which the land was appraised as timber land and the land has been regenerated timber production to the degree of intensity generally accepted with the intent to produce income.

15. Applications for restricted use timber should include the following:

- a. Detailed map of tract.
- b. Management plan or other documents which support request.

These guidelines were developed by the appraisal district after consultation with the district’s agricultural advisory board, which consists of one (1) taxpayer on the FSA county committee.

The Agricultural Advisory Board and Chief Appraiser for the Liberty County Appraisal District, hereby adopt the general guidelines for open space valuation.

It is our consensus opinion that these guidelines be set forth as tools to the appraisal district for determining general qualifications for qualifying for Ag or Timber Valuation.

These guidelines are a general rule only. Each application should be considered on its own merit as there may be other circumstances in an operation which would allow a tract to be qualified. Therefore, final discretion should be left to the Chief Appraiser.

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Chief Appraiser

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