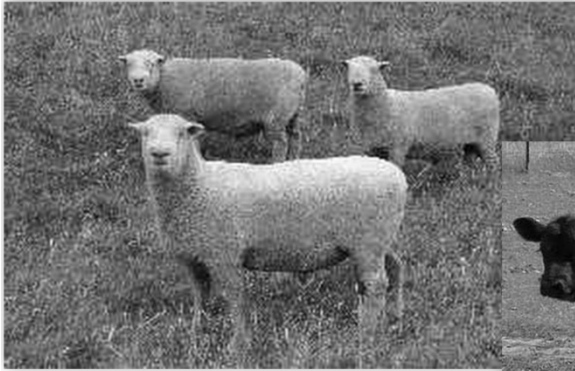


GILLESPIE CENTRAL APPRAISAL DISTRICT AGRICULTURAL LAND USE GUIDELINES AND STANDARDS



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Agricultural Land Use Guidelines and Standards

INTRODUCTION.....	2
HISTORY	3
QUALIFICATIONS FOR AGRICULTURAL USE	3
TIME PERIOD TEST	4
CURRENT USE TEST.....	5
PRIMARY USE TEST	5
INTENSITY OF USE TEST	5
APPLICATION.....	5
TYPES OF AGRICULTURAL OPERATIONS.....	6
LIVESTOCK OPERATIONS	6
EQUINE OPERATIONS.....	7
EXOTIC ANIMAL OPERATIONS.....	7
BEEKEEPING OPERATION.....	8
CROPLAND OPERATIONS	8
ORCHARD AND VINEYARD OPERATIONS	8
TRUCK FARMING OPERATIONS	8
WILDLIFE MANAGEMENT OPERATIONS.....	9
GOVERNMENT PROGRAM OPERATIONS	10
LAND LEASES	10
EXAMPLE OF PENALTY FOR LATE FILING	11
1-D-1 ROLLBACK TAX PENALTY	11
STOCKING RATE.....	12
ANIMAL UNIT EQUIVALENCY CHART	12

These guidelines were reviewed and approved by the Agricultural Advisory Board of the Gillespie Central Appraisal District on November 21, 2019.

Introduction

It is the opinion of the Gillespie Central Appraisal District (GCAD) that the attached Agricultural Land Use Guidelines and Standards are valid for mass appraisal purposes and can be applied uniformly throughout the GCAD jurisdiction. The *Manual for the Appraisal of Agricultural Land*, Texas Comptroller of Public Accounts, November 2018, supports these guidelines.

The Texas Constitution permits qualified open-space land to be taxed generally at productivity value instead of market value. The legal basis for this type of special valuation, typically referred to as “ag-use”, “open-space land”, or “1-d-1 land” is found in the Texas Constitution, Article XIII, section 1-d-1. The Texas Property Tax Code, §23.51-23.60 contain the core provisions for taxation of open-space land.

Please note that these guidelines are to be used as a general guide for qualifying agricultural land. Operations not covered in these guidelines and exceptions to this guide will be handled on a case-by-case basis.

History

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

Qualifications for Agricultural Use

“As the Texas Supreme Court noted in 1993, the “Texas Constitution promotes the preservation of open-space land by authorizing the legislature to tax open-space land devoted to farm or ranch purposes on the basis of its productive capacity.” The court also stated that the “Constitution further

authorizes the legislature to provide eligibility limitations for the open-space designation.” Special agricultural appraisal under the 1-d-1 law is only allowed if the property owner proves the specific statutory requirements of Tax Code Chapter 23, Subchapter D. Land will not qualify for productivity valuation simply because it is rural or has some connection with agriculture. Neither will it qualify because it is open land that has no other possible use. The law does not provide a tax break for every use of open-space land. For example, casual uses such as home vegetable gardens do not qualify for productivity appraisal.” – Manual for the Appraisal of Agricultural Land, 2018

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

Owners wishing to receive special agriculture valuation on their land must show the Chief Appraiser that the land meets the standards for agriculture appraisal. These standards include:

- 1) primary use,
- 2) current use,
- 3) intensity, and
- 4) time period tests.

To show the land meets the qualifications the owner must apply and must give the Chief Appraiser all the information needed to determine whether the land qualifies. **The burden of proof is the responsibility of the landowner.**

Time Period Test

The land must have been used principally for an agricultural use for five of the seven years preceding the year when an application is filed. As long as agriculture was the principal use of the land in the preceding years, the land qualifies, even if the agricultural use did not meet the degree of intensity requirement for all or part of those preceding years.

Current Use Test

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

Primary Use Test

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

Intensity of Use Test

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

Application

A property owner claiming that their land is eligible for special appraisal through agricultural use must file a valid application with the appraisal district. The application must be filed before May 1st and must be filed with the Chief Appraiser of the appraisal district where the property is located. If the tract of land crosses county lines then an application must be filed with the appraisal district in each of the counties. Property owners may obtain an application from the GCAD office, the GCAD website, or the Texas Comptroller of Public Accounts website. If more time is needed, an extension to the deadline may be granted by the Chief Appraiser. The request should be in writing, show good cause for an extension, and be received by GCAD before May 1st.

Late applications may be submitted after the April 30th deadline and up until the appraisal district's appraisal rolls are approved by the appraisal review board (typically by July 20th). However, late applications which are approved will be assessed a 10% penalty for late filing (see example of late penalty on page 11).

If a person fails to file a valid application before approval of the property appraisal rolls then the land is ineligible for agriculture appraisal in that year.

Once the application is submitted to the Appraisal District and approved, the land continues to receive agriculture appraisal until ownership of the land changes, the land's eligibility changes, or the Chief Appraiser requests a new application. Ownership changes include transferring land to another party, transferring land into a trust, adding a party to the ownership, or deleting a party from the ownership.

If eligibility for agriculture use valuation ends for a property or the property has a change in the category of agriculture use then the landowner is required to notify GCAD. Notification to GCAD must be given in writing by May 1st after the end of eligibility or change of agriculture category. Failure to timely notify GCAD will result in a tax penalty being assessed on the property.

Types of Agricultural Operations

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

Livestock Operations

Livestock operations raise and keep cattle, sheep, or goats. Operations can be described as cow and calf operations, cattle stocker and feeder operations, sheep operations for meat or wool production, or goat operations for meat or mohair production.

Livestock operations in GCAD's jurisdiction must have a **minimum of two** animal units of animals. Operations with larger properties need more animal units. See page 12 for more information on stocking rates and animal unit equivalencies.

Equine Operations

Land that is used primarily for raising, breeding, and/or grazing horses for farm or ranch purposes may qualify for agricultural use valuation. The operation may include any breeds of horses, donkeys, or other equines. Supplemental feeding is a given fact of a breeding horse operation. The minimum operation is two animal units, with more required for larger tracts of land.

Land used to train, show, or race horses, to ride for recreation, or to keep or use horses in some other manner that is not strictly incidental to breeding or raising horses or using horses for farm or ranch purposes does not qualify as an agriculture use. Also, land used as a stable, where horses are kept, fed, and cared for, is not being used primarily for an agricultural purpose, unless the stable is incidental to breeding and raising horses. If a property is principally used to breed and raise horses and also has other uses, such as training or boarding, then the areas of the other uses will not qualify for agricultural use valuation.

Exotic Animal Operations

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

Beekeeping Operation

Beekeeping is an agriculture use and can qualify for agriculture use productivity value if used for pollination or for the production of human food or other tangible products having a commercial value. The State of Texas limits beekeeping to areas not less than five acres and not more than twenty acres. The minimum use for intensity is six colonies on five acres. For every additional 2.5 acres of land an additional hive is required. If a landowner wanted to qualify 20 acres through beekeeping then a minimum of 12 colonies is required. The hives must be active and must be located on the property for a minimum of 7 months of the year.

Cropland Operations

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

Orchard and Vineyard Operations

These operations are in the business of cultivating trees or grapevines that produce nuts or fruits (such as pecans, peaches, and grapes) which are sold commercially. Typically these operations have a regular schedule of pruning, spraying, and cultivation as well as keeping the area around the trees or vines mowed or disked. A typical size orchard or vineyard in GCAD's jurisdiction has a minimum of three acres.

Truck Farming Operations

This type of operation is in the business of cultivating the soil for planting vegetables. This type of operation depends on a good source of water for irrigation purposes. It is typical for this type of operation to utilize some type of irrigation system. There are some crops (such as okra) that do well in

dry land areas and may not require irrigation, so each operation should be considered separately. Examples of crops grown in truck farming operations include tomatoes, squash, potatoes, peppers, and carrots. A minimum size of three acres is considered typical for this type of operation in GCAD's jurisdiction.

Wildlife Management Operations

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

1. the tract of land is appraised as qualified open space land;
2. the landowner's primary use of the tract of land is wildlife management;
3. the tract of land is actively being managed to sustain a breeding, migrating, or wintering population of indigenous wildlife through implementation of a wildlife management plan;
4. in each year for which the owner seeks to qualify the tract for wildlife management use, the landowner has selected at least 3 wildlife management practices and, using wildlife management activities, has implemented each of the selected practices to the degree of intensity required. Wildlife management practices include:
 - (A) habitat control;
 - (B) erosion control;
 - (C) predator control;
 - (D) providing supplemental supplies of water;
 - (E) providing supplemental supplies of food;
 - (F) providing shelters; and
 - (G) making census counts to determine population.
5. the landowner manages indigenous wildlife for human use;
6. the tract of land meets the 20-acre minimum tract size, if applicable.

Additional information is also required when a landowner is attempting to qualify their land under wildlife management use. In addition to the 1-d-1 agricultural use application, a state wildlife management plan (state form PWD 885-W7000) must be submitted.

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

Government Program Operations

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

Land Leases

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

Example of Penalty for Late Filing

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

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

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

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

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

1-d-1 Rollback Tax Penalty

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

Stocking Rate

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

Animal Unit Equivalency Chart

<u>Animal Type</u>	<u>Animal Units</u>
Cow or Cow and Calf	1.00
Mature Bull	1.25
Weaned Calf to 1 Year	0.60
Steer (one year old)	0.70
Steer (two years old)	0.90
Horse	1.25
Miniature Horse	0.50
Donkey or Mule	1.25
Miniature Donkey/Burro	0.75
Bull Elk	0.60
5 Ewes	1.00
4 Rams or Buck Sheep	1.00
8 Lambs (weaned to 1 year)	1.00
6 Nanny Goats or Does	1.00
5 Billy Goats or Bucks	1.00
10 Kid Goats (weaned to 1 year)	1.00
6 Mature Mutton Goats	1.00
3 Llamas	1.00
6 Alpacas	1.00
1 Bison	1.00
5 Axis or Sika Deer	1.00
6 Fallow Deer	1.00
5 Aoudad	1.00
7 Sika Deer	1.00
2 Red Deer	1.00
2 Scimitar-Horned Oryx	1.00
1 Eland	1.00
3 Emus	1.00
2 Ostriches	1.00
7 White-tailed Deer	1.00
9 Blackbuck Antelope	1.00