

**VICTORIA CENTRAL
APPRAISAL DISTRICT**

2023

1-d-1 Ag Use

Guidelines

*Last Agricultural Appraisal Advisory Board meeting
November 1st, 2022*

LAND PRODUCTIVITY VALUATION

Two amendments to the Texas Constitution permit agricultural and open-space land to be taxed generally on its agricultural use, or productivity value. This means that taxes would be assessed against the productive value of the land instead of the selling price of the land in the open market.

The legal basis for special land appraisal is found in the Texas Constitution in Article VIII, Sections 1-d and 1-d-1. The two types of land and valuation are commonly called “ag-use” or “1-d” and “open-space” or “1-d-1”. The corresponding provisions of the Texas Property Tax Code are Sections 23.41 through 23.46, Agricultural Land, and Sections 23.51 through 23.57, Open-Space Land.

The purpose of the two provisions is similar. Under both provisions, the land must be in agricultural use and is valued in the same manner. However, there are differences in the qualifications that must be met in order to receive the productivity valuation.

1. Ag-Use, 1-d qualifications include:
 1. The land must be owned by a natural person. Partnerships, corporations or organizations may not qualify.
 2. The land must have been in agricultural use for three years prior to claiming this valuation.
 3. The owner must apply for the designation each year, and file a sworn statement about the use of the land.
 4. The agricultural business must be the landowner’s primary occupation and source of income.

2. Open-Space, 1-d-1, qualifications include:
 1. The land may be owned by an individual, corporation or partnership.
 2. The land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.
 3. The land must have been devoted to a qualifying agricultural use for at least five of the past seven years.
 4. Agricultural business need not be the principal business of the owner.
 5. Once an application for 1-d-1 is filed and approved, a landowner is not required to file again as long as the land continues to qualify. Although there are three instances in which a new application is required:
 - I. A change in the characteristics of ownership
 - II. The category of use changes
 - III. The chief appraiser via certified mail requests a new application

The possibility for a “rollback tax” exists under either form of special land valuation. This liability for additional tax is created under 1-d valuation by either the sale of the land or a change in the use of the land. It extends back to the three years prior to the year in which the change of sale occurs.

Under 1-d-1, a rollback is triggered by a change in use to a non-agricultural purpose that would not qualify for productivity valuation (sec 23.55). Taxes are rolled back or recaptured for the **THREE** years preceding the year of the change plus interest at an annual rate of five percent

The additional tax is measured by the difference between the taxes paid under productivity valuation provisions, and the taxes, which would have been paid if the land had been put on the tax roll at market value.

These provisions are effective only if applications are filed with the appraisal district office in a timely manner. Applications should be filed between **January 1** and **the end of April**. Applications received with a postmark date after April 30 but before the appraisal records are approved, are subject to a penalty for late filing.

Applications received after the appraisal records are approved cannot be considered pursuant to sec 23.541.

VICTORIA CENTRAL APPRAISAL DISTRICT AGRICULTURAL LAND

Guidelines have been established by the Victoria Central Appraisal District for the implementations of these provisions. It is the opinion of the Victoria Central Appraisal District and the Agricultural Appraisal Advisory Board that Agricultural Land Qualification Guidelines are valid for mass appraisal purposes and can be applied uniformly throughout the Victoria Central Appraisal District.

These guidelines are supported by Section 183 of the Internal Revenue Service Regulations.

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

DEFINITIONS OF KEY WORDS AND PHRASES

- **Prudent** – Capable of making important management decisions; shrewd in the management of practical affairs. Specifically, the law states that the land must be utilized as would an ordinary and prudent manager in the area of the taxing unit.
- **Substantial** – Ample to satisfy; considerable in quantity. Specifically, the law states that the agricultural land must be of adequate size to be economically feasible to farm or ranch. Thus, when two small tracts are used together, they may form a larger operation and become a substantial amount of land; when used separately they may not be.
- **Typical** – Exhibiting the essential characteristics of a group. Specifically, the law states that Ag land will be utilized as would a typically (ordinary) prudent manager. Statistically, a typically prudent manager is the median farmer or rancher.

(definitions continued)

- **Agricultural Use To The Degree Of Intensity Generally Accepted In the Area –** Farming or ranching to the extent that the typically prudent manager in the area of the taxing unit would farm or ranch on an identifiable and substantial tract of land when the tract is devoted principally to agricultural use. A better understanding of the definition can be gained by identifying the key elements of the definition and explaining each as follows:
 1. Degree of intensity generally accepted in the area shall mean that the farming and ranching practices (cropping patterns, planting rates, fertilization methods, harvesting and marketing techniques, etc) are those of a typical prudent farm or ranch manager.
 2. Typically prudent farm or ranch managers are ordinary farmers in terms of acres farmed as well as management ability. Given that all other factors remain constant, the number of acres farmed determines that farmer's capital structure. Typical prudent farmers or ranch managers located in the Victoria Central Appraisal District are assumed to have similar equipment of similar value and utility.
 3. Simply stated, a substantial tract is a tract of land large enough to be farmed by itself in a typically prudent manner.
 4. Area is interpreted to be that inside the jurisdictional boundaries of the Victoria Central Appraisal District.
 5. Principally means the more important use compared with other uses to which the land is put.

GENERAL QUALIFICATIONS FOR OPEN-SPACE SPECIAL VALUATION

The Texas Constitution permits special agricultural appraisal only if land and its owner meet specific requirements defining farm and ranch use. **Land will not qualify simply because it is rural and/or has some connection with agriculture.** Casual uses such as home vegetable gardens, hobby farming and ranching, or incidental cutting and baling of hay do not constitute a qualifying agricultural use.

The following guidelines have been developed by the Victoria Central Appraisal District base on what is typical to this area:

1. The land must be currently devoted **principally** to agricultural use **and** the principal use of the land for 5 of the last 7 years must have been agricultural.
2. Agricultural use must be recognizable with the land, maintained in a manner that would indicate prudent management.
3. The land must be utilized to the degree of intensity that is generally accepted as established by the Victoria Central Appraisal District. The degree of intensity test measures what an owner is putting into his agricultural operation such as; time, labor, equipment, management and capital. Owner must meet typical levels of effort for the same type of operation outlined in these guidelines.
4. The land must be a substantial tract of land that is adequate to support a typically prudent operation and be of a usable management size for the activity involved.
5. The land must be producing an agricultural product intended for the market including but not limited to: livestock, crops for human or animal food, seed or fiber crops, etc. Rodeo or pleasure livestock do not count.
6. The operator may be asked to provide documentation or management practices, expenses and sales, if necessary. (Feed, fertilizer, equipment invoices, sales receipts, labor expenses, IRS Schedule F, etc.)
7. The operator may be asked to show evidence that he is not engaged in a hobby farming according to the guidelines set out in Section 183 of the IRS Regulations (see attached).

These guidelines are used as a general guide. There may be circumstances in your agricultural operation which allow it to qualify based upon its own merit. Exceptions to the general rule will be handled on a case by case basis.

IRS “HOBBY” FARM GUIDELINES

Section 1.183 of IRS Regulations

<https://www.law.cornell.edu/cfr/text/26/1.183-2>

(b) Relevant factors. In determining whether an activity is engaged in for profit, all facts and circumstances with respect to the activity are to be taken into account. No one factor is determinative in making this determination. In addition, it is not intended that only the factors described in this paragraph are to be taken into account in making the determination, or that a determination is to be made on the basis that the number of factors (whether or not listed in this paragraph) indicating a lack of profit objective exceeds the number of factors indicating a profit objective, or vice versa. Among the factors which should normally be taken into account are the following:

(1) Manner in which the taxpayer carries on the activity. The fact that the taxpayer carries on the activity in a businesslike manner and maintains complete and accurate books and records may indicate that the activity is engaged in for profit. Similarly, where an activity is carried on in a manner substantially similar to other activities of the same nature which are profitable, a profit motive may be indicated. A change of operating methods, adoption of new techniques or abandonment of unprofitable methods in a manner consistent with an intent to improve profitability may also indicate a profit motive.

(2) The expertise of the taxpayer or his advisors. Preparation for the activity by extensive study of its accepted business, economic, and scientific practices, or consultation with those who are expert therein, may indicate that the taxpayer has a profit motive where the taxpayer carries on the activity in accordance with such practices. Where a taxpayer has such preparation or procures such expert advice, but does not carry on the activity in accordance with such practices, a lack of intent to derive profit may be indicated unless it appears that the taxpayer is attempting to develop new or superior techniques which may result in profits from the activity.

(3) The time and effort expended by the taxpayer in carrying on the activity. The fact that the taxpayer devotes much of his personal time and effort to carrying on an activity, particularly if the activity does not have substantial personal or recreational aspects, may indicate an intention to derive a profit. A taxpayer's withdrawal from another occupation to devote most of his energies to the activity may also be evidence that the activity is engaged in for profit. The fact that the taxpayer devotes a limited amount of time to an activity does not necessarily indicate a lack of profit motive where the taxpayer employs competent and qualified persons to carry on such activity.

(4) Expectation that assets used in activity may appreciate in value. The term *profit* encompasses appreciation in the value of assets, such as land, used in the activity. Thus, the taxpayer may intend to derive a profit from the operation of the activity, and may also intend that, even if no profit from current operations is derived, an overall profit will result when appreciation in the value of land used in the activity is realized since income from the activity together with the appreciation of land will exceed expenses of operation. See, however, paragraph (d) of § 1.183-1 for definition of an activity in this connection.

(5)The success of the taxpayer in carrying on other similar or dissimilar activities. The fact that the taxpayer has engaged in similar activities in the past and converted them from unprofitable to profitable enterprises may indicate that he is engaged in the present activity for profit, even though the activity is presently unprofitable.

(6)The taxpayer's history of income or losses with respect to the activity. A series of losses during the initial or start-up stage of an activity may not necessarily be an indication that the activity is not engaged in for profit. However, where losses continue to be sustained beyond the period which customarily is necessary to bring the operation to profitable status such continued losses, if not explainable, as due to customary business risks or reverses, may be indicative that the activity is not being engaged in for profit. If losses are sustained because of unforeseen or fortuitous circumstances which are beyond the control of the taxpayer, such as drought, disease, fire, theft, weather damages, other involuntary conversions, or depressed market conditions, such losses would not be an indication that the activity is not engaged in for profit. A series of years in which net income was realized would of course be strong evidence that the activity is engaged in for profit.

(7)The amount of occasional profits, if any, which are earned. The amount of profits in relation to the amount of losses incurred, and in relation to the amount of the taxpayer's investment and the value of the assets used in the activity, may provide useful criteria in determining the taxpayer's intent. An occasional small profit from an activity generating large losses, or from an activity in which the taxpayer has made a large investment, would not generally be determinative that the activity is engaged in for profit. However, substantial profit, though only occasional, would generally be indicative that an activity is engaged in for profit, where the investment or losses are comparatively small. Moreover, an opportunity to earn a substantial ultimate profit in a highly speculative venture is ordinarily sufficient to indicate that the activity is engaged in for profit even though losses or only occasional small profits are actually generated.

(8)The financial status of the taxpayer. The fact that the taxpayer does not have substantial income or capital from sources other than the activity may indicate that an activity is engaged in for profit. Substantial income from sources other than the activity (particularly if the losses from the activity generate substantial tax benefits) may indicate that the activity is not engaged in for profit especially if there are personal or recreational elements involved.

(9)Elements of personal pleasure or recreation. The presence of personal motives in carrying on of an activity may indicate that the activity is not engaged in for profit, especially where there are recreational or personal elements involved. On the other hand, a profit motivation may be indicated where an activity lacks any appeal other than profit. It is not, however, necessary that an activity be engaged in with the exclusive intention of deriving a profit or with the intention of maximizing profits. For example, the availability of other investments which would yield a higher return, or which would be more likely to be profitable, is not evidence that an activity is not engaged in for profit. An activity will not be treated as not engaged in for profit merely because the taxpayer has purposes or motivations other than solely to make a profit. Also, the fact that the taxpayer derives personal pleasure from engaging in the activity is not sufficient to cause the activity to be classified as not engaged in for profit if the activity is in fact engaged in for profit as evidenced by other factors whether or not listed in this paragraph.

MINIMUM GUIDELINES FOR 1-d-1 AG-USE

1. Only the acreage actually used agriculturally (principally devoted) may qualify for 1-d-1 ag-use.
2. Land except identified by sec 23.56 requires history of 5 of the last 7 years
3. Land identified by sec 23.56 must be principally devoted to ag use continuously
4. Small acreage with a home built upon the land is primarily residential in nature, with ag-use secondary. Open-space land must have ag-use as its primary use in order to qualify for ag-use valuation.
5. Stocking ratios are based on 12 months.
6. A pasture may lay out of agricultural production for normal rotation practices due to loss of grass or water due to the lack of rain and keep the special use valuation. However, if a pasture lays out of production for longer than one year, the land may lose its Ag qualification.
7. Properties not meeting the minimum degree of intensity **do not qualify** for special use appraisal unless it can be documented they are being used in conjunction with additional tracts to make the applicant part of a substantial operation.
8. To qualify for wildlife the property must not have been reduced in size by less than 16.60 acres **and** be appraised as 1-d-1 land the previous year *23.51 (7)*

CATTLE

Degree of Intensity (Stocking Ratio):

Type	A.U.
Cow, dry	0.92
Cow, with calf	1.00
Bull, mature	1.35
Cattle, 1 year old	0.60
Cattle, 2 years old	0.80

4 animal units and not less than 20 acres in Ag use operation – may require an onsite inspection by Appraisal District staff.

Cow/Calf – This operation is in the business of raising beef for sale to either processors or to other operations for breeding stock.

Feeder/Stocker – This operation is in the business of raising beef for processors.

Animals Used for Cutting/Rodeo – Would not qualify. This type of cattle is used for recreational purposes.

Fencing:

Capable of restraining livestock

Management Practices:

- 1) Fences Maintained
- 2) Stock Water
- 3) Weed Control
- 4) Fertilize
- 5) Marketing

SHEEP

Degree of Intensity (Stocking Ratio):

Type	A.U.	
Lamb, 1 year old	0.15	
Sheep, mature	0.20	
7 weaned lambs to yearlings		1.0 animal unit
5 mutton or ewes (1 to 2 years)		1.0 animal unit

2 animal units and not less than 10 acres in Ag use operation – requires an onsite inspection by Appraisal District staff.

Fencing: Net wire fences designed for sheep (woven wire)

Management Practices:

- 1) Fences Maintained
- 2) Stock Water
- 3) Marketing (wool, mohair and/or meat)

GOATS

Degree of Intensity (Stocking Ratio):

Type	A.U.	
Kid, 1 year old	0.10	
Goat, mature	0.15	
10 weaned kid to yearlings		1.0 animal unit
7 mutton or does (1 to 2 years)		1.0 animal unit

2 animal units and not less than 10 acres in Ag use operation – may require an onsite inspection by Appraisal District staff.

Fencing: Net wire fences designed for goats (woven wire)

Management Practices:

- 1) Fences Maintained
- 2) Stock Water
- 3) Marketing (wool, mohair and/or meat)

HORSES

BREEDING & WORK HORSES

Degree of Intensity (Stocking Ratio):

1 yearling	0.78 animal unit
1 horse over 2 years	1.0 animal unit
1 horse over 3 years	1.25 animal unit

5 animal units and not less than 20 acres in Ag use operation – may require an onsite inspection by Appraisal District staff.

This operation is directed to breeding operations. By-products are colts and fillies. This operation involves having brood mares. Usually includes special facilities and pasture is normally coastal.

Horses stabled, trained or used for recreational, racing, or rodeo purposes do not qualify for Ag use.

Management Practices:

- 1) Fences Maintained
- 2) Stock Water
- 3) Marketing
- 4) Breeding Records

DONKEY

Degree of Intensity (Stocking Ratio):

1 yearling	0.78 animal unit
1 to 2 year old donkey	1.0 animal unit
3 year old donkey	1.25 animal unit

5 animal units and not less than 20 acres in Ag use operation – may require an onsite inspection by Appraisal District staff.

This operation is directed to breeding operations. By-products are foals. This operation involves having brood mares. Usually includes special facilities and pasture is normally coastal.

Management Practices:

- 1) Fences Maintained
- 2) Stock Water
- 3) Marketing
- 4) Breeding Records

EXOTICS

Degree of Intensity:

This operation is in the business of raising breeds that are **not** native to Texas for sale and supplying meat/leather for the specialty markets. May require an onsite inspection by Appraisal District staff.

Management Practices:

- 1) Fences Maintained – seven to eight foot perimeter fence
- 2) Market for meat
- 3) Market for breeding stock

Animal Units per Acre:

Varies based on type of species.

Note:

23.51 (6)

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

HAY

Not less than 10 acres operation in agricultural use – may require an on-site inspection by Appraisal District staff.

This operation involves the cultivation of planted or maintained grasses and cutting and baling in round or square bales. Minimum of two cuttings per year – preferred three to four cuttings per year with adequate rains.

Management Practices:

- 1) Fertilize
- 2) Apply Herbicide
- 3) Cut and Bale
- 4) Market and/or use for personal livestock feed

CROPLAND

Not less than 20 acres in operation in agricultural use – may require an on-site inspection by Appraisal District staff. This operation involves the cultivation of the soil for planting grain crops with the intent of harvest for sale or for feed.

Management Practices May Include the Following:

- 1) Shredding previous crop
- 2) Planting
- 3) Apply herbicide
- 4) Harvest
- 5) Tillage
- 6) Fertilize
- 7) Insect Control

ORCHARDS, VINEYARDS, & TRUCK FARMING

Degree of Intensity:

Pecans	16 trees per acre (<i>minimum 40' apart</i>)
Peaches	75 trees per acre
Vineyard	100 vines per acre
Truck Farm	1 acres

Not less than 2 acres in agricultural use (except truck farming) – may require an on-site inspection by Appraisal staff.

This operation is in the business of cultivating and growing of trees, grapevines or vegetables that produce crops or nuts or fruits.

Management Practices:

- 1) Weed Control
- 2) Insect Control
- 3) Fertilizer
- 4) Pruning
- 5) Supplemental Water
- 6) Harvesting

Note:

Pecan Orchards	mature trees	40' apart
Peaches	75 trees per acre	18' apart

Degree of Intensity for Beekeeping RAISING OR KEEPING BEES

The Texas Legislature added another agricultural use for purposes of Open-Space Land appraisal. **Section 23.15(2)** amended the definition of agricultural use to include “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.” (*Effective January 1, 2012*)

This provision permits the owner to raise or keep bees for two purposes: 1) Pollination, or 2) the production of human food or products that have commercial value.

Options:

- 1) The food or products must have commercial value, not required to have commercial production
- 2) Requires that the land is used for raising or keeping bees for pollination.

Property owners seeking qualification for agricultural use appraisal for beekeeping, must show proof of history of a qualifying agricultural activity on the land for five of the preceding seven years.

Degree of Intensity / Management Practices

The degree of intensity for the required acreage is as follows:

5 acres	6 active hives
7.5 acres	7 active hives
10 acres	8 active hives
12.5 acres	9 active hives
15 acres	10 active hives
17.5 acres	11 active hives
20 acres	12 active hives

1. Acreage with a Homestead Exemption cannot be considered for agricultural history or agricultural appraisal.
2. The hives must be located on the property for at least 7 months of the year.
3. The hives must be maintained and kept alive.
4. The District will require copies of: Registration of the apiary, certificate of inspection, branding information, and export, import or intra-state permits if required by the Texas Apiary Inspection Service for the type of hive movement encountered.
5. The productivity value for beekeeping is developed by using the basic Income/Rate/Value (IRV) formula for developing an income approach to value.

Texas Agricultural Code - 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 of 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 state 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 of sale, barter or exchange.*

WILDLIFE MANAGEMENT USE POLICY

1. A written plan is required (PWD-885) (Plan form is available from the Texas Parks & Wildlife Department).
2. Per TAC 34 9.2005 for land that has split, the minimum acreage of **16.60** acres was set by the Victoria CAD Board of Directors on March 15, 2006. (Unless part of a wildlife management property association or area designated by the TPWD as habitat for endangered species.)
3. Form PWD 888 (annual report) is required to be filed every year to list the previous year's activities.
4. The plan must list the targeted species.
5. The plan must list the practices (the CAD may request proof of practices, expenses, and name and address of the individual(s) completing the practice).
6. The property must have Ag the previous year to convert to wildlife.
7. An on-site visit by the CAD staff may be required.
8. It is the taxpayer's responsibility to read and understand the guidelines in order to determine the requirements.
9. The taxpayer will be provided the guidelines for Wildlife Management Use, upon request.
10. Rollback taxes are calculated the same as 1-d-1 Open Space rollback taxes.
11. It is permissible to change from Wildlife Management Use back to 1-d-1 Open Space at a later date.

Note: Only 1-d-1 Open Space agricultural land can qualify for Wildlife Management Use. Market value land or land qualified under 1-d is not eligible.

NOTES:
