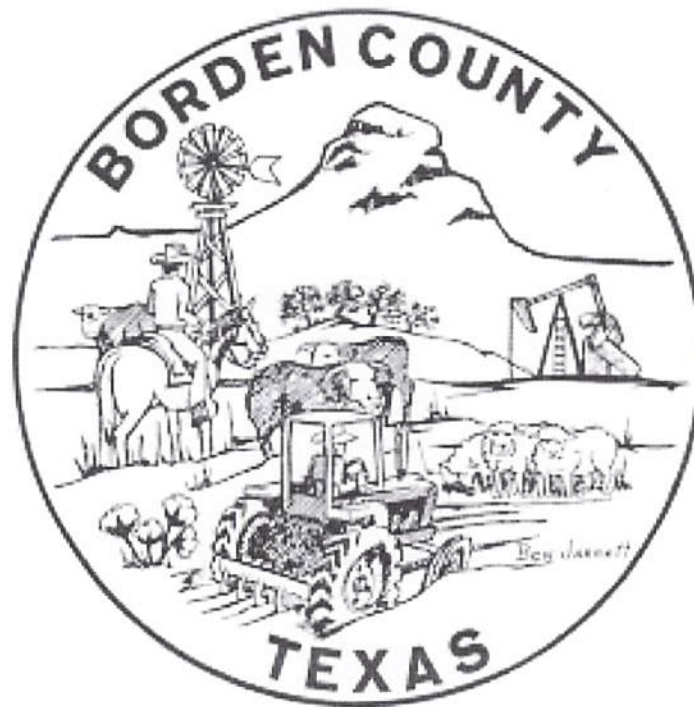


# BORDEN COUNTY APPRAISAL DISTRICT



AGRICULTURAL LAND QUALIFICATIONS GUIDE

2018-2019

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### TABLE OF CONTENTS

INTRODUCTION.....	1
QUALIFIED OPEN-SPACE USE .....	1-2
APPLICATION .....	3
TYPES OF AGRICULTURAL OPERATIONS .....	3-5
GOVERNMENTAL PROGRAMS .....	5
APPRAISAL OF AGRICULTURAL LANDS .....	6
FIVE STEPS TO AN EFFECTIVE PRODUCTIVITY APPRAISAL SYSTEM.....	6-7
AGRICULTURAL LAND GUIDELINES.....	7
BEEKEEPING.....	7-8

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### I. INTRODUCTION

Agricultural valuation is a “special use appraisal” for land that is devoted primarily to agricultural production. This special use valuation only applies if the land meets specific requirements defining farm and ranch use. Agricultural or productivity value, also referred to as ag value, is based on the land’s capacity to produce food, feed, seed or fiber instead of the land’s real estate value. In 1966, Texas voters approved the first agricultural appraisal law (1-d) for ad valorem (property) taxes. This amendment and the appraisal statutes that implement it provides that certain kinds of farm land be “appraised at its value based on the lands capacity to produce agricultural products.” Not at market value. This appraisal technique substantially reduces taxation of land that qualifies for agricultural appraisal. Section 1-d is restrictive, applying only to land owned by families or individuals. Agriculture must be the property owner’s primary occupation and source of income. Borden CAD does not have any land appraised as 1-d.

In 1978, Texas voters approved a second constitutional amendment adding Section 1-d-1, allowing open-space land (as well as timber) to be appraised based on its productivity value. This amendment allows eligibility for productivity appraisal for corporations as well as individuals. Land will not qualify for productivity valuation simply because it is rural or has some connection to agricultural. Neither will it qualify because it is open land that has no other possible use. In 1995, Texas voters approved amending Section 1-d-1 to permit agricultural appraisal for land used to manage wildlife.

### II. QUALIFIED OPEN-SPACE USE

Section 23.51 of the Texas Property Tax Code sets the standard for determining whether the land qualifies for an agricultural evaluation under 1-d-1. This section states “**Qualified open space land means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for 5 of the preceding 7 years.**”

#### Qualifications:

**Agricultural appraisal applies only to land:** It does not apply to improvements such as barns, sheds, silos, storage tanks or farm and ranch outbuildings. Those items must be appraised separately at market value. Appurtenances, generally, are man-made alterations of, or additions to, agricultural land that are not included in the value of the land and are not separately appraised. Some examples are private roads, dams, water wells, stock tanks, fences, etc.

**The land must be currently devoted to agricultural use:** The use of the land must be to the degree of intensity generally accepted in the area. The use must be current, meaning active management is currently taking place on the land. Land will not qualify simply because it is “rural” or “open land” or because the owner intends to use the land for an agricultural purpose. The land must be in agricultural use as of January 1. Refer to Appendix 1 for the minimum acres or stocking rate requirement by agricultural category to qualify for 1-d-1 appraisal.

**The use must be agricultural:** Examples of agricultural use include, but not limited to the following:

- Cultivating the soil: crops for human food, animal feed or planting seed.
- Floricultural: the cultivation and management of ornamental and flowering plants.
- Viticulture: The cultivation of grapes.
- Horticulture: the cultivation of fruits, vegetables, flowers, herbs or other plants.
- Raising or keeping livestock: a domesticated animal that derives its primary nourishment from vegetation, supplemented as necessary with commercial feed. Livestock includes beef or dairy cattle, horses, goats, swine, poultry and sheep. Wild animals are not livestock.
- Raising or keeping exotic animals: for the production of tangible products having a commercial value. Exotic game means a cloven-hooved ruminant mammal or exotic fowl that is not native to Texas and is not livestock.
- Planting cover crops or leaving land idle: for participation in a government program or in conjunction with normal crop or livestock rotation procedure. Land left idle for crop rotation qualifies until it is left idle longer than the crop rotation period typical for the crop in the area.
- Producing or harvesting logs and post: Borden county does not have any timber use.
- Wildlife Management as defined under Tax Code Section 23.51(7).
- Raising or keeping bees: for pollination or for production of human food or other commercial products. The land must be used must not be less than 5 acres or more than 20 acres.

**The principal use of the land must be agricultural:** Land must be devoted principally to agricultural use. If the land is used for more than one purpose, the most important or primary use must be for agricultural use. For example, if the primary use of the land is for dirt bike racing and not for farm or ranch purposes, it will not qualify for special appraisal. Other uses of the land do not necessarily disqualify the land for special appraisal if the primary use is agricultural. For example, the land used to primarily to graze cattle could also be leased for hunting. Leasing land for hunting is compatible with a primary use of land for grazing cattle. A land's change of use can affect its qualification for agricultural appraisal.

**Agricultural land must meet degree of intensity standards:** To qualify for productivity appraisal for agricultural use, the land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in this area. The degree of intensity test is examined in the year the property owner applies for special appraisal and every year thereafter. It does not apply to the years preceding the application for special appraisal. The test measures whether land is being farmed or ranched to the extent typical for agricultural operations. It is intended to exclude land on which token agricultural use occurs in an effort to obtain a tax relief. The law does not state what degree of intensity qualifies a particular type of land. The chief appraiser is responsible for setting the degree of intensity standards for the types of commodity production in the area, with the assistance of the Agricultural Advisory Board. Property owners must prove that they are following the common production steps for their type of operation and using typical amounts of labor, management and investment.

**Land must have been devoted principally to agricultural use for any five (5) of the preceding seven (7) years:** The land must have been used for 5 out of the past 7 years for agricultural production. This is in addition to the requirement that the land be currently devoted to agricultural. As long as agricultural was the principal use in the preceding years, the land qualifies even if the use did not meet the degree of intensity in all or some of the years.

**Temporary cessation of agricultural use during drought:** The eligibility of land for appraisal as 1-d-1 qualifying property does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

- A drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production.
- The owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ends.

### **III. APPLICATION**

A property owner claiming his or her land is eligible for agricultural appraisal must complete and file a valid application with the chief appraiser. The Application 1-d-1 (Open Space) Agricultural Use Appraisal must be filed between January 1 and April 30 of the tax year. The chief appraiser may extend the filing deadline up to 60 days at the property owner's written request before the May 1 deadline, for good cause. If the before-May-1 deadline is missed, the property owner may submit a late application for special appraisal if it is filed before the Appraisal Review Board (ARB) approves the appraisal records for that year. If it is approved, the property owner is liable for a penalty for the late application equal to 10% of the difference between the tax if imposed at market value and the tax imposed at the agricultural productivity value. If the chief appraiser extended the filing deadline, under Tax Code Section 23.54(d), this penalty does not apply. If the property owner does not file a valid application before the ARB approves the appraisal record, the land is ineligible for an agricultural appraisal in that tax year.

Once the application is filed and approved the land continues to receive agricultural appraisal every year without a new application unless the ownership changes, the land's eligibility ends, or the chief appraiser requires a new application. If the appraisal district notifies the property owner in writing to file a new application, the property owner must reapply, or the special appraisal will be automatically removed. Tax Code Section 23.54(h) imposes a duty on the property owners who receive productivity appraisal on their land to notify the appraisal district in writing before May 1 "after a change in the category of agricultural use" occurs or "after eligibility for appraisal under Tax Code Chapter 23 Subchapter D ends." A penalty is imposed on the property for failure to notify the appraisal district as required equal to ten (10) percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal and the taxes that would otherwise have been imposed. If the qualified land is changed to a non-agricultural use, the land will be subject to a rollback for the previous 5 years, plus interest.

Each first-time application for 1-d-1 special appraisal will be inspected in the field to determine validity. The chief appraiser will review the application and make a determination as to whether all the qualifications have been met. The property owner may be asked for additional information or documentation to support the application such as:

- Invoices for feed, vet services, seed, etc.
- Sworn statements from lessors of subject property or owners of surrounding properties. Statements should be described how the property has been used and the period of time used. They should be notarized as well.
- Receipts for sale of livestock, hay or farm products.
- Current active lease.

If the application is granted, it will be reflected on the notice of value mailed out in May. If the application is denied, a notification will be sent in writing by certified mail stating the reason for the denial. The property owner has the opportunity to file a protest of the decision and appeal the denial to the ARB.

If an application is presented and does not meet all the requirements of this manual, then it will be reviewed on a case by case basis to determine if an exemption may still be granted.

#### **IV. TYPES OF AGRICULTURAL OPERATIONS**

There are several types of typical agricultural operations in Borden County. Some of these operations include one or more types of operations. Agricultural operations include:

- Grazing operations
- Farming operations
- Orchard operations
- Livestock breeding operations
- Exotic animal operations
- Wildlife management operations

Each of these operations follows the same criteria for eligibility for 1-d-1 productivity use except for wildlife management. Wildlife management eligibility requirements will be covered under that section of this guide. Many operations in the Borden CAD have a combination of two or more of the listed operations.

**Cow and calf grazing operations:** This type of operation is commonly found in the District. The operators of cow and calf grazing operations are in the business of raising beef cattle for sale to either processors or other operators of breeding stock.

**Stocker and feeder calf operations:** This operation is in the business of raising beef for processors or for the feedlot. This operation involves acquiring calves at a certain weight from cow and calf operators or the livestock auction. The calves are then raised until they grow large enough for the feedlot or for slaughter; or are sold as replacement breeding heifers.

**Sheep operations:** This operation is in the business of providing two products. These products are wool which is produced from the fleece of the animal and meat being either lamb or mutton. Sheep operations may be purebred or commercial in nature.

**Horse operations:** This type of operation is limited to breeding operations which involves having brood mares and either a stud (stallion) on location or using artificial insemination for breeding the mares. This type of operation might include training of colts and fillies. It may also involve any number of breeds and is not limited to only Thoroughbred or Quarter Horse breeds.

**Goat operations:** This operation is in the business of producing primarily three products. These are mohair, meat and milk.

**Exotic animal operations:** This type of operation involves the raising of deer, antelope, emus, ostriches and other types of animals not native to Texas. Some exotic animal operations supply meat for consumption or leather or plumage for clothing or industrial use. Some may supply animals for breeding purposes.

**Bee operations:** This operation includes the use of land to raise or keep bees for pollination or for production of human food or other tangible products having a commercial value, provided that the land used is not less than five acres or more than twenty acres.

**Cropland operations:** The most common types of cropland in the District are cotton, sorghum and wheat. Cotton is the main cropland type and is either irrigated or non-irrigated. The land must be involved in standard production practices which include: tillage, planting, fertilizing, insect control, cutting, baling and marketing. In typical years one cut can be achieved.

**Wildlife management:** Land on which the owner engages in wildlife management and which meets certain agricultural use requirements may qualify for special appraisal and is technically in agricultural use. Property may qualify for special appraisal for wildlife management if the land is actively being used:

- As qualified open-space land and was qualified as such at the time wildlife-management use began in at least three of the following ways to propagate a sustaining migrating or wintering population of indigenous wild animals for human use including food, medicine or recreation:
  - Habitat control – using the land to create or promote an environment that is beneficial to wildlife
  - Erosion control – practices that attempt to reduce or control soil erosion
  - Predator control – practices intend to manage the population of predators to benefit target wildlife population
  - Providing supplemental supplies of water – owner actively provides water in addition to natural resources
  - Providing supplemental supplies of food – owner actively provides food in addition to natural resources
  - Providing shelters – creating or maintaining vegetation or artificial structures that provide shelter from the weather, escape cover from other enemies or nesting or breeding sites
  - Making census counts to determine population – periodic surveys to determine number and composition of target wildlife population
- To protect federally listed endanger species under a federal permit.
- For a conservation or restoration project to provide compensation for natural resource damages.

A wildlife management plan (state form PWD 885-W7000) must be submitted in addition to the Application for 1-d-1 (open Space) Agricultural Use Appraisal. You can pick up an application at the appraisal district office or print one from the Texas Parks and Wildlife Department (TPWD) website. A copy is also attached to this manual.

A wildlife property association may prepare a single wildlife management plan, provided all required information is included for each tract of land in the wildlife management property association and the plan is signed by each landowner or an agent of the landowner. Each property owner must be applying a minimum of three activities from the list of seven wildlife management activities listed above.

An appraisal district may require, for each tract of land qualified for agricultural appraisal based on wildlife management use, that an annual report be filed showing how the wildlife management plan was implemented in any given year. If the report is required, it shall be completed on the form prescribed by TPWD and shall be signed by the landowner or their agent.

In accordance with the Texas Administrative Code the chief appraiser shall determine if land qualifies for agricultural appraisal based on wildlife management use in compliance with the Manual for the Appraisal of Agricultural Land, the Guidelines for Qualification of Land in Wildlife Management Use and the Comprehensive Wildlife Planning Guidelines. The Comptroller of Public Accounts is another source for wildlife management information.

## **V. GOVERNMENTAL PROGRAMS**

The main governmental programs that are available to producers and gives information about whether and how to adjust net to land calculations to account for federal financial aid are:

- Conservation Reserve Program (CRP) – it's a 10-15-year contract providing the landowner with yearly payments in exchange for removing highly erodible and environmentally sensitive land from crop production, to conserve and improve the soil, water and wildlife resources.
- Agricultural Risk Coverage (ARC) – provides an income subsidy based on revenue. Payments are made whenever the annual crop revenue is less than 86% of its historical level and then only on eighty-five percent of the base acres of the farm.
- Price Lost Coverage (PLC) – provides an income subsidy based on price. The payments are also based on the farm's base acres.

## **VI. APPRAISAL OF AGRICULTURAL LANDS**

Under the Texas Property Tax Code all property has to be appraised at its market value. Category D acres are appraised at market value and at its productivity value. Market value is the price the buyer would pay in an ordinary market transaction. Article VIII Section 1-d-1 of the Texas Constitution states that certain kinds of farm and ranch land be appraised at their productivity value instead of their market value. Productivity value is based solely on the land's capacity to produce agricultural products. Net to land value is the average annual net income that a class of land would likely generate over a five-year period. Appraisers are required to determine net to land value using a cash or share lease method or whatever lease arrangement is typical and prudent in the area for that land class.

**Lease method:** Under a lease method, net to land is the rent that would be due to the property owner under a cash lease, share lease or other typical lease arrangement, less expenses typically paid by the owner.

**Cash lease method:** A cash lease (cash rent) is an arrangement between a landowner and tenant to lease for a fixed cash payment. This payment is usually in terms of dollars per acre for a period of one year.

**Share lease method:** Under a share lease, the landowner usually pays a share of production expenses and receives a prearranged share of the gross receipts rather than a fixed dollar amount. Share leases may vary by location and usually vary by crop.

## **VII. FIVE STEPS TO AN EFFECTIVE PRODUCTIVITY APPRAISAL SYSTEM**

From a practical standpoint, tax payers cannot appraise each individual tract of land. Instead, the appraisal office must develop a system of appraisal that allows the office to value a large number of tracts. To put an effective productivity appraisal system into action, the appraiser must complete these five steps:



1. **Develop a land classification system:** Such a system groups land into principal types of agricultural uses. The Borden CAD classes:
  - Irrigated cropland (IRCP)
  - Dryland cropland (DLCP)
  - Improved pastureland (IMPR)
  - Native pastureland (NATP)
  - Barren/Wasteland (BRNW)
  - Orchards (ORCH)
  - Wildlife (WDLF)
  - Other (OTHR)
2. **Estimate the net to land per acre for each class or sub-class:** The annual net income for each of the five-year period preceding the year before the year of the appraisal is averaged for the net to land estimate.
3. **Divide the class' net to land by the year's capitalization rate to find the value per acre in each class:** These values form a productivity appraisal schedule.
4. **Classify all qualified agricultural land according to the land classification system.**
5. **Use the schedule to calculate the productivity value of individual parcels of land:** Typically, the productivity value schedule will show a value per acre for each land class. For any given parcel of land, the number of acres times the per-acre value determines the agricultural use value.

In addition, the law requires the chief appraiser to estimate and record the market value of the property appraised under 1-d and 1-d-1. The system must also provide for a market value appraisal according to generally accepted appraisal methods and techniques.

## **VIII. AGRICULTURAL LAND GUIDELINES**

### **Native/Improved Pastureland: Cattle and Horses**

Must be fenced

Have a water source

A minimum of 20 acres is required

At least 1 cow or horse to every 45 acres

### **Native/Improved Pastureland: Sheep**

Must be fenced

Have a water source

A minimum of 20 acres is required

At least 1 sheep to every 8 acres

### **Hay Field**

A minimum of 5 acres is required

Proof of 1 cutting in years of nominal rain

There should be no animals during the growing season, but they can be wintered on the field

### **Dry/Irrigated Cropland**

Minimum of 20 acres is required

## **IX. ROLLBACK TAX**

Rules for a “rollback tax” exist under wither form of special land valuation. Under 1-d-1, a roll back is triggered by a physical change in use. Reduced intensity of use would not trigger a rollback but ceasing all agricultural activity would. Taxes are recaptured for the five years preceding the year of change. The rollback tax is imposed on the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs, and the tax based on the market value in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

## **X. BEEKEEPING**

Beekeeping is an agricultural use and shall qualify for agricultural use productivity valuation if used for pollination or for the production of human food or other tangible products having a commercial value.

The State of Texas has set a minimum of 5 acres and a maximum of 20 acres to qualify beekeeping as an agricultural use.

The Borden CAD degree of intensity standard is set at a minimum of 3 colonies and 5 acres. A colony is the hive and its equipment and appurtenances including bees, comb, honey, pollen and brood. An apiary is a place where 6 or more colonies of bees or nuclei of bees are kept.

When a property owner initially seeks qualification for agricultural use appraisal for beekeeping, they must show proof of history of agricultural use on the land for 5 of the preceding 7 years. Bees can be used to establish history with supporting documentation.

### **Degree of Intensity:**

5 to 6 acres	3 hives
6.1 to 8 acres	4 hives
8.1 to 10 acres	5 hives
10.1 to 12 acres	6 hives
12.1 to 14 acres	7 hives
14.1 to 16 acres	8 hives
16.1 to 18 acres	9 hives
18.1 to 20 acres	10 hives

The hives must be maintained and kept alive. Supplemental food and water should be provided, and pests controlled. The hives must also be located on the property for 7 months out of the year.

The property owner will provide a map with the location of the hives and plant life and a list of vegetation for the hive’s food source, all plant life to support the hive.

The appraisal district will grant agricultural use on the total acreage, not just the areas where the hives sit.

# Borden County Appraisal District

120 E. Wilbourn/PO Box 298

Gail, TX 79738

Tel. 806-756-4484 Fax 806-756-4419

[bordencad@gmail.com](mailto:bordencad@gmail.com)

## Request for Removal of Agricultural-Use Valuation

I, \_\_\_\_\_, whose mailing address is \_\_\_\_\_ do hereby submit my written request to remove the agricultural-use valuation from my property for the tax year \_\_\_\_\_.

Property Id: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Number of Acres: \_\_\_\_\_ out of \_\_\_\_\_ Total Acres

I understand that this request to have the open space appraisal designation removed is a binding settlement and waiver agreement, and that my property will not only be appraised but assessed at the market value for tax year \_\_\_\_\_, and that the designation will not be reinstated at a later date for that tax year.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date