



# Guidelines For Productive Valuations

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Productive valuations for special use appraisals on agricultural, timber or wildlife producing properties are governed by the level of intensity and prudent management that are typical for Cherokee County. This guide explains this process in detail.

## Guidelines for Qualified Properties

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#### **Important Notice**

*Due to procedures audits performed by the State Comptroller's Property Tax Assistance Division, CCAD will now be required to enforce the penalty for filing late applications for productivity appraisals.*

*This is a 10% penalty assessed against the difference between taxes based on productivity appraisal and the taxes that would have been assessed at market value.*

*The penalty affects all ag, timber or wildlife use applications filed after the April 30 deadline.*



# Table of Contents

Changes for the Current Edition.....	<i>i</i>
Foreword.....	1
Qualifying Your Property.....	2
Applying for a productive appraisal.....	4
Rollback Penalty.....	14
Types of Special Use Operations.....	15
Livestock Operations.....	17
Growing Operations .....	24
Timber Operations .....	27
Wildlife Operations .....	32
Other Operations .....	34
<b><u>Appendices</u></b>	
Ag Lease Form.....	39
IRS Hobby Loss Rules.....	41

## Changes for 2019...

A notice regarding the imposition of penalties on late applications was added to the front cover of the Guide. The only other changes for the 2019 Edition of this Guide were dates and years.

# Cherokee County Appraisal District Guidelines for Productive Valuations

## Foreword

Special use productive valuations have commonly been known as “*ag exemptions*”. While the productive value does lower a person’s taxable value, it is not a true “exemption”. Instead, it is a value that is based on the ability of the land to produce marketable products.

The purpose of the special use valuation for land in agricultural, timber or wildlife production is intended to promote productive use of land in Texas. Originally developed as a means to preserve the family farm, this valuation concept has grown to include timber and wildlife management.

The special use valuation was never intended to be an entitlement for rural land ownership. This means that no rural land owner in Texas is entitled to a reduced taxable value based on rural land ownership or token agricultural, timber or wildlife enterprises. The reduced valuation is meant solely to foster viable income production from ag, timber or wildlife pursuits.

The District’s primary responsibilities in this effort are to establish guidelines that fit Cherokee County, develop valuations based upon realistic net income estimates from production enterprises and then to administer the application process for property owners to obtain this special use value.

Because Texas is so diverse, State laws and rules charge the chief appraiser with the development of local standards for qualified productive use. These standards are referred to as ‘degree of intensity’ tests for productive enterprises in the local area. The standards are often established in terms of minimum qualifications. These standards can be in the form of minimum acreage, minimum animal units or other relevant measures of productive inputs. The chief appraiser has a state mandated Agriculture Appraisal Advisory Board that provides advice about degrees of intensity for productive enterprises in the county. Combining their advice with other local resources, the chief appraiser then develops local standards.

It is important for the land owner to understand that while there are minimum standards, the District realizes that “one size does not fit all”. Because of this, the land owner is encouraged to contact the District if they feel their property should qualify even if it does not meet a minimum requirement. The District will handle such situations on a case by case basis.

## Qualifying your Property

### General points to consider when applying...

First and foremost, if you are trying to apply for productivity valuation in order to reduce your tax bill, you probably won't qualify. Attempting to stretch a situation to fit your property in order to get a lower taxable value is not encouraged.

Agricultural, timber or wildlife enterprises must be intended to be viable income producing operations and not something done strictly for pleasure or as a hobby. While it is commonly known that making a profit through these pursuits is often elusive, one of the purposes of this guide is to educate the public that token or hobby enterprises will not qualify.

The District has adopted standards used by the IRS for determining whether an enterprise is intended for profit or as a hobby. These standards are covered in the appendix of this document.

Finally, you should be prepared to provide the District with evidence of production if it is requested. This evidence will be used to determine the validity of the application and can include such things as:

- Leasing agreements
- Invoices for seed, feed, fertilizer, etc.
- Bills of Sale
- Invoices for equipment

### Property included in the productive appraisal...

Basically, land used in the production of a qualifying enterprise is included in the special use appraisal. This will cover land underneath structures that support the productive use of the property, i.e.: barns, silos or other farm outbuildings. These structures are valued separately at their market value. Also, any mineral interest related to the property is also valued separately at market value. Appurtenances to the land are not valued separately however and are considered a part of the productive valuation. Appurtenances to the land are things such as: roads, dams, water wells, terraces, irrigation canals, fences or water reservoirs to name a few.

### Consideration for Droughts...

From the state comptroller's website:

*"Tax Code §23.522 provides that the eligibility of land for open space appraisal 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: (1) a drought declared by the Governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and (2) the owner intends to resume the use the land in the manner and to the degree of intensity at the end of the declared drought."*

## **Qualifying Tests...What you need to know**

There are three separate tests that must be passed in order for a property to qualify for productive value. These tests are required by law. All must be sufficiently passed in order to receive productive valuation.

The District realizes the difficulty of setting a “one size fits all” standard. Because of this, our appraisers are directed to apply these standards with a measure of common sense on a case by case basis. However, they are limited in the amount of discretion they are allowed to use. Any situation beyond their limits of authority must be referred to management prior to approval. This means that if an appraiser feels an operation should qualify on its merits, but does not meet a specific standard, they are required to submit the application for management approval. It is our hope that this method of reviewing your application balances the spirit of the law with the letter of the law.

### **Qualifying Tests... #1 The intensity of use of your enterprise**

Degree of intensity is provided for in the law and is specific to our area. One of the ways to measure degree of intensity is by looking at the size of your operation. For livestock, the District has established standards for the minimum number of head AND minimum stocking rates in terms of acres per head. For non-livestock operations, standards for minimum acreages have been established. These minimums are based on advice from the Ag Advisory Board and other resources in the local area and are intended to be large enough to support a viable, for profit enterprise. Additionally, we also look at the intensity of management. This can be reviewed in terms of seeding or fertilizer application rates, frequency of certain management activities or the levels of capital invested in an operation. We realize there will be a range of effort in this regard so we are looking for what can be described as typical, prudent management efforts.

### **Qualifying Tests... #2 The current use of the property**

As of January 1<sup>st</sup>, the use of the land must be principally devoted to a qualifying productive enterprise. It is important to understand that the principal use of the land must be in a qualified productive pursuit. Ag, timber or wildlife use cannot be the secondary or incidental use of the property. The law provides this principal devotion as a means to exclude properties primarily used to produce non-ag related income.

The District will review the use of the property as it relates to this respect. If a property is primarily devoted to residential use or commercial income it most likely will not qualify.

## **Qualifying Tests... #3 History of production**

State law also requires that the land you are qualifying have a history of production. Specifically, you must be able to prove the land has been principally devoted to an ag or timber qualifying use for five (5) of the preceding seven (7) years.

Keep in mind that the law is looking at the actual use of the land. It is not looking to see if it has been on the appraisal rolls under productive valuation.

New owners often have a difficult time understanding how to respond to the history test especially if they have no knowledge of the property's previous use. In those cases, the owner can try to obtain information from neighbors or other persons with personal knowledge of the property.

## **Applying for a productive appraisal**

### **The application...**

In order to receive a special use productive appraisal, you must complete the state approved application. This application is available free of charge from the District. If you need assistance in completing the form you can contact the District for help. There is no charge to apply.

You may have a copy of the application that was sent to you. If you do not, you can contact the District and we will mail you a copy or you can go online to our website at [www.cherokeecad.com](http://www.cherokeecad.com) to be directed to a form. When you go to the website, click on the tab at the top of the home page called "Forms". On the Forms page click on the icon labeled "Special Appraisal". Under "Special Appraisal" a section will appear that says "Agricultural Appraisal". Click on that label to be directed to the Comptroller's form on their webpage. The form may be filled out by computer and then printed and mailed to us.

### **Notice concerning wildlife applications...**

The Comptroller's form includes sections for wildlife appraisal. If you desire to apply for wildlife, you should use the online form.

### **Notice concerning restricted timber applications...**

Form 50-281 from the Comptroller's website is required to apply for restricted use timber land. See the timber operation section of this guide for more information.



## Who should apply...

- New owners of property previously allowed productive appraisal who believe they qualify
- Owners (*with a productivity appraisal*) making **ANY** change to a deeded ownership name(s)
- Owners of qualified productive property upon request of the appraisal district
- Property owners who believe their property qualifies and who desire a special use appraisal

## Deadline to apply...APRIL 30<sup>th</sup>!!!

The deadline for applying is April 30<sup>th</sup>. If that date falls on a weekend or holiday the deadline is moved to the next business day. The District will accept applications after April 30<sup>th</sup> until the date of certification which is sometime in the month of July. However, there is a penalty assessed for late application. This penalty is 10% of the difference between property taxes based on market value and property taxes based on productive value.

## Failing to make the deadline...

Failure to apply before the certification of the appraisal roll will prevent you from receiving the special use valuation for that particular year. Therefore it is very important to meet the deadlines. The certification of the appraisal roll is the final step for the District to certify value to each taxing authority. The date set by law is no later than July 25. However, that date can be earlier if the District completes its work. Additionally, the time to inspect and process your application will prevent you from applying on the absolute last day. This is why you do not want to wait to apply!

## Processing the application...

The District will review each application submitted. A field inspection to determine the validity of the production may be performed. The appraisers reviewing your application will use aerial photographs and on-site inspections combined with the application and any other supporting evidence to reach a decision. They will use the standards in this Guide that have been established by the chief appraiser upon consultation with the Ag Advisory Board and other local resources to determine if a property qualifies.

## Possible outcome...Request for Information

One possible outcome of the application review is that the District may request additional information. Or, if the application is incomplete, we will request that you resubmit the application with the completed data.

The District reserves the right to request evidence to assist in determining the validity of the production operation. The documents that can be provided include but are not limited to:

- Copies of current notarized lease agreements
- Management Plans
- Sworn affidavits
- Copies of tax records such as IRS Schedule F-1040
- Expense receipts
- Bills of sale
- Invoices for equipment purchases
- Invoices for capital improvements such as barns, fences, etc.

### **Possible Outcome...Application Granted**

The District also can grant the special use application based on the review process. You will receive a letter by regular mail if your application is granted. You should retain this letter for your records.

### **Possible Outcome...Application Denied**

If the District determines that your property or your operation does not meet the qualification standards, it will deny your application. This denial can be all or in part. For example, the District may grant some of your acreage but deny a part of it.

If you are denied, you will receive a letter notifying you of the denial by certified mail. The information in the letter will advise you of your right to appeal the decision. You will have 30 days from the date of the letter to apply for a formal hearing with the Appraisal Review Board. The application to request an ARB hearing can be found online at our website [www.cherokeecad.com](http://www.cherokeecad.com) on the "Forms" page. There is an icon labeled "ARB – Appraisal Review Board". Click on that and then click on the "Notice of Protest" label. This will take you to the Comptroller's website where you can complete the form, print and then mail it to the District before the 30 day deadline.

The Appraisal Review Board (ARB) is a panel of five local property owners who hear appeal cases. They have the authority to order the District to make a change to the appraisal roll. If you feel your property has been denied in error, you can make your arguments to the ARB. The District will also present their arguments in the matter. The ARB will hear both sides, deliberate and make a decision during the open meeting in the presence of all parties.

If the ARB upholds the District's decision, you have the right to appeal to District Court. But, by law, you must first have the ARB hearing before taking the step to appeal to the court.

## Completing the application...

One of the most nerve racking tasks for some owners to do is filling out the application. Most owners are concerned about filling something out incorrectly or just not understanding what to put on the application. The District hopes the following information will assist you in filling out the form.

The examples that follow are taken from the District's current in-house form. It differs in format from the Comptroller's online form but the sections, the questions and the desired information are the same. Remember that you can always contact the District for assistance in completing the form or answering questions.

### Give us your information...

<small>Step 1: Owner's name and address</small>	
John Doe 1245 C.R. 9801 Omaha, Texas 78787	Telephone: _____

If you received an application from the District, your name and address will already be on the form. If you use the online application, please fill in your name, mailing address and the year for which you are applying.

We also request your telephone contact number. Contacting you by phone if we have questions or concerns about your application can expedite the review process. You can also make a note of the best time during the day to contact you.

Describe your property...

<p>Step 2: Describe the property                  Give legal description, abstract numbers, field numbers or plat numbers. You may attach last year's tax statement, notice of appraised value or other correspondence identifying the property, rather than completing this section.</p>		
<p>Legal Description: A 10 BLK 5298 TR 1 A. B. CALVIN</p>		
Property ID: 12345678	GEO ID: 000010-52980-0001000	Acres <u>3.3560</u>
Owner: John Doe	Entities 15, 16, 37, CAD, LR	

Once again, if you received your application from the District, the legal identification and the account number of the property has been filled in. It will also include the taxing jurisdictions and the acreage of the property.

If you are using the online application, you will need to provide us the legal description or account number of the property(s) in question. This information can be found several ways. You can use a tax statement or notice of value for your property(s) for a previous year. The geographic identification (Geo ID) and the property ID will be on those forms. Or, you can go online to our website [www.cherokeecad.com](http://www.cherokeecad.com) and search the tax roll for your property. You can search by name. Parcel maps on our website can also assist you in finding your property. When you do, the same geo ID and property ID information can be found. Finally, you can always call the District and have us look up the information for you.

***In any event, it is critical that you let us know what property you are applying for by giving us our account or geo ID numbers. Otherwise we will not know what property to review.***

Please circle the appropriate box for "Yes" or "No"

1. Has the ownership of the property changed since January 1 of last year or since the last application was submitted? .....	Yes	No
If yes, the new owner must complete all applicable questions, including Step 3 and Step 4, if the land is used to manage wildlife.		
2. Last year, were you allowed 1-d-1 appraisal on this property by the chief appraiser of this appraisal district? .....	Yes	No
If no, you must complete all applicable questions, including Step 3 and Step 4, if the land is used to manage wildlife.		
If yes, you need only complete those parts of Steps 3 and 4 that have changed since your earlier application or any information in Steps 3 and 4 requested by the chief appraiser.		
3. Is this property located within the corporate limits of a city or town? .....	Yes	No

After identifying what property you want special use value, there are three questions that you need to answer.

The first question asks about ownership. For new owners, this is a simple question. However, often we see properties that have a change of deed ownership...but it's really not a true change of ownership. Some examples of these situations are:

- a deed filed because of a divorce
- creation of a life estate
- adding or removing a partial ownership interest
- changing the name to a corporation or other legal entity
- change in ownership to heirs after the passing an owner

This is not a complete list of course, but in each instance, the original owner may still be the same, or it is in the same family, or a child has been added to the deed or someone has created a partnership or corporation and transferred legal title to it.

In any situation that causes a modification of legal, deeded ownership, a new application must be completed. This is required because the District must have an application on file in the actual owner(s) name, and all the owners must sign the application.

The second question asks if you were allowed a 1-d-1 appraisal last year. A 1-d-1 is industry terminology for a special use appraisal. This question is speaking directly to you...the owner and not the property. If you were getting a special use productive valuation on your property last year, then the answer is yes. The answer would also be yes if you fit into one of those minor deed change situations discussed above assuming the property had a productive appraisal last year. And if you are a new owner, the answer is obviously no: you didn't own it so you didn't have a special use appraisal in your name.

The third question asks if the property is inside the city limits. This could be all, or in part. If it is inside the city limits, even partially, the answer is yes.

Describe the history of the property...

1. Describe the current and past uses of this property, starting with the current year and working back 5 years or until you have shown 5 out of 7 years of agricultural or timber use.

Year	Ag / Timber Use *	Acres
2014		
2013		
2012		
2011		

Year	Ag / Timber Use *	Acres
2010		
2009		
2008		
2007		

In this section, you will need to tell us about the historical use of the property. Remember that one of the tests of qualification is that it must have been in a qualifying use for five of the preceding seven years.

For each of the previous seven years, you must note the use of the land **and the number of acres associated with that use**. If a property is fallow in a particular year, write in "fallow". If it was not in production due to drought conditions, write in "drought". However, if you note no production due to drought, we also ask that you specify what type of operation you were involved in that did not produce due to the drought.

If you are a new owner and have no knowledge of the previous use, you can obtain sworn affidavits from persons with firsthand knowledge of the property. The affidavits should be written in a way that activity for each of the seven prior years can be determined.

Some examples of completing this section for a given year are:

Ag/Timber Use	Acres
Improved Pasture / Pine Timber	25.00 / 50.00

Ag/Timber Use	Acres
Cow/Calf Herd	65.13

Ag/Timber Use	Acres
Mixed Timber / Hardwoods	22.00 / 30.00

Ag/Timber Use	Acres
Watermelons	35.56

Ag/Timber Use	Acres
Hay Meadow	80.00

Ag/Timber Use	Acres
Drought Year - Pine Seedlings	42.00

If you have the same use for previous years, and the information from one year to another is the same, you can use a “ditto” notation under the first entry instead of rewriting the information repetitively:

Year	Ag/Timber Use	Acres
2014	Pine Timber	36.52
2013	“ ”	“ ”
2012	“ ”	“ ”

*Describe your operation...*

The following sections are asking about your operation. Fill out each section that pertains to your operation. You might only graze livestock, or you may graze, cut hay and truck farm on the same property. Just fill out each section that applies to your operation and the number of acres for that part of your enterprise.

<p><b>2. Grazing Pasture:</b> Type of grasses _____ Number of acres _____                      Do you fertilize: Yes/No (circle) if yes Type? _____ Amount per acre _____                      Number of applications in a normal year _____ Type of Livestock _____ Number of Head _____</p>
<p><b>3. Hay Production Pasture:</b> Type of grasses _____ Number of acres _____                      Do you fertilize: Yes/No (circle) if yes Type? _____ Amount per acre _____                      Number of applications in a normal year _____ Number of Cuttings per year _____ Number of Bales _____</p>
<p><b>4. Dryland Cropland:</b> Type of Crop _____ Number of acres _____ Type of Fertilizer _____                      Normal Yearly per acre yield: _____ Do you participate in a government program Yes / No (circle). _____                      If yes, please list program and attach copy of your agreement: _____</p>
<p><b>5. Orchard:</b> Type of Trees _____ Number of Trees per acre _____                      In a normal year what is a typical yield per acre: _____ Last year's yield per acre _____</p>
<p><b>6. Timber:</b> Type of Timber: How many acres are predominantly Pine? _____ Hardwood? _____ Mixed? _____                      What type of Timber management plan are you using (circle one)? Self-managed Consultant Corporate Other _____                      Consultant name and organization _____                      Date of last harvest: _____ Type of cut (circle one) Clear Diameter Improvement Seed Tree Selected _____                      Yield per acre _____ Projected future harvest _____                      Other activities of production and management: _____</p>

Each question within a section is fairly self-explanatory. The District needs to know about the type of livestock or the type of crop or grasses, the number of head, or number of bales of hay or your crop’s production, as well as, how you apply fertilizer or related information.

Complete each section as thoroughly as possible. Attach additional pages if you need to in order to sufficiently explain your operation for the review appraiser.

If you are applying for wildlife, you will need to use the online form. The wildlife application process is detailed. Because of this, if you need assistance filling out that portion, contact the District.

Make note of any home site...

7. Does this property contain a homesite (eg. house, yard, etc.)? If so please show how many acres are used? \_\_\_\_\_

If the property has a house, trailer or manufactured home, whether or not it is a homestead, you should note the approximate amount of acreage taken up by residential use.

Converting ag land to timber...

Step 4: Conversion to Timber Production

- 1. Did you convert the land subject this application to timber production after September 1, 1997 ? ..... Yes No  
If yes, on what date did you convert to timber production? \_\_\_\_\_
- 2. Do you wish to have the land subject to this application continue to be appraised as 1-d-1 land? ..... Yes No  
If yes, complete Question 1 in Step 3 and all other questions in that step that describe the previous agricultural use of this land.

Texas has an incentive program to promote the conversion of agricultural land to timber. To qualify, a property must have been appraised on the tax rolls under special use productivity value for five years prior to being converted to timber. The conversion to timber must have been after September 1, 1997. If you turned your cropland or pasture into a managed timber tract and you meet these requirements, you can benefit from this program.

Question #1 asks if you planted timber on a qualified ag tract after 9/1/97. If you did, indicate yes and provide the date the seedlings were established.

Question #2 asks if you want the property appraised as though it were still ag land. Typically, the productive value of timberland is higher than ag land. So the benefit of this program is to allow you to continue paying taxes on the lower ag value for a period of 15 years after planting. (This does not apply to timber tracts that were harvested and then replanted.) If you do, indicate yes.

If you do, you will need to focus on the previous sections that describe the history and the operation of the tract in order to assist the review process.



Sign the application...

Step 5: Sign the application

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

I certify that the information given on this form is true and correct.

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

OTHER IMPORTANT INFORMATION If the initial application form does not contain all the information needed to determine whether property qualifies, the chief appraiser may request additional information. The chief appraiser may request only additional information that is necessary to determine whether the land qualifies for 1-d-1 or timber appraisal.  
You must notify the chief appraiser in writing if you: stop using your property for agriculture (e.g., you voluntarily decide to stop farming); change the category of your use (e.g., you change from dry cropland to irrigated cropland); change the level of your use (e.g., you substantially increase or decrease the number of cattle you raise); change the nature of your use (e.g., you switch from growing corn to growing ornamental plants); enter, leave or change governmental programs (e.g., you put 100 acres in Conservation Reserve Program); or if you begin using your land for something other than agriculture (e.g., you build a shopping center on most of your land). You must deliver this notice no later than the April 30 following the change in use or eligibility.  
You must notify the chief appraiser in writing if you: stop using your property for timber production (e.g., you voluntarily decide to stop actively managing the land to produce income); change the category of your use (e.g., you

This is the last step! Sign the application, indicate your title and date it. A title would be something like: “Owner”, “Executor”, “Agent” or something similar. Keep in mind that this is a government document and there are penalties for falsifying a government document.

Who should sign?

All persons who have an interest in the property **must** sign the application. There are certain exceptions to this. Some of these exceptions are:

- **Married persons** – Texas is a community property state. Either spouse can bind the property... so either spouse can sign.
- **Estates** – If there is a legal executor/executrix of an estate, they have the legal authority to bind the property. Therefore, only the executor/executrix is required to sign.
- **Powers of Attorney (POA)** – If you have legal power of attorney to enter into this type of transaction on behalf of the owner(s) then you may sign the application. You must provide proof of the POA to the District.
- **Agent** – If you are an agent acting on behalf of the property owner and have an appointment of agent on file at the District, you may sign the application on behalf of your client.

Outside of these examples, all persons having an interest in a property subject to a special use application must sign the application. If you feel you have an exception not listed above, you should contact the District for advice.

**Wrapping up...**

Once you have completed the application(s) you should make a copy for your records. Note the date you mailed the application and the name of any District employee you dealt with. If you turned it into our office in person, make a note of the date, time and person you dealt with. This will assist you if the application is lost to prove you submitted it to the District. Put a reminder on your calendar in the month of May to double check to see if you have heard from us. If you haven't, give us a call to check on the status.

**It is your responsibility to be sure that your application has been received and applied to your property tax account.**

## Penalty for Changing Ag/Timber Use – The *Rollback*

### General Information...

Since a productivity appraisal is a type of tax “break” meant to encourage production on Texas lands, there is a hefty penalty in the law to prevent or discourage abuse of the system. This penalty is called a Rollback Tax.

### Change of Use...

If a property receives a special use appraisal and then later is converted from a qualified use to a non-qualified use, this penalty can be assessed. The process begins with an event known as a “**Change of Use Determination**”. A Change of Use Determination is processed by the District when there is cause to believe that a property has been converted from ag/timber/wildlife use to something else. Consider these typical examples:

- A tract has been in pasture and appraised as special use productive ag land. The land is converted to a commercial development.
- A tract has been appraised as timberland on the appraisal rolls and is converted to a residential subdivision.

Either of these situations, or similar situations, can prompt a Change of Use investigation. A determination of Change of Use will be sent by certified mail to the owner of record by the District. The owner has 30 days from the date of notice to respond. If the owner can prove no change has occurred, the determination will be reversed. If however the District is unconvinced, the owner can appeal to the ARB by making a protest application within 30 days of the determination notice.

### The Penalty...

The Rollback tax will capture the difference between what was paid at productive value, and what would have been paid at market value. This will cover a five (5) year period of time prior to the year the use was changed.

Interest will be applied to the difference at the statutory rate of 7% per annum. This can amount to a very large tax imposition. Therefore, owners should be careful about applying for special use appraisals if there is a possibility of converting the property in the near future. Additionally, owners who already have a special use appraisal should be cautious about changing the use of the property to a non-qualified use.

If you need assistance in analyzing how the rollback penalty might affect your property, contact the District for help.

## Types of Special Use Operations

In general, the District considers five different categories of special use operations:

- Livestock Operations
- Growing Operations
- Timber Operations
- Wildlife Operations
- Other Operations

This guide will take each category in turn and explain the various types of operations typical for our area and the general requirements for qualifications for each type of enterprise. If you have a productive enterprise that is not mentioned in this guide, please contact the District to discuss the matter.

Keep in mind that your property can have multiple types of qualifying uses. For example, you could have hay production and grazing production combined with an area set aside for row crops. For each type of use, you should consult the applicable category and its requirements.

Also, a qualified productive use of land can be performed on leased property. This means that the producer might not be the land owner. If you are an owner who leases property to a producer for livestock, exotics or a growing operation, you should provide a copy of your written lease agreement with your application for special use appraisal. The land owner is still responsible for completing the “history” and “description of operation” sections of the application so cooperation with your lessee may be necessary in the application process.

Finally, for each operation, a minimum acreage size is listed. Be aware that we are looking at the operation as a whole. For example, if you have a tract smaller than the minimum that is used in conjunction with a larger qualified operation, the smaller tract will most likely qualify. The District will review these instances on a case by case basis. Keep in mind that if your property does not meet a specified minimum, but you believe it should qualify, please contact us.

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## Livestock Operations

Livestock operations are most typical for the East Texas area. And within the types of livestock, cattle are the most prevalent. However, this guide will look at several specific types of livestock operations. Each type will have different minimum herd sizes and different stocking rates.

In general terms, the District has adopted a 3 animal unit (A.U.) minimum for livestock operations. One animal unit (A.U.) can be looked at as approximately 1,000lbs of combined animal weight. This is an oversimplification but is generally in the ballpark. We have consulted with several other appraisal districts and various agricultural guides to develop our animal unit conversions.

Three (3) animal units attempt to try and define the absolute minimum operation size that can be viably considered as principally devoted to production with intent to produce income. FFA or 4-H show projects by themselves will not qualify for productivity.

The following operation types will convert 3 A.U. into number of head. This will be the minimum number of head to qualify. Just as important however, is the minimum stocking rate. Using the stocking rate with the number of head will determine the minimum number of acres that will qualify for production. The stocking rate can also be used to determine if a herd size is large enough for a larger tract of land. In other words, three cows might be the minimum herd size, but 3 cows on 300 acres will not work in East Texas.

Each of the stocking rate estimates (for grazing livestock) are divided into three categories of pastures: Poor Quality, Average Quality and Good Quality. This is important because you can graze more forage off of good quality pasture than poor pasture. And because of that, more livestock can be run on fewer acres. The following grid explains in general terms the difference between the types of pasture. We have used these definitions instead of calculations of forage pounds produced per year to try and make the process easier to understand and apply.

<b><u>Good Quality Pasture</u></b>	<b><u>Average Quality Pasture</u></b>	<b><u>Poor Quality Pasture</u></b>
<p>Good quality pasture will be comprised of improved grasses (typically Coastal Bermuda) on Class 3 soils or better. Good quality pasture will be intensively managed with above average applications of lime or fertilizer and a well-developed grazing rotation.</p>	<p>Average quality pasture is comprised of native grasses (including Bahia) on Class 3 soils or better. Average quality pastures will receive average or below average applications of lime or fertilizer and moderate to average levels of management and grazing rotations. Grasses will be sufficient for grazing or hay production purposes.</p>	<p>Poor quality pasture will be comprised of one or more of the following characteristics:</p> <ul style="list-style-type: none"> <li>• Over grazed Pastures</li> <li>• Class 4 soils or worse (rocky, hilly or otherwise barren)</li> <li>• Limited forage</li> </ul>

### **Cow/Calf Operations...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>1 Pair = 1 A.U.</b>	<b>3 Pair</b>	<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

A cow/calf operation is a cattle breeding operation. The qualifications will be the same whether it is a beef or a dairy operation. These operations are intended to produce milk products, stock for market sale to feed lots and/or breed stock. They can be purebred or crossbred operations. The production of stock show animals can also be a component of this type of operation.

A “pair” means one cow with one calf. However, the animal unit conversion will also apply to bred cows or heifers. It will also apply to a cow with twin calves. Bulls can be a part of the herd or can be leased in the case of small operations.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider the following activities/items when reviewing a cow/calf operation:

Adequate fencing	Fertilizer and lime applications for grazing land
Adequate water access & supply	Weed control
Pasture rotations	Facilities to work stock

**Breeder Bulls...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>1 Bull = 1.25 A.U.</b>	<b>3-4 Head</b>	<b>30-40 Acres Min to Qualify</b>	<b>18-25 Acres Min to Qualify</b>	<b>7-10 Acres Min to Qualify</b>

A breeding bull operation is often run in conjunction with a larger cow/calf operation and is designed to produce performance breed stock. Additionally, these enterprises can be operated in a manner to sell mature stock and/or to lease bulls for breeding. These operations can be purebred or crossbred and dairy or beef.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate fencing	Fertilizer and lime applications for grazing land
Adequate water access & supply	Weed control
Pasture rotations	Facilities to work stock

**Stocker Calves...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>2 - 500# Calves = 1 A.U.</b>	<b>6 Head</b>	<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

Stocker calves are typically called yearlings and are weaned calves being fed out for market to feed lots or direct to slaughter. However, this category could also be used when considering weaned calves being fed out and held for market as breed stock.

Calves will vary in weight during the course of being fed out. Therefore, the 500# weight specified above is meant to represent an average weight. The focus of concern will be on the overall number of head and the requirement of two calves to one animal unit.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider the following activities/items when reviewing this type of

Adequate fencing	Fertilizer and lime applications for grazing land
Adequate water access & supply	Weed control
Pasture rotations	Facilities to work stock
Supplemental feeding program if necessary	

**Bottle Calves...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>5 Head = 1 A.U.</b>	<b>15 Head</b>	<b>Contact the District</b>	<b>Contact the District</b>	<b>Contact the District</b>

Bottle calves can be dairy or beef and are calves pulled from cows prior to being weaned, or calves that have lost their mother and not accepted by other lactating cows. Bottle calf operations are typically intended to take calves from the bottle to the weaned phase and then sold as stocker calves.

These calves depend on intensive labor and management. Since this type of operation is not dependent upon grazing, a smaller facility can be used to adequately meet the standard of principal devotion. However, the 3 A.U. Standard still applies. The District has not set a minimum acreage size for this type of operation. Therefore, the review of these operations will be on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Sufficient equipment and supplies
Adequate water access & supply	Facilities to work stock

**Goats & Sheep...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>6 Head = 1 A.U.</b>	<b>18 Head</b>	<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

Goats and sheep fall under the same requirements. Additionally, all different breeds of goats or sheep are considered in the specifications above. If you have a breed type that is significantly larger or smaller than average, contact us. These operations are typically intended to produce meat, mohair or milk products (goats) or meat or wool products (sheep). They also can be intended for the sale of breed stock. The production of stock show animals can also be a component of this type of operation.

The determination of head per 1 A.U. is based upon mature bucks or does (goats) or mature ewes or rams (sheep). Kids or lambs are understood to be a part of the herd but are not usually counted for herd size qualifications. Bucks or rams may be leased or owned as a part of the operation. Be aware that putting some goats on a property for underbrush control most likely will not be a qualifying use.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Sufficient equipment and supplies
Adequate water access & supply	Facilities to work stock
Pasture rotations	Pasture management activities



**Horses...**

# Head to 1 A.U.	Min. # Head to Qualify	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>1 Stallion or Mare = 1 A.U. 1 Mare &amp; Foal = 1 A.U.</b>	<b>3 Head</b>	<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

In order to qualify for productivity, an equine operation must be intended for commercial breeding use. Holding horses for pleasure, stabling or training is not a qualified operation according to the *Appraisal of Agricultural Land Guidelines* from the state comptroller’s office. Be aware that stabling, training or riding for pleasure, as a part of a larger breeding operation, is allowed so long as the use is incidental to the overall enterprise. “*Incidental to the overall enterprise*” means that stabling, training or riding for pleasure cannot be a focus of the operation.

Equine operations can be pure bred or cross bred with stallions a part of the operation or leased, or the operation may involve artificial insemination. The requirements of this category will also cover donkeys, mules or burros as applicable.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate fencing	Fertilizer and lime applications for grazing land
Adequate water access & supply	Weed control and type of grasses grazed
Pasture rotations	Facilities to work stock
Supplemental feeding programs	Barns, stables or sheds

**Miniatures...**

# Head to 1 A.U.	Min. # Head to Qualify	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>2 Head = 1 A.U.</b>	<b>6 Head</b>	<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

Miniature horses, cows, or donkeys that are held as a part of a breeding operation are included in this type of ag enterprise. Pet miniatures will not qualify for productivity.

Some wooded areas may be classified with agricultural land as cover for the stock. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate fencing	Fertilizer and lime applications for grazing land
Adequate water access & supply	Weed control and type of grasses grazed
Pasture rotations	Facilities to work stock
Supplemental feeding programs	Barns, stables or sheds

**Swine – Breeding operations...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>2.3 Head = 1 A.U.</b>	<b>7 Head</b>	<b>Contact the District</b>	<b>Contact the District</b>	<b>Contact the District</b>

Swine operations that involve commercial breeding for marketable sale of show animals, breed stock or meat will be included in this category. The animal unit conversion and minimum number of head assumes mature gilts, sows or boars approximately 250-300lbs. ***(No. Wild hogs running on your property do not qualify...)***

Given that swine can be commercially produced on grazing pasture with partial confinement or in total confinement operations, the District has not set any minimum acreage size requirements. Each instance of swine production will be reviewed on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Waste management
Adequate water access & supply	Farrowing facilities, sheds and barns

**Swine – Market Hog operations...**

# Head to 1 A.U.	Min. # Head to Qual.	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>3.3 Head = 1 A.U.</b>	<b>10 Head</b>	<b>Contact the District</b>	<b>Contact the District</b>	<b>Contact the District</b>

Swine operations that involve hogs 55-250/300lbs being fed out for slaughter are included with this operation.

Given that swine can be commercially produced on grazing pasture with partial confinement or in total confinement operations, the District has not set any minimum acreage size requirements. Each instance of swine production will be reviewed on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Waste management
Adequate water access & supply	Feed-out facilities, sheds and barns

### Swine – Feeder pigs...

# Head to 1 A.U.	Min. # Head to Qualify	Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>20 Head = 1 A.U.</b>	<b>60 Head</b>	<b>Contact the District</b>	<b>Contact the District</b>	<b>Contact the District</b>

This operation includes weaned piglets less than 55lbs held for sale to slaughter feed lots or commission sales. This operation is typically a component of a breeding operation.

Given that feeder pigs can be commercially produced on minimal grazing pasture with partial confinement or in total confinement operations, the District has not set any minimum acreage size requirements. Each instance of swine production will be reviewed on a case by case basis.

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Waste management
Adequate water access & supply	Feed-out facilities, sheds and barns

### Poultry...

Commercial poultry operations can be in production of broilers, eggs or hatchery products. In order to qualify for productive appraisal, a poultry operation must be under a commercial contract to supply poultry products.

The land appraised for productivity for poultry operations will include the ground under the houses, silos, barns and other structures necessary for production, and the immediate area necessary for the operation. Excess land will not qualify unless it is covered under another qualified productive use.

The District will consider these activities/items when reviewing this type of operation:

Type of houses	Type of machinery and equipment
Waste management	The commercial contract for delivery of products

### Rabbits...

A commercial rabbitry shall be intended to produce fur, meat or breed stock. A minimum of 25 Does will be required to qualify. The production of stock show animals can also be a component of this type of operation.

The land appraised for productivity for rabbit operations will include the ground under the rabbitry, barns and other structures necessary for production, and the immediate area necessary for the operation. Excess land will not qualify unless it is covered under another qualified productive use.

The District will consider these activities/items when reviewing this type of operation:

Type of rabbitry	Type of machinery and equipment
Waste management	Records of sale of products or contracts

**Growing Operations**

Growing operations encompass agricultural activities that generally involve the preparation of soil beds, the planting of seeds or seed stock and the eventual harvest of a mature crop. This category will not include timber operations. A growing operation can be conducted jointly with other qualified productive uses of the land.

The growing operation must be intended to produce products for commercial sale or for use in other qualified production operations. For example, a producer could grow corn to be fed to their livestock or grow it to sell commercially.

**You should be aware that a personal garden or orchard is not a qualified use by itself.**

For each of the following growing operations, a minimum acreage is given and for some, levels of production or planting are set out. Each category assumes prudent management in the application of fertilizers, lime, other soil amendments, as well as, labor and capital inputs. Remember that if your property does not meet a specified minimum, but you believe it should qualify, please contact us.

Also be aware that some wooded areas may be classified with agricultural land. However, the size of the wooded part of an open tract must be relatively small in comparison to the entire tract. The District will review each on a case by case basis.

Finally, the District understands that drought years significantly affect planting and harvesting. We understand for example, that hay cuttings will vary with rainfall. A drought year by law cannot be held against your production cycle.

**Hay Production...**

Minimum Acreage	Approximate Production
<b>7 Acres</b>	<b>5 Round Bales/Yr/Acre 60-70 Square Bales/Yr/Acre</b>

Hay operations will vary in production from the type of grass to the level of management involved. Various degrees of fertilizer and lime applications are found across our county. The District will review a hay operation for prudent management and production. Hay operations can be conducted with livestock or other types of qualified agricultural enterprises.

A minimum amount of acreage is set by this guide at 7 acres. Smaller tracts with common ownership as part of a larger operation may qualify. Round bales specified above are medium size bales and square bales are approximately 18"x36". We understand that round bales and square bales can vary in size. Therefore the general pounds of forage baled can be reviewed.

The District will consider these activities/items when reviewing this type of operation:

Fertilizer and Lime Applications	Weed Control
Production Records	Contracts for sale or Invoices for inputs

**Turf Farm...**

Minimum Acreage	Approximate Production
<b>10 Acres</b>	--

A turf farm operation is also referred to as a sod farm. The operation is designed to produce harvestable turf grass for commercial sale. Product can be rolled or cut for flat pallets. A viable operation will provide for re-sodding after harvest and the applications of fertilizer, weed control and soil amendments.

The District will consider these activities/items when reviewing this type of operation:

Records of product sales	Type of machinery and equipment
Fertilizer & weed control activities	Schedules of harvest and post-harvest activities

**Row Crops...**

Minimum Acreage	Approximate Production
<b>10 Acres</b>	--

Row crop operations will be those designed to produce a harvestable product such as peas, watermelons, corn, etc. Row crops are typically large tract operations that are predominately mechanically harvested. However, manual harvesting of row crops may also be performed.

The District will consider these activities/items when reviewing this type of operation:

Seed and fertilizer records	Records of product sales
Type of machinery and equipment	Application of herbicides and/or pesticides

**Produce Truck Farms...**

Minimum Acreage	Approximate Production
<b>5 Acres</b>	--

Produce truck farms are smaller growing operations that involve the planting and harvesting of vegetables or other products for commercial sale. Truck farm operations typically harvest manually but some mechanical harvesting can also be used.

Gardens planted for personal use do not qualify for truck farming.

The District will consider these activities/items when reviewing this type of operation:

Seed and fertilizer records	Records of product sales
Type of machinery and equipment	Application of herbicides and/or pesticides

**Orchards...**

Minimum Acreage	Approximate Production
<b>5 Acres</b>	<b>15 Trees per Acre</b>

Orchards for fruit or nut trees should be managed for commercial sale of products. Pecans and peaches have been common varieties for Cherokee County but qualified operations may include other varieties of trees.

Orchards planted for personal use do not qualify.

The District will consider these activities/items when reviewing this type of operation:

Type of trees	Application of herbicides or pesticides
Production and Management Records	Records of product sales

**Vineyards...**

Minimum Acreage	Approximate Production
<b>5 Acres</b>	<b>100 Vines per Acre</b>

Vineyards should be designed for the commercial production of wine, raisins, table grapes or juice. The qualifications for vineyards will focus on the production of fruit and not post-harvest processing.

Vineyards planted for personal use do not qualify.

The District will consider these activities/items when reviewing this type of operation:

Type of vines	Application of herbicides or pesticides
Production and Management Records	Records of product sales

**Plant Nurseries...**

Minimum Acreage	Approximate Production
<b>5 Acres</b>	--

Nurseries that are engaged in the production of flowers, shrubs, trees, seed stock or other related products for commercial sale fall into this category. Nursery operations for smaller varieties will have hot houses or other types of weather covers combined with open growing areas as applicable. The operation can hold products for either retail and/or wholesale purposes.

The District will consider these activities/items when reviewing this type of operation:

Type of houses, machinery & equipment	Records of product sales
Production and Management Records	Invoices for expenses

## Timber Operations

### General information...

A timberland appraisal is performed on qualified timber land that is managed for eventual harvest. Having a tract with trees does not automatically qualify you for this tax benefit any more than having an open field with grass would qualify you for hay production.

Instead, you must manage the tract with the intent to promote the growth and eventual harvest of timber products. Timber products can be sold for pole logs, chip, pulp or sawn lumber and can include land with pine or hardwood species or a mix thereof.

Just like agricultural qualifications, a timber property must be primarily devoted to the production of timber or timber products. It cannot be a secondary consideration of the property or a means to pay lower taxes.

### Evidence of Timber management...

In order to assist the District in determining that a property is currently and actively devoted principally to timber production to the degree of intensity typical for our area, the District will require certain types of evidence or documents to be submitted with your application. A current written timber management plan is one way to accomplish this. The plan may be written by the Forest Service or a timber consultant. If however you are a land owner with adequate experience in timber management, you may wish to write your own plan. If you do, be aware that the plan should include commonly recognized elements of management. We would encourage a land owner writing their own plan to reference, or use, the timber management template available from our website. Regardless of whether you choose to submit a management plan, or you prefer to simply provide other documentation, the District will be looking for information similar to the following items:

- Thinning Harvest Schedules
- Harvest at Maturity Schedules
- Maintenance of fire lanes
- Preservation of waterways
- Underbrush controls
- Maintenance of roads & boundaries
- Removal of dead, damaged or infected trees
- Plans for post-harvest regeneration

Additionally, these are other types of evidence that may assist the District in their determination:

- Contracts for Sale or Lease
- Timber Cost-Sharing programs
- Certified Tree Farm
- Timber Association Membership
- Participation in Assistance Programs
- Participation in Forestry Extension Programs
- Contracts with Consulting Foresters
- Timber Sale Marketing Efforts

## **Review of timber land...**

Agricultural properties typically have yearly evidence of production that can be seen in a field inspection. Timber on the other hand is a 15 to 25 year process and the District cannot wait that long to confirm a tract is truly a managed timber operation.

Therefore, the District will retain the documentation you submit and use it to review the activity of the tract over the years. While we expect timber producers to follow their management goals as a sign of due diligence, we also realize that plans change. Because of this, we will be focusing on the spirit of your operation. This is the only realistic way for the District to ensure a tract is being managed for timber use and not as a tax break.

## **Qualifying...**

A minimum acreage size of 20 acres has been established for local degree of intensity in timber production. The development and adoption of this standard, as discussed in the Foreword to this Guide, is the statutory responsibility of the chief appraiser upon advice and consultation with the Ag Advisory Board and other local resources. However, please note that it is important for the land owner to understand that while this is a minimum standard, the District realizes that “one size does not fit all”. Because of this, the land owner is encouraged to contact the District if they feel their property should qualify even if it does not meet a minimum requirement. The District will handle such situations on a case by case basis.

## **Regeneration of timber land...**

Following harvest, in order to remain in timber appraisal a tract must be engaged in a managed regeneration activity. This means that you must either leave sufficient mature seed-trees on the property to reproduce naturally, or you must set out seedlings. Seedlings and natural regeneration must adhere to the levels of intensity for our area.

For pine timber, the District is looking for a minimum of six (6) to twelve (12) well-spaced mature seed bearing trees that are not less than 12”dbh per acre. “dbh” means *Diameter at Breast Height*. This measurement is taken at 4<sup>1/2</sup> feet above ground on the tree. If the tree is on a slope, you can take the measurement on the higher side or average between the lower and higher sides of the ground. To find the diameter, you can use a tape measure and measure the circumference of the trunk and divide by 3.14, or you can use calipers that are designed for this purpose. If breast height falls on a swell in the trunk you should measure below the swell.



## **Tax Incentive for regeneration...**

If you harvest an existing timber tract, there is a provision in the law to grant a 50 % discount for up to 10 years if you regenerate the tract in timber. To qualify for this, the timber tract must have been qualified on the appraisal roll under a timber appraisal and you must regenerate the tract to the degree of intensity found in our area. That does not mean you can clear cut, walk away and let nature take its course however...

**To receive this you must submit a “Restricted Use Timber Land Appraisal” application. This can be found on the state comptroller’s website. It is form 50-281.**

The 50% discount is calculated by assessing half the normal appraised amount on your class of soil and type of timber. For example, if the productivity value for pine timber on class 3 soil is \$300 per acre, your assessed value would be \$150 per acre that year. This scenario continues for 10 years after the date of *harvest*, not the date of the replant. After that period of time, you will be assessed at the full productivity appraised value per acre.

## **Other special provisions for timber...**

There are three other programs that work similar to the regeneration program. Each of these programs offer a 50% reduction from the timber appraised value per acre each year. These uses are referred to as *Restricted-Use Timber Land*.

Each of these program zones have several state agency requirements such as the number, age or size of trees left in the zone, the width of the zone, or the measurement of basal area per acre. If you are interested in applying for a restricted use zone it is recommended that you consult with the District prior to making an application.

**To receive these special appraisals you must submit a “Restricted Use Timber Land Appraisal” application. The application can be found on the state comptroller’s website. It is form 50-281.**

### Program #1 - Aesthetic Management Zones

For this program, an owner sets aside a band of trees or an area of trees in which harvesting is restricted. Aesthetic means “*pleasing in appearance*”. So a band of trees alongside a highway or roadway can be set aside so folks don’t realize where houses and paper comes from when they drive through the beautiful countryside. Additionally, an aesthetic zone can be set aside as part of an area deemed by the director of the Texas Forest Service for being unique in “*natural beauty, topography or historical significance*”.

These zones by state agency rule must be at least 100’ wide but no more than 200’ wide containing trees that are at least 10 years or 35’ tall.

Program #2 - Streamside Management Zones

A streamside management zone is a ‘best practices’ management tool for timber producers. It restricts the harvest of timber that is set aside along a waterway to protect or preserve it. Prudent timber producers understand the dire ramifications of clear cutting a tract in a manner that destroys or damages streams, rivers, lakes or creeks.

This program encourages timber producers to practice best management by allowing a tax break on timber alongside these waterways that should not be cut. The zone is generally 50’ on either side of the waterway bank. However, there can be instances in topography or soil stability where this distance can be different.

Program #3 - Critical Wildlife Habitat Zones

Timberland that has an endangered species of animal can also see a tax benefit. If the timber land is inhabited by a listed endangered species, the area can be set aside as a critical wildlife habitat and receive the 50% discount off of the timber appraised value in a given year. The statutes list several requirements involved in this program and requires a written agreement with a federal, state or private organization responsible for the preservation of that species. If you believe your tract might qualify you should contact us for more information.

**Rollback provisions for these programs!!!!**

*There are separate provisions for a rollback penalty for these programs. For example, if you set aside land under these zones and then harvest the timber later on, you will change the use of the zone and thereby violate the program. If you do this, the rollback will recapture the previous 5 years of tax differences, plus 7% per annum, by one of these two calculations:*

- 1. If the property can qualify for regular timber, then the rollback will be the tax difference between regular timber value and the discounted timber value for each of the previous 5 years.*
- 2. If it does not qualify for regular timber, the rollback will be the tax difference between MARKET value and the discounted timber value for each of the previous 5 years.*

## Where to find help...

There are a number of resources available to timber producers. First, the District will be happy to assist you in planning or applying for timber production. For specific timber production help, the Texas Forest Service is available in our area along with a list of professional timber consultants. The following internet links may be of assistance:

Texas Forest Service: <http://txforestsservice.tamu.edu/main/default.aspx>

Consultant Foresters: <http://txforestsservice.tamu.edu/uploadedfiles/frd/referral.pdf>

Forest Service Vendors:

<http://txforestsservice.tamu.edu/uploadedfiles/FRD/VendorList.pdf>

Natural Resources Conservation Service: [www.tx.nrcs.usda.gov](http://www.tx.nrcs.usda.gov)

Texas Parks & Wildlife: <http://www.tpwd.state.tx.us>

Texas Agrilife Extension Service: <http://agrilifeextension.tamu.edu>

\*Mapping your Property: <http://tfsfrd.tamu.edu/MapMyProperty/>

*\*This resource is a useful tool when preparing maps of your property's boundaries and the areas of individual stands for attachment to your timber plan.*

## Wildlife Operations

Establishing a wildlife operation is not as simple as saying there are deer or migrating birds on your property. Qualifying for wildlife has stricter standards and annual reports that are not found in other qualifying production uses. Therefore, it is not something to be entered into lightly.

### **Hurdle #1 – *Minimum requirements...***

The District has established a minimum acreage size of 10 acres for wildlife operations. For wildlife parcels that are operating under the umbrella of a Wildlife Management Cooperative, all members are required to sign the application, the plan and the annual reports and maintain their property in accordance with the Cooperative agreement.

### **Hurdle #2 - *Previously assessed at special use value...***

One of the first hurdles to overcome is the requirement that your property must be appraised in the previous year as ag or timber land under Subchapter D or E on the appraisal rolls. A property that was not qualified and assessed on a special use production basis in the previous year cannot qualify for wildlife appraisal.\*

**\*IF YOU WERE DENIED AG OR TIMBER USE IN 2014 AND WERE PREVENTED FROM APPLYING FOR WILDLIFE DUE TO THE 2014 WILDLIFE 20 ACRE MINIMUM POLICY, AND YOU BELIEVE YOU MEET THE 2015 WILDLIFE GUIDELINES AND WISH TO APPLY FOR WILDLIFE USE, PLEASE CONTACT US.**

### **Hurdle #3 – *Devotion of use...***

Next, per state law, the property must be actively devoted to the “*propagation of sustained breeding, migrating or wintering population of indigenous wild animals for human use, including food, medicine or recreation*”. This means that all the efforts you undertake must complement, encourage and assist wild animals that are native to our area or that pass through our area naturally. This does not include animals that are not natural to our area. Those are called exotics and they are covered under the “Other Operations” section of this guide.

### **Hurdle #4 – *Primary use...***

By state law, the primary use of the property must be for wildlife. If the primary use of the property is for commercial or residential use, it will not qualify. If the primary use of the property is for ag or timber production, it will not qualify as wildlife use.

### **Hurdle #5 – Applying with a plan...**

You must apply for wildlife use to this District and the application must be accompanied by a written Wildlife Management Plan. The plan can be the Texas Parks and Wildlife Form PWD-885 or other written plan that includes all pertinent data contained in the PWD-885 publication. It must be completed and signed. If the plan is written and completed by the land owner, only the land owner signature is required. If the plan is prepared by a wildlife professional or consultant *for a fee*, the plan must be signed by the land owner and the paid consultant.

You can compile the plan with assistance from the Texas Parks and Wildlife department or a wildlife professional. They can assist you in designing your operation and provide valuable information and suggestions to promote the wildlife use on your property.

### **Hurdle #6 – Activities required...**

Texas statutes for wildlife require you to perform at least three (3) activities designed to encourage prudent wildlife management. You may perform more than three of the activities, but you cannot under the law do any less than three. The activities set out in the law are:

1. Habitat control
2. Erosion control
3. Predator control
4. Providing supplemental supplies of water
5. Providing supplemental supplies of food
6. Providing shelters
7. Census counts to determine population

There are currently no guidelines for qualifying particular wildlife enterprises. Each application will be reviewed on a case by case basis focusing on how effective the plan and location are to fulfilling legislative intent of primary use. Plans or locations that will not effectively sustain propagation of wildlife are subject to being denied.

### **Hurdle #7 – Be prepared for annual reporting...**

The District requires that wildlife operations submit an annual update to us by April 30<sup>th</sup> of each year. The update should be on the Texas Parks and Wildlife form PWD-888 which details the prior year's activities and show that the activities were in compliance with your written plan. If there are goals in the plan not accomplished, an explanation of why the goals were not met should be included along with a plan to remediate the issues.

The District will also conduct an annual inspection to assure the operation is in compliance with the law.

### **Where to get help...**

The Texas Parks and Wildlife agency is available to provide assistance with your wildlife needs. Their website is <http://www.tpwd.state.tx.us>. Forms PWD-885 & PWD-888 can be found at [http://www.tpwd.state.tx.us/landwater/land/private/agricultural\\_land/](http://www.tpwd.state.tx.us/landwater/land/private/agricultural_land/)

The Comptroller also has a wildlife publication online at:

<http://www.window.state.tx.us/taxinfo/proptax/pdf/96-354.pdf>

## Other Operations

We have included this category for two other uses of qualified production that we did not feel should be included as livestock. These operations encourage the husbandry of exotic animals and bees...

### Exotics...

Exotic Type	# Head to 1 A.U.	Min. # Head to Qual.
<b>Axis or Fallow Deer</b>	<b>0.20 Head = 1 A.U.</b>	<b>15 Head</b>
<b>Aoudad or Mouflon Sheep</b>	<b>0.20 Head = 1 A.U.</b>	<b>15 Head</b>
<b>Blackbuck Antelope</b>	<b>0.11 Head = 1 A.U.</b>	<b>28 Head</b>
<b>Sika Deer</b>	<b>0.143 Head = 1 A.U.</b>	<b>21 Head</b>
<b>Red Deer</b>	<b>0.40 Head = 1 A.U.</b>	<b>8 Head</b>
<b>Eland</b>	<b>1.0 Head = 1 A.U.</b>	<b>3 Head</b>
<b>Whitetail Deer</b>	<b>0.143 Head = 1 A.U.</b>	<b>21 Head</b>
<b>Emus</b>	<b>0.333 Head = 1 A.U.</b>	<b>9 Head</b>
<b>Ostriches</b>	<b>0.5 Head = 1 A.U.</b>	<b>6 Head</b>

Exotics are animals that are not native to our area. These operations are devoted primarily to producing meat, plumage, pelt and/or breed stock from the specified type of species or for hunting. The exotic category is not intended for native varieties of wildlife, nor intended for migratory animals.

If you have a species of exotic not included in the list above, contact the District for assistance.

The minimum number of acres to qualify for exotics can be calculated by the standard for grazing pasture. For example, a poor quality pasture will support approximately 1 A.U. per 8 Acres. Therefore for 3 A.U., 24 acres would be the minimum.

Poor Pasture 1 A.U. to 8 Acres	Average Pasture 1 A.U. to 5 Acres	Good Pasture 1 A.U. to 2 Acres
<b>24 Acres Min to Qualify</b>	<b>15 Acres Min to Qualify</b>	<b>6 Acres Min to Qualify</b>

The District will consider these activities/items when reviewing this type of operation:

Adequate pens and fencing	Permits or certificates for interstate transfer
Records regarding the sale of products	Management plans

**Beekeeping...**

Minimum # of Hives	Minimum Acres	Maximum Acres
<b>6*</b>	<b>5 Ac</b>	<b>20 Ac*</b>
<i>* For every 2.5 Acres over 5 acres, add 1 hive</i>		

Beekeeping is acknowledged by the State of Texas as an agricultural use and shall qualify for agricultural use productivity valuation if used for pollination or for the production of human consumption or other tangible products having a commercial value. (Sec. 23.51 (2) Tax Code)

To qualify for a beekeeping appraisal, landowners must meet all requirements to be eligible.

There must be at least 6 hives for the first 5 acres and one hive for every 2.5 additional acres up to 20 acres. The minimum degree of intensity was established using Section 131.001 Texas Agriculture Code’s definition of an apiary, which is a place where six or more colonies of bees or nuclei of bees are kept. A colony is the hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.

To initially qualify you must show proof of history for agriculture use/beekeeping for any of the five preceding seven years. One way to show history is to provide export, import or intra-state permits, which are required by the Texas Apiary Inspection Service to transport hives.

The District will consider these activities/items when reviewing this type of operation:

Adequate equipment	Records of product sales
Required permits	Husbandry management plans





# Appendices



Agricultural Lease

Terms:

This lease agreement is entered into between \_\_\_\_\_ (lessor) and \_\_\_\_\_ (lessee), so as to reduce to writing the terms and conditions the grant of a lease for: (check as many as apply):

Livestock       Hay Production       Crop Land       Other \_\_\_\_\_

The leasehold granted is on approximately \_\_\_\_\_ acres located at \_\_\_\_\_ (physical location of grazing land) owned by \_\_\_\_\_.

This lease grants no other options for income including but not limited to timber harvest, crops, hunting, fishing, recreation, oil and gas, ETC.

The lessee shall compensate lessor at a rate of \$\_\_\_\_\_ per acre on \_\_\_\_\_ acres for total cash lease of \$\_\_\_\_\_. In addition, practical upkeep of all fences associated with the property lines and existing perimeter fences, as well as corrals and working pens as applicable shall be maintained.

Termination:

Upon termination of this agreement, lessee shall remove all equipment and livestock from leasehold with 30 calendar days.

Lessee has permission to place feeding troughs, storage bins, and other necessary equipment for animal husbandry, all of which will be removed within 30 days following lease termination. The LESSEE is not entitled to any compensation for any improvements the LESSEE makes to the property which remain after termination of the lease.

Term:

The primary term of the lease agreement is one (1) year with the option to renew each year until termination of lease. The lease (may) or (may not) be sublet by the LESSEE. The LESSEE shall remain primarily liable for payment of the lease consideration. No material changes may be made to the topography of the property without the prior written consent of the LESSOR. LESSOR shall not be held responsible for any injuries that LESSEE, his guests, or invitees experience while on the premises. LESSEE agrees to indemnify and hold harmless the LESSOR against any and all claims for loss, injury, or death.

Upon violation of any of the covenants by LESSEE, this lease, at the option of the LESSOR, may be terminated; and in the event, the amount paid by the lessee shall be retained by the LESSOR as liquidated damages for the breach as the exclusive remedy of the LESSOR.

The LESSEE accepts the leasehold and the subject property in its present condition.

This agreement is dated: \_\_\_\_\_

\_\_\_\_\_  
LESSEE (Person Renting)

\_\_\_\_\_  
LESSOR (Land Owner)

SWORN TO and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Expiration of Notary

\_\_\_\_\_  
Printed Name of Notary



From <http://www.law.cornell.edu/uscode/text/26/183>

26 U.S. CODE § 183

ACTIVITIES NOT ENGAGED IN FOR PROFIT

**(a) General rule**

In the case of an activity engaged in by an individual or an S corporation, if such activity is not engaged in for profit, no deduction attributable to such activity shall be allowed under this chapter except as provided in this section.

**(b) Deductions allowable**

In the case of an activity not engaged in for profit to which subsection (a) applies, there shall be allowed—

- (1)** the deductions which would be allowable under this chapter for the taxable year without regard to whether or not such activity is engaged in for profit, and
- (2)** a deduction equal to the amount of the deductions which would be allowable under this chapter for the taxable year only if such activity were engaged in for profit, but only to the extent that the gross income derived from such activity for the taxable year exceeds the deductions allowable by reason of paragraph (1).

**(c) Activity not engaged in for profit defined**

For purposes of this section, the term “activity not engaged in for profit” means any activity other than one with respect to which deductions are allowable for the taxable year under section 162 or under paragraph (1) or (2) of section 212.

**(d) Presumption**

If the gross income derived from an activity for 3 or more of the taxable years in the period of 5 consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity (determined without regard to whether or not such activity is engaged in for profit), then, unless the Secretary establishes to the contrary, such activity shall be presumed for purposes of this chapter for such taxable year to be an activity engaged in for profit. In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting “2” for “3” and “7” for “5”.

From <http://www.law.cornell.edu/uscode/text/26/183>

## 26 U.S. CODE § 183

## ACTIVITIES NOT ENGAGED IN FOR PROFIT

## CONTINUED

**(e) Special rule****(1) In general**

A determination as to whether the presumption provided by subsection (d) applies with respect to any activity shall, if the taxpayer so elects, not be made before the close of the fourth taxable year (sixth taxable year, in the case of an activity described in the last sentence of such subsection) following the taxable year in which the taxpayer first engages in the activity. For purposes of the preceding sentence, a taxpayer shall be treated as not having engaged in an activity during any taxable year beginning before January 1, 1970.

**(2) Initial period**

If the taxpayer makes an election under paragraph (1), the presumption provided by subsection (d) shall apply to each taxable year in the 5-taxable year (or 7-taxable year) period beginning with the taxable year in which the taxpayer first engages in the activity, if the gross income derived from the activity for 3 (or 2 if applicable) or more of the taxable years in such period exceeds the deductions attributable to the activity (determined without regard to whether or not the activity is engaged in for profit).

**(3) Election**

An election under paragraph (1) shall be made at such time and manner, and subject to such terms and conditions, as the Secretary may prescribe.

**(4) Time for assessing deficiency attributable to activity**

If a taxpayer makes an election under paragraph (1) with respect to an activity, the statutory period for the assessment of any deficiency attributable to such activity shall not expire before the expiration of 2 years after the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the last taxable year in the period of 5 taxable years (or 7 taxable years) to which the election relates. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such an assessment.

From [www.IRS.gov](http://www.IRS.gov) concerning hobbies

## Is Your Hobby a For-Profit Endeavor?

FS-2008-23, June 2008

The Internal Revenue Service reminds taxpayers to follow appropriate guidelines when determining whether an activity is engaged in for profit, such as a business or investment activity, or is engaged in as a hobby.

Internal Revenue Code Section 183 (Activities Not Engaged in for Profit) limits deductions that can be claimed when an activity is not engaged in for profit. IRC 183 is sometimes referred to as the “hobby loss rule.”

Taxpayers may need a clearer understanding of what constitutes an activity engaged in for profit and the tax implications of incorrectly treating hobby activities as activities engaged in for profit. This educational fact sheet provides information for determining if an activity qualifies as an activity engaged in for profit and what limitations apply if the activity was not engaged in for profit.

Is your hobby really an activity engaged in for profit?

In general, taxpayers may deduct ordinary and necessary expenses for conducting a trade or business or for the production of income. Trade or business activities and activities engaged in for the production of income are activities engaged in for profit.

The following factors, although not all inclusive, may help you to determine whether your activity is an activity engaged in for profit or a hobby:

- Does the time and effort put into the activity indicate an intention to make a profit?
- Do you depend on income from the activity?
- If there are losses, are they due to circumstances beyond your control or did they occur in the start-up phase of the business?
- Have you changed methods of operation to improve profitability?
- Do you have the knowledge needed to carry on the activity as a successful business?
- Have you made a profit in similar activities in the past?
- Does the activity make a profit in some years?
- Do you expect to make a profit in the future from the appreciation of assets used in the activity?

An activity is presumed for profit if it makes a profit in at least three of the last five tax years, including the current year (or at least two of the last seven years for activities that consist primarily of breeding, showing, training or racing horses).

From [www.irs.gov](http://www.irs.gov) concerning hobbies

## Is Your Hobby a For-Profit Endeavor? (Cont.)

If an activity is not for profit, losses from that activity may not be used to offset other income. An activity produces a loss when related expenses exceed income. The limit on not-for-profit losses applies to individuals, partnerships, estates, trusts, and S corporations. It does not apply to corporations other than S corporations.

What are allowable hobby deductions under IRC 183?

If your activity is not carried on for profit, allowable deductions cannot exceed the gross receipts for the activity.

Deductions for hobby activities are claimed as itemized deductions on Schedule A, Form 1040. These deductions must be taken in the following order and only to the extent stated in each of three categories:

- Deductions that a taxpayer may claim for certain personal expenses, such as home mortgage interest and taxes, may be taken in full.
- Deductions that don't result in an adjustment to the basis of property, such as advertising, insurance premiums and wages, may be taken next, to the extent gross income for the activity is more than the deductions from the first category.
- Deductions that reduce the basis of property, such as depreciation and amortization, are taken last, but only to the extent gross income for the activity is more than the deductions taken in the first two categories.