

STERLING COUNTY APPRAISAL DISTRICT

GUIDE TO 1-d-1 (Open Space) Agricultural Use Appraisal

Wildlife Management

September 25, 2017

ATTENTION STERLING COUNTY LAND OWNERS

HIGHLIGHTS OF 1-d-1 OPEN-SPACE LAND AND WILDLIFE MANAGEMENT

This article is written by Chief Appraiser Ronnie Krejci to inform the land owners of Sterling County of the requirements for the Special Appraisal of Open-Space and Wildlife Management Land.

History

Prior to 1966, Texas property taxes on farm, ranch and other agricultural lands were assessed (taxed) based on its market value – the price a buyer would pay for it in an ordinary market transaction.

1966 – Texas voters approved the first agricultural appraisal law. Voters approved an amendment to the Texas Constitution that changed the way that property taxes are assessed on agricultural land in Texas. The adoption of Article 8, Section 1-d of the Texas Constitution, *Assessment of Lands Designated for Agricultural Use*, required that agricultural land owned by individuals, or families, whose primary occupation and income are based on agriculture may only be assessed for property taxes based on the land's productive value, i.e. the value of the agricultural products that can be produced from the land.

This special appraisal technique has several popular names including productivity valuation, productivity appraisal, special appraisal and agricultural (ag) appraisal. This appraisal is commonly misinterpreted as an “ag exemption”, rather than a “special appraisal”.

1978 – Texas voters approved a second amendment to the Texas Constitution, Article 8, Section 1-d-1 of the Texas Constitution, *Taxation of Certain Open-Spaced Land (Section 1-d-1)*, for the stated purpose of promoting the preservation of Open-Spaced lands. This amendment allows eligibility for productivity appraisal for corporations as well as individuals; there are no income or occupational tests.

Taking effect in 1979, the Texas Tax Code Chapter 23, Subchapter D governs the appraisal of agricultural land pursuant to Texas Constitution Article VIII Section 1-d-1 and is often referred to as the “1-d-1 or open-space appraisal law”.

1993 – the Texas Supreme Court noted that the “Texas Constitution promotes the preservation of open-space land by authorizing the legislature to tax open-space land devoted to farm or ranch purposes on the basis of its productive capacity”. The Texas Supreme Court also stated that the “Constitution further authorizes the legislature to provide eligibility limitations for the open-space designation”.

1995 – an amendment to Section 1-d-1 was approved by Texas voters that added open-spaced lands devoted to wildlife management purposes to the list of open-spaced properties that are required to be assessed for property taxes based on productive value.

2001 – the Texas Legislature amended the Texas Tax Code to require the Texas Parks and Wildlife Department (TPWD) to develop, with the assistance of the Comptroller, standards for determining whether land qualifies for appraisal as open-space land developed to wildlife management use, and provided that these standards could include such factors as the size of the tract of land, standards for implementation of the seven wildlife management practices, the type of wildlife being managed, the region of the state where the land is located, or other relevant factors. See Texas Tax Code 23.521.

2002 – the TPWD, Comptroller, Texas Agricultural Extension Service, and other stakeholders adopted the standards.

2007 – the standards were revised, and current standards are located in the Texas Administrative Code, Title 34, Chapter 9, Subchapter G, *Special Appraisal (Wildlife Management Use Regulations)*. See 34 TAC.

Important Points

- The Texas Tax Code assigns most agricultural appraisal responsibilities to the Chief Appraiser of the County Appraisal District.
- Repeating what was stated earlier, there is no ‘agricultural exemption’ or ‘wildlife exemption’ for open-spaced land. The ‘exemption’ is a special appraisal.
- Special agricultural appraisal under the 1-d-1 law is only allowed if the property owner proves the specific statutory requirements of Tax Code Chapter 23, Subchapter D.
- Land will not qualify of productivity valuation simply because it is rural or has some connection with agriculture.
- Neither will it qualify because it is open land that has no other possible use.
- The law does not provide a tax break for every use of open-space land.
- Generally, land may qualify for agricultural appraisal if it is ‘currently devoted principally to agricultural use to the degree of intensity generally accepted in the area’.
- To qualify for special appraisal, the property owner must apply for the appraisal and provide the Chief Appraiser ‘the information necessary’ for the Appraisal District to ‘determine the validity of the claim’.
- If land receives an agricultural appraisal, land owners are required to notify the Chief Appraiser of a ‘change in agricultural use’. The land owner may be required to pay a penalty if the land owner fails to notify the Chief Appraiser of the change.
- If a land owner stops using all or part of the property for the agriculture use (identified in the 1-d-1 application), the land owner will be required to pay a substantial additional tax (a ‘rollback’ tax).

- The Sterling County Appraisal District contracts with Pritchard & Abbott to appraise ag land and determine both the market value and the productivity value for assessment. The Sterling County Ag Advisory Board contributes information to determine the productivity value.
- The Chief Appraiser of the Sterling County Appraisal District has the authority to approve and grant agricultural appraisal, disapprove and ask for more information, or deny the Applications for 1-d-1 Appraisal. The Chief Appraiser has the responsibility to follow-up to ensure that land owners are in compliance with the Texas Tax Code.
- If your land already receives agriculture productivity appraisal, you normally do not need to reapply unless the Chief Appraiser requires you to do so. If a new application is required, the Sterling County Appraisal District will notify you by mail.
- It is the land owner's responsibility to make sure that he/she is in compliance with the Texas Tax Code. If you are a land owner and have questions about the status of the 1-d-1 special appraisal of your property, don't hesitate to contact the Chief Appraiser of the Sterling County Appraisal District.

While it is not possible to cover all of the laws, rules, and regulations that apply to 1-d-1 Open-Space Land and Wildlife Management in this section, land owners are encouraged to research the following sources:

- Texas Constitution Article 8, Section 1-d and 1-d-1
- Texas Property Tax Code, Chapter 23
- *Manual for the Appraisal of Agricultural Land* – found on the Comptroller's Website; Property Tax Assistance Division
- *Guidelines for Qualifications of Agricultural Land in Wildlife Management Use* – found on the Comptroller's Website; Property Tax Assistance Division
- Comptroller's Website or contact Sterling County Appraisal District – for the Application for 1-d-1 (Open Space) Agricultural Use Appraisal, Form 50-129
- Texas Parks and Wildlife Website – for information
- Texas Parks and Wildlife Website – for the Application for 1-d-1 (Open Space) Agricultural Valuation Wildlife Management Plan; to be submitted to the Chief Appraiser of the Sterling County Appraisal District, not to the Texas Parks and Wildlife Department.

Sterling County Appraisal District
 Chief Appraiser – Ronnie Krejci
 P.O. Box 28, Sterling City, TX 76951
 616 4th Street
 Office Phone – 325-378-7711
 Email – sterlingcad@verizon.net
 Website – sterlingcad.org

PROCEDURES FOR 1-d-1 (OPEN SPACE) AGRICULTURAL USE APPRAISAL

- The Comptroller’s office promulgates the rules and procedures to be used in appraising land designed for agricultural use. The Comptroller must develop appraisal manuals for qualified open-space land under the 1-d-1 law. The manual on the Texas Comptroller website is the *Manual for the Appraisal of Agricultural Land – January 2017*.
- Chapter 23, Appraisal Methods and Procedures, of the Texas Property Tax Code provides the legal requirements for 1-d-1 Open-Space Ag Use Appraisal
- The Tax Code assigns most agricultural appraisal responsibilities to the chief appraiser.
- The Sterling County Appraisal District (CAD) contracts with Pritchard & Abbott to appraise Open- Space land. The Sterling CAD develops a two-year plan for the periodic reappraisal of Open- Space Land.
- The Sterling CAD must determine both the market value and the productivity value of Open-Space Land.
- The landowner must be knowledgeable of the rules and procedures of the Tax Code in order to qualify for the Special Appraisal. The landowners should contact the chief appraiser of the Sterling CAD with questions. The Sterling CAD will publish Notices in the *Courier* regarding Special (Productivity) Appraisal.
- The Sterling County Ag Advisory Board sets the intensity standards for Open-Space Land.

STEPS IN APPLYING FOR 1-d-1 (OPEN SPACE) AGRICULTURAL USE APPRAISAL

- Generally, land may qualify for ag appraisal if it is “currently devoted principally to agriculture use to the degree of intensity generally accepted in the area”. The land must be used for agriculture for five of the seven years preceding the current year.
- The land owner completes the Application for 1-d-1 (Open Space) Agricultural Use Appraisal – Form 50-129. The Sterling CAD can provide this form.
- The completed form is returned to the chief appraiser of the Sterling CAD.
- The chief appraiser will review the application and decide whether to:
 - Approve it and grant agricultural appraisal
 - Disapprove it and ask for more information; or
 - Deny the application – notify the applicant in writing of the denial of an application and explain the reasons for the denial
- If the application is approved, the land owner must continue to meet the requirements of the 1-d-1 law, including the “intensity-of-use” standards. Failure to do so will cause the land to become ineligible for ag appraisal.
- After the land is approved for ag appraisal, no additional applications are required unless:
 - Ownership changes
 - The land’s eligibility ends, or
 - The chief appraiser requests one, and will notify the landowner by mail

- If the application is denied, the land owner may protest that decision to the Appraisal Review Board (ARB).
- If the land receives an ag appraisal, the land owner must notify the chief appraiser of a “change in agriculture use” and may be required to pay a penalty for failure to do so.
- If the land owner stops using all or part of the property for agriculture, the chief appraiser may revoke the application and initiate the “rollback” tax procedures.
- The Sterling CAD chief appraiser has the authority to investigate any reports implying that a land owner is not in compliance with the Texas Property Tax Code, and take the appropriate action.

All actions and decisions regarding ag (special) appraisal are supported by the following:

- The Texas Property Tax Code – Chapter 23
- The Texas Comptroller’s rules and procedures
- The Manual for the Appraisal of Agriculture Land
- The Chief Appraiser of the Sterling County Appraisal District
- Pritchard & Abbott Appraisers
- Legal advice provided by the Sterling CAD’s attorney

Sterling County Appraisal District

APPLICATION FOR 1-d-1 (OPEN SPACE) AGRICULTURAL USE APPRAISAL

CHECKLIST

Is an original Application on file? _____

Date _____ Date Received _____

Owner _____

Description of Property _____

Property's Use _____

- Must show 5 out of 7 years of agricultural use _____
- Degree of Intensity _____

Property's Use (continued)

- Livestock _____
- Exotic Animals _____
- Management Wildlife _____
- Grow Crops _____
- Land Lying Idle/Governmental Program _____
- Non-Agricultural Activities _____

If using land to manage wildlife, list the ways in which you manage wildlife _____

Was a Wildlife Management Plan completed and returned to the Sterling CAD?

Signature _____ Date _____

Sterling CAD Approval _____ By _____ Date _____

NOTE – There is no “Agricultural Exemption” or “Wildlife Exemption” for open-spaced land. These properties are subject to property taxation based on the land’s productive value rather than market value as required by Section 1-d-1. The assessment is based on a “Special Appraisal”.

SECOND APPLICATION FOR 1-d-1 (OPEN SPACE) AGRICULTURAL USE APPRAISAL

CHECKLIST

Is a second/current Application on file? _____

Date _____ Date received _____

Owner _____

Description of Property _____

Property's Use _____

- Must show 5 out of 7 years of agricultural use _____
- Degree of Intensity _____

Property's Use (continued)

- Livestock _____
- Exotic Animals _____
- Management Wildlife _____
- Grow Crops _____
- Land Lying Idle/Governmental Program _____
- Non-Agricultural Activities _____

If using land to manage wildlife, list the ways in which you manage wildlife _____

Was a Wildlife Management Plan completed and returned to the Sterling CAD?

Signature _____ Date _____

Sterling CAD Approval _____ By _____ Date _____

NOTE – There is no “Agricultural Exemption” or “Wildlife Exemption” for open-spaced land. These properties are subject to property taxation based on the land’s productive value rather than market value as required by Section 1-d-1. The assessment is based on a “Special Appraisal”.

WILDLIFE MANAGEMENT

“Wildlife Management” is defined by the Texas Tax Code as actively using the land through at least three of the seven wildlife management practices

- Habitat control
- Erosion control
- Predator control
- Providing supplemental water
- Providing supplemental food
- Providing shelters
- Conducting census counts

to propagate a sustaining breeding, migrating, or winter population of indigenous (native to the region) wild animals for human use, including, food, medicine, or recreation.

- Hunting, by itself, is not a wildlife management practice, and does not qualify the land for open space appraisal unless it is done in pursuit of the above approved activities.
- Open space property can only be assessed based on wildlife management use if at the time the wildlife management plan began the property was already being assessed as qualified open-spaced land under Tax Code 23.51(7)(A).
- This means that the property was being appraised as open-spaced land because the land had been devoted for five of the preceding seven years to:
 - Producing crops
 - Raising livestock
 - Producing timber
 - Or, land was used as an ecological laboratory by a college or university
 - Or land is being used for certain protected species
- Degree of Intensity – wildlife management is a qualifying agricultural practice if done to the required degree of intensity (generally accepted in the area), as defined by the statutes, regulations and guidelines, qualifies land to be appraised as open-spaced land based on the land’s productive value rather than its market value as required by Section 1-d-1 Tax Code 23.51(1) and (2).

The standard for the degree of intensity required is set by the Wildlife Management Use regulations as the TPWD’s *Comprehensive Wildlife Management Planning Guidelines*.

Qualifications for Agricultural Appraisal Based on Wildlife Management Use

To qualify for productivity appraisal of open-spaced land on the agricultural practice of wildlife management the property must:

1. Be currently appraised as open-spaced land based on agricultural use.
2. The primary use of the land must be wildlife management.
3. The land must be actively managed through the implementation of a wildlife management plan to sustain a breeding, migrating, or wintering population of indigenous wildlife for human use, including food, medicine, or recreation.
4. The landowner must select and implement at least three of the wildlife management practices listed in Texas Tax Code 23.51(7)(A) – listed above.
5. The wildlife management practices selected by the landowner must be implemented through wildlife management activities appropriate for the target indigenous wildlife species identified in the wildlife management plan and to the “degree of intensity” that is consistent with the Comptroller’s *Guidelines for Qualifications for Agricultural Land in Wildlife Management Use* and TPWD’s *Comprehensive Wildlife Management Planning Guidelines* for the ecoregion in which the tract of land is located, and
6. Meet the minimum acreage requirements if applicable – 34 TAC 9.2005 as determined by the Chief Appraiser with the advice and consent of the Appraisal District Board of Directors.

Steps to Change Use of Ag Land from Raising Livestock to Wildlife Management

OWNER _____

_____ Have a current Application for 1-d-1 (Open Space) Agricultural Use Appraisal on file with the Sterling CAD.

_____ The property can only be assessed on wildlife management use if at the time the wildlife management began the property was already being appraised as qualified open-spaced land under the Texas Tax Code 23.51(7)(A). *This means that the property was being used as open-spaced land because the land had been devoted for five of the preceding seven years to producing crops, raising livestock, or producing timber, or the land was used as an ecological laboratory by a college or university. See Texas Tax Code 23.51(1).*

_____ The land owner must inform the Sterling CAD of a change in ag use.

_____ The land owner should complete a new Application for 1-d-1 (Open Space) Agricultural Use Appraisal, specifically Step 5 for Wildlife Management Use.

_____ The land owner must complete and attach a Wildlife Management Plan on the form prescribed by The Texas Parks and Wildlife Department. (Pictures if available)

The land owner submits both the Application and Plan to the Chief Appraiser:

_____ The Chief Appraiser will approve both and grant agricultural appraisal based on wildlife management; or

_____ Disapprove and ask for more information; or

_____ Deny the application – notify the applicant in writing of the denial of an application and explain the reasons for the denial

_____ If approved the land owner must comply with the Wildlife Management Plan. (Pictures)

_____ The Sterling County Appraisal District may require an annual report showing how the wildlife management plan was implemented. TPWD has a form for the annual report that may be used by the landowners. (Pictures if available)

_____ The Chief Appraiser, or Pritchard & Abbott appraisers, may personally inspect the property for compliance, or schedule a meeting with the landowner to inspect the property.

_____ The Chief Appraiser reserves the responsibility to revoke the special appraisal if the land owner is not in compliance.