

§171-14.5 Auction pre-qualification; agricultural and pasture leases. (a) Whenever used in this section, unless otherwise apparent from the context:

"Farm" also means "ranch" and "farmer" also means "rancher".

"Individual" means a natural person who is not a part of a partnership, corporation, or joint venture which is a potential bidder under this section.

"Nonindividual concern" means a partnership, corporation, or joint venture properly formed under law and which is a potential bidder under this section.

(b) Any other law to the contrary notwithstanding, to be eligible to bid in an auction for agricultural or pasture leases, a potential bidder shall be a ***bona fide individual farmer or a nonindividual farm concern***:

(1) Who has spent not less than two years, full-time, in farming operations;

(2) Who is an owner-operator of an established farm conducting a substantial farming operation;

(3) Who for a substantial period of the individual's adult life resided on a farm and depended on farm income for a livelihood;

(4) Who is an individual who has been a farm tenant or farm laborer or other individual, who has for the two years last preceding the auction obtained the major portion of their income from farming operations;

(5) Is an individual with a college degree in agriculture;

(6) Is an individual who by reason of ability, experience, and training as a vocational trainee is likely to successfully operate a farm;

(7) Who has qualified for and received a commitment for a loan under the Bankhead-Jones Farm Tenant Act as

amended, or as may hereafter be amended,
for the acquisition of a farm;

(8) Who is an individual who is
displaced from employment in an
agricultural production enterprise;

(9) Who is a member of the Hawaii Young
Farmer Association or a Future Farmer of
America graduate with two years of
training with farming projects;

(10) Who possesses the qualifications
under the new farmer program pursuant to
section 155-1; or

(11) Who possesses other qualifications
as the board of land and natural
resources may prescribe pursuant to
section 171-6 and this section. [L 1982,
c 131, §1; am L 2000, c 51, §14]

§171-68 Applicants; qualifications of. (a) *A person shall be eligible to apply for a farm if the person has the qualifications as follows:*

(1) The person has been a resident in
the State at any time for at least three
years;

(2) The person is a bona fide farmer:

(A) Who has not less than two
years' experience as a full-
time farmer; or

(B) Who was an owner-operator
of an established farm
conducting a substantial
farming operation and who for
a substantial period of the
person's life resided on a
farm or depended on farm
income for the person's
livelihood; or

(C) Who has been a farm tenant
or farm laborer or other
individual, who has for the

two years last preceding the person's application obtained the major portion of the person's income from farming operations; or

(D) Who has a college degree in agriculture; or

(E) Who by reason of ability, experience, and training as a vocational trainee is likely to successfully operate a farm; or

(F) Who has qualified for and received a commitment for a loan under the Bankhead-Jones Farm Tenant Act as amended, or as may hereafter be amended, for the acquisition of a farm; or

(G) Who is displaced from employment in an agricultural production enterprise; or

(H) Who is a member of the Hawaii Young Farmer Association or a Future Farmer of America graduate with two years of training with farming projects; or

§155-1 Definitions. Whenever used in this chapter:

"Cooperative" means a nonprofit association of farmers organized under chapter 421.

"Farm land" means land used for agricultural purposes, including general farming, cane growing, fruit growing, flower growing, grazing, dairying, the production of any form of livestock or poultry, and any other form of agricultural activity. It includes land required for an adequate farm dwelling and other essential farm buildings, roads, and wasteland.

"Food manufacturers" means entities that process Hawaii-grown agricultural products or that utilize Hawaii-grown agricultural products as an ingredient in the manufacturing process. Processed and manufactured agricultural food products include items such as chips, dairy products, guava and papaya puree, macadamia nut products, fruit drinks, juices, nectars, jams, jellies, packaged coffee, processed vegetables, freeze-dried and fresh poi, processed meat products, cookies, and candies.

"Mortgage" includes classes of liens on farm land and other authorized security as are approved by the department of agriculture and the credit instruments secured thereby.

"New farmer program" means a new farm enterprise for **qualified new farmers**, including persons who are:

- (1) Displaced from employment in an agricultural production enterprise;
- (2) College graduates in agriculture;
- (3) Community college graduates in agriculture;
- (4) Members of the Hawaii Young Farmer Association and Future Farmer of America graduates with farming projects;
- (5) Persons who have not less than two years' experience as part-time farmers;
- (6) Persons who have been farm tenants or farm laborers;
- (7) Other individuals who for the two years last preceding their application have obtained the major portion of their income from farming operations; and
- (8) Persons who by reason of ability, experience, and training as vocational trainees are likely to successfully operate a farm, who otherwise meet the eligibility requirements of section 155-10.

"Part-time farmer" means a person of proven farming ability who:

(1) Has been operating the person's farm for at least two years on land owned by the person in fee or on land rented or leased from others;

(2) Is presently devoting a portion of the person's time to farming; and

(3) Derives between twenty-five to fifty per cent of the person's net cash income from direct participation in farming in its broadest sense.

"Private lender" includes banks, savings and loan associations, credit unions, mortgage companies, and other qualified companies whose business includes the making of loans in the State.

"Qualified farmer" means a person of proven farming ability who operates the person's own farm on land owned by the person in fee or on land rented or leased from others and who is presently devoting, has recently devoted, or intends to devote most of the person's time or who derives a major portion of the person's net cash income from direct participation in farming in its broadest sense. It includes:

(1) Hawaii partnerships controlled by at least seventy-five per cent by persons who would qualify individually and would meet the eligibility requirements of section 155-10;

(2) Small corporations where at least seventy-five per cent of each class of stock issued by the corporation is owned by persons who qualify individually and would meet the eligibility requirements of section 155-10 and where seventy-five per cent of the directors are qualified farmers;

(3) Corporations incorporated in the State primarily for agricultural production purposes; actively engaged in agricultural production for a minimum of two years; and with at least seventy-five per cent of each class of stock owned by persons who are residents of

this State or entities that are domiciled in this State;

(4) Trusts with situs in Hawaii in which the trustee or other individual or entity in control of the operations of the trust would qualify and meet the eligibility requirements of section 155-10; and

(5) Any other legal entity recognized by the State that conducts business in the State and that is capable of acquiring, holding, encumbering, transferring, or otherwise administering property, whether real or personal, or tangible or intangible, and which entity is owned and controlled by persons or other entities, at least seventy-five per cent of which would qualify and would meet the eligibility requirements of section 155-10. [L 1959, c 278, pt of §1; am L Sp 1959 2d, c 1, §25; am L 1961, c 104, §1(a), (b) and c 132, §2; Supp, §102-1; HRS §155-1; am L 1972, c 87, §1; am L 1974, c 231, §2(1); am L 1975, c 135, §1; am L 1979, c 210, §1; gen ch 1985; am L 1996, c 23, §1; am L 1999, c 32, §1; am L 2000, c 51, §2; am L 2001, c 141, §1]

[§166-2] Definitions. For the purpose of this chapter:

"Agricultural activities" means the care and production of livestock, livestock products, poultry, or poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops or trees, including tree farms.

"Agricultural park" means any agricultural or aquacultural complex so designated by the board, for which state land or state funds are used, in order to meet the goals and objectives stated in section 166-1. Agricultural buildings, farm residences, and employee dwellings necessary to the production and distribution of agricultural and aquacultural commodities may be considered part of the agricultural park.

"Aquacultural activities" means the farming or ranching of any plant or animal species in a controlled salt, brackish,

or freshwater environment; provided that such farm or ranch is on or directly adjacent to land.

§201-1 Definitions. The following terms, whenever used in this part, shall have the following respective meanings, unless a different meaning clearly appears in the context:

"Agriculture" and "agricultural" mean the planting, cultivating, and harvesting of crops, including those so planted, cultivated, and harvested for food, ornamental, grazing, or forest purposes. Once the crops are harvested and transported to a point of distribution, they cease to be agricultural in the terms of this part.

§237-5 "Producer" defined. "Producer" means any person engaged in the business of raising and producing agricultural products in their natural state, or in producing natural resource products, or engaged in the business of fishing or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural or aquaculture products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish.

As used in this section "agricultural products" include floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and any other farm, agronomic, or plantation products. [L 1935, c 141, pt of §1; RL 1945, §5447; RL 1955, §117-6; am L 1957, c 34, §11(b); HRS §237-5; am L 1982, c 253, §1; am L 1984, c 73, §3]

"Farming operation" means a commercial agricultural, silvicultural, or aquacultural facility or pursuit conducted, in whole or in part, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment. "Farming operation" also includes but shall not be limited to:

- (1) Marketed produce at roadside stands or farm markets;
- (2) Noises, odors, dust, and fumes emanating from a commercial agricultural or an aquacultural facility or pursuit;

- (3) Operation of machinery and irrigation pumps;
- (4) Ground and aerial seeding and spraying;
- (5) The application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and
- (6) The employment and use of labor.

A farming operation that conducts processing operations or salt, brackish, or freshwater aquaculture operations on land that is zoned for industrial, commercial, or other nonagricultural use shall not, by reason of that zoning, fall beyond the scope of this definition; provided that those processing operations form an integral part of operations that otherwise meet the requirements of this definition.

Maui Water Department Definition:

16-7-3 Definitions. Whenever used herein, unless otherwise

apparent from the context, the following definitions shall apply:

"Agricultural consumers" are those actively engaged in crop production, stock raising, or dairy farming to derive farm income on county zoned or state designated agricultural lands.

- (c) Each consumer requesting an agricultural rate for water service shall submit an annual written application and supply an authorization for the Board of Water Supply to obtain a copy of the State's Excise Tax Form G-45 or the Federal Internal Revenue Service's Schedule F or other Federal Internal Revenue forms showing farm income. Existing lands with agricultural rate shall continue with that agricultural rate until the farm income use does not qualify for the agricultural rate. The agricultural zoning and designation restrictions shall commence for new applications for agricultural rate after the effective date of this rule.

Ontario Canada

Referring to page 5 of the Agenda, Mr. A. Goldsmith, Member, questioned the meaning of "bona fide farmers" and whether it included part time or hobby farmers. Referring to page 16 of the Agenda, Mr. Goldsmith also noted that the list of livestock overlooked many other species of animals. He also pointed out that there should be a distinction between the rural and urban in

the application of the by-law with respect to noise from animals. He referred to the discussion portion of the staff report not making the distinction while principle 10 in Document 1 states “Livestock kept in rural areas is exempt”. Committee discussed the lack of clarity in the term “bona fide farmers”, noting that it is uncertain whether the term refers to owners of lands zoned agricultural or where agriculture is a permitted use. The Committee also questioned whether a bona fide farmer might be an operator whose income is greater than \$7,000 for the purpose of receiving a rebate under the *Income Tax Act*.

The Committee discussed the definition of livestock and some additional common and uncommon species of animals that should be included, noting that there were many current livestock operations within the City of Ottawa that would not be captured by this listing. As well, it was noted that some animals species, such as sheep, are listed on both the permitted and the proscribed lists and that should be corrected.

The Committee acknowledged that over the last number of years, the definition of farming has changed and that agricultural colleges provide courses on the raising of exotic animals. In view of these discussions, it was recommended that City staff explore an alternate definition of livestock through the Ontario Federation of Agriculture and the Ontario Ministry of Agriculture and Food.

Iowa

Definition of Farmer and the granting of Ag Exemptions from Building Codes and Zoning Ordinances

The Revised Scott County Zoning Ordinance definition of farmer and farming describes how the granting of an ag-exemption is determined by Scott County. It results in a two fold test. First, an individual must demonstrate that he or she is actively involved in a day to day farming operation and derives over half his or her gross income from farming or is retired from farming. Second, the buildings and land must also be primarily adapted and used for agricultural purposes. A request would have to meet both these requirements before being considered ag-exempt. It does not allow a farmer to construct non-ag buildings or use his or her land for non-ag purposes unless they comply with zoning regulations. It would also require zoning compliance for a building or land used for ag purposes if the owner does not meet the definition of farmer.

In order to be considered exempt from the Scott County Zoning Ordinance and building codes a farmer is requested to apply for and be granted an ag-exemption certificate.

Farmers are not exempt from floodplain development or subdivision regulations.

FARM: A tract of land owned or rented by a farmer, primarily adapted for agricultural purposes, forty (40) acres or greater in size and assessed as agricultural property by the Scott County Assessor. Tracts of land owned or rented by a farmer, less than forty (40) acres in size, assessed as agricultural property by the Scott County Assessor and claimed as exempt from Zoning regulations as being primarily adapted for agricultural purposes shall be reviewed by making application to the Zoning Board of Adjustment in accordance with the Board's procedures for Appeals of Interpretation. The Board of Adjustment shall make a determination on whether the level of existing or proposed agricultural activity on the property can be considered "primarily adapted for agricultural purposes" and therefore exempt from Zoning and Building Code regulations.

FARMER: A person or persons actively engaged in farming and deriving taxable income from such activity-or someone who is retired from farming when it relates to the land the farmer formerly farmed

Illinois

Illinois purposes a "farmer" is defined as an individual having an estimated gross income from farming for the taxable year which is at least two-thirds of total estimated gross income for such year, the receipt of nonfarm income may cause a change in status necessitating the payment of quarterly estimates. The adoption of the federal definition of "farmer" would permit an individual who was a farmer in the previous year to continue filing as a farmer even though the receipt of nonfarm income causes farm income to be less than two-thirds of total gross income in the current year.

Federal Department of Labor

TITLE 29--LABOR

CHAPTER V--WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 780--EXEMPTIONS APPLICABLE TO AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS UNDER THE FAIR LABOR STANDARDS ACT--Table of Contents

Subpart B--General Scope of Agriculture

Sec. 780.103 ``Agriculture" as defined by the Act.

Section 3(f) of the Act defines ``agriculture" as follows:

``Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

Sec. 780.104 How modern specialization affects the scope of agriculture.

The effect of modern specialization on agriculture has been discussed by the U.S. Supreme Court as follows:

Whether a particular type of activity is agricultural depends, in large measure, upon the way in which that activity is organized in a particular society. The determination cannot be made in the abstract. In less advanced societies the agricultural function includes many types of activity which, in others, are not agricultural. The fashioning of tools, the provision of fertilizer, the processing of the product, to mention only a few examples, are functions which, in some societies, are performed on the farm by farmers as part of their normal agricultural routine. Economic progress, however, is characterized by a progressive division of labor and separation of function. Tools are made by a tool manufacturer, who specializes in that kind of work and supplies them to the farmer. The compost heap is replaced by factory produced fertilizers. Power is derived from electricity and gasoline rather than supplied by the farmer's mules. Wheat is ground at the mill. In this way functions which are necessary to the total economic process of supplying an agricultural produce become, in the process of economic development and specialization, separate and independent productive functions operated in conjunction with the agricultural function but no longer a part of it. Thus the question as to whether a particular type of activity is agricultural is not determined by the necessity of the

activity to agriculture nor by the physical similarity of the activity to that done by farmers in other situations. The question is whether the activity in the particular case is carried on as part of the agricultural function or is separately organized as an independent productive activity. The farmhand who cares for the farmer's mules or prepares his fertilizer is engaged in agriculture. But the maintenance man in a powerplant and the packer in a fertilizer factory are not employed in agriculture, even if their activity is necessary to farmers and replaces work previously done by farmers. The production of power and the manufacture of fertilizer are independent productive functions, not agriculture (see *Farmers Reservoir Co. v.*

29 CFR 780.614 - Definition of a farmer.

- **Section Number:** 780.614
- **Section Name:** Definition of a farmer.

The Act does not define the term "farmer." Whether an employer is a "farmer" within the meaning of section 13(b)(13) must be determined by consideration of the particular facts, keeping in mind the purpose of the exemption. A full discussion of the meaning of the term "farmer" as used in the Act's definition of agriculture is contained in Secs. 780.130 through 780.133. Generally, as indicated in that discussion, a farmer under the Act is one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop. A corporation or a farmers' cooperative may be a "farmer" if engaged in actual farming of the nature and extent there indicated.

29 CFR 780.613 - "By such farmer."

Section Number: 780.613

Section Name: "By such farmer."

The employee's primary employment in agriculture during the exempt week is also required to be by "such farmer." The phrase "such farmer" refers to the particular farmer by whom the employee is employed in agriculture and who engages in the livestock auction operations as an adjunct to his raising of livestock. Even if an employee may spend more than half of his work time in a workweek in agriculture, he would not be exempt if such employment in agriculture were engaged in for various persons so that less than the primary portion of his workweek was performed in his employment in agriculture by such farmer. For example, an employee may work a 60-hour week and be employed in agriculture for 50 of those hours, of which 20 hours are worked in his employment by the farmer who is engaged in the livestock auction operations, the other 30 being performed for a neighboring farmer. Although this employee was primarily employed in agriculture during the workweek he is not exempt. His primary employment in agriculture was not by the farmer described in section 13(b)(13) as required.

Sec. 780.129 Required relationship of practices to farming operations.

To come within this secondary meaning, a practice must be performed either by a farmer or on a farm. It must also be performed either in connection with the farmer's own farming operations or in connection with farming operations conducted on the farm where the practice is performed. In addition, the practice must be performed "as an incident to or in conjunction with" the farming operations. No matter how closely related it may be to farming operations, a practice performed neither by a farmer nor on a farm is not within the scope of the "secondary" meaning of "agriculture." Thus, employees employed by commission brokers in the typical activities conducted at their establishments, warehouse employees at the typical tobacco warehouses, shop employees of an employer engaged in the business of servicing machinery and equipment for farmers, plant employees of a company dealing in eggs or poultry produced by others, employees of an irrigation company engaged in the general distribution of water to farmers, and other employees similarly situated do not generally come within the secondary meaning of "agriculture." The inclusion of industrial operations is not within the intent of the definition in section 3(f), nor are processes that are more akin to manufacturing than to agriculture (see *Bowie v. Gonzales*, 117 F. 2d 11; *Fleming v. Hawkeye Pearl Button Co.*, 113 F. 2d 52; *Holtville Alfalfa Mills v. Wyatt*, 230 F. 2d 398; *Maneja v. Waiialua*, 349 U.S. 254; *Mitchell v. Budd*, 350 U.S. 473).

Sec. 780.130 Performance ``by a farmer" generally.

Among other things, a practice must be performed by a farmer or on a farm in order to come within the secondary portion of the definition of ``agriculture." No precise lines can be drawn which will serve to delimit the term ``farmer" in all cases. Essentially, however, the term is an occupational title and the employer must be engaged in activities of a type and to the extent that the person ordinarily regarded as a ``farmer" is engaged in order to qualify for the title. If this test is met, it is immaterial for what purpose he engages in farming or whether farming is his sole occupation. Thus, an employer's status as a ``farmer" is not altered by the fact that his only purpose is to obtain products useful to him in a non-farming enterprise which he conducts. For example, an employer engaged in raising nursery stock is a ``farmer" for purposes of section 3(f) even though his purpose is to supply goods for a separate establishment where he engages in the retail distribution of nursery products. The term ``farmer" as used in section 3(f) is not confined to individual persons. Thus an association, a partnership, or a corporation which engages in actual farming operations may be a ``farmer" (see *Mitchell v. Budd*, 350 U.S. 473). This is so even where it operates ``what might be called the agricultural analogue of the modern industrial assembly line" (*Maneja v. Waialua*, 349 U.S. 254).

Sec. 780.131 Operations which constitute one a ``farmer."

Generally, an employer must undertake farming operations of such scope and significance as to constitute a distinct activity, for the purpose of yielding a farm product, in order to be regarded as a ``farmer." It does not necessarily follow, however, that any employer is a ``farmer" simply because he engages in some actual farming operations of the type specified in section 3(f). Thus, one who merely harvests a crop of agricultural commodities is not a ``farmer" although his employees who actually do the harvesting are employed in ``agriculture" in those weeks when exclusively so engaged. As a general rule, a farmer performs his farming operations on land owned, leased, or controlled by him and devoted to his own use. The mere fact, therefore, that an employer harvests a growing crop, even under a partnership agreement pursuant to which he provides credit, advisory or other services, is not generally considered to be sufficient to qualify the employer so engaged as a ``farmer." Such an employer would stand, in packing or handling the product, in the same relationship to the produce as if it were from the fields or groves of an independent grower. One who engaged merely in practices which are incidental to farming is not a

“farmer.” For example, a company which merely prepares for market, sells, and ships flowers and plants grown and cultivated on farms by affiliated corporations is not a “farmer.” The fact that one has suspended actual farming operations during a period in which he performs only practices incidental to his part or prospective farming operations does not, however, preclude him from qualifying as a “farmer.” One otherwise qualified as a farmer does not lose his status as such because he performs farming operations on land which he does not own or control, as in the case of a cattleman using public lands for grazing.

Sec. 780.132 Operations must be performed “by” a farmer.

“Farmer” includes the employees of a farmer. It does not include an employer merely because he employs a farmer or appoints a farmer as his agent to do the actual work. Thus, the stripping of tobacco, i.e., removing leaves from the stalk, by the employees of an independent warehouse is not a practice performed “by a farmer” even though the warehouse acts as agent for the tobacco farmer or employs the farmer in the stripping operations. One who merely performs services or supplies materials for farmers in return for compensation in money or farm products is not a “farmer.” Thus, a person who provides credit and management services to farmers cannot qualify as a “farmer” on that account. Neither can a repairman who repairs and services farm machinery qualify as a “farmer” on that basis. Where crops are grown under contract with a person who provides a market, contributes counsel and advice, make advances and otherwise assists the grower who actually produces the crop, it is the grower and not the person with whom he contracts who is the farmer with respect to that crop (*Mitchell v. Huntsville Nurseries*, 267 F. 2d 286).

North Carolina

OVERVIEW

North Carolina General Statutes (NCGS) 153-A-340 and Section 1-4 of the Guilford County Development Ordinance specifically exempt Bona Fide Farms (farm land and related structures) from zoning and some North Carolina State Building Code (the Building Code) requirements.

The provisions of this Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses, except that any use of farm property for non-farm purposes is subject to the applicable provisions of the Development Ordinance.

CRITERIA

The Guilford County Community Development Department - Zoning Section is charged with enforcement of the Development Ordinance and is responsible for determining if a property qualifies as a Bona Fide Farm. This determination is separate from any designation made by the County Tax Department, Soil and Water Conservation District or other governmental entity.

In order to qualify for the bona fide farm exemption, the land use must meet one of the following three farm classifications:

1. Agricultural Land - to qualify for this class, three requirements must be fulfilled:
 - a. The tract or tracts, one of which must contain at least ten acres, must be part of a farm unit. Contiguous woodland and wasteland may be counted in making up the ten acres for the agricultural classification. A tract of less than ten acres may qualify where federally regulated crops are grown in keeping with designated acreage allotments.
 - b. The land must constitute an agricultural unit actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. An exception to this active management requirements would be a qualified federal soil bank program.
 - c. Over the period of a year, the gross income from the sale of agricultural products produced on the land must have exceeded \$1,000. Boarding animals does not constitute an farm use.
2. Horticultural Land - to qualify for this class, three requirements must be fulfilled:
 - a. The tract or tracts, one of which must contain at least five acres, must be part of a horticultural unit. Even if contiguous, woodland and wasteland may not be counted in making up the ten acres.
 - b. The land must constitute a horticultural unit actively engaged in the commercial production or growing of fruits, vegetables, nursery, or floral products under a sound management program.
 - c. Over the period of a year, the gross income from the sale of horticultural products produced on the land must have exceeded \$1,000.
3. Forest Land - to qualify for this class, only two requirements must be fulfilled:
 - a. The tract or tracts, one of which must contain at least twenty acres, must be part of a forest unit.

- b. The land must constitute a forest unit engaged in the growing of trees under a sound management program. Forest land contiguous to and part of a qualifying agricultural unit comes within the agricultural land class and need not meet the requirements of the forest unit class to obtain an exemption.

These standards closely parallel NCGS 105-277.2 through 277.7 which designate special classes for property for ad valorem taxation purposes. The decision of the Enforcement Officer concerning Bona Fide Farm designations may be appealed to the Guilford County Board of Adjustment.

EXEMPTIONS

NCGS 153A-340 exempts "bona fide" farm operations and farm related structures from county zoning regulations and some North Carolina State Building Code (the Building Code) requirements. Any use of the property for non-farm purposes shall be subject to such regulations. Exemptions include but are not limited to:

1. The number and location of any farm related buildings or structures (i.e. barns, stables, sheds, silos). Such buildings and structures are not required to meet the Building Code Volume I General Construction requirements. If electrical service is planned, an electrical permit is required. Other Volumes of the Building Code may apply, for example Plumbing, Gas, and Mechanical. Buildings and structures used for residential purposes and whose use or occupancy involve the health and safety of the public or can be considered a business shall meet all provisions of the Building Code. Contact the Plans Review section for clarification.
2. The number, location, and type of residential dwelling units for migrant or farm tenant housing. Residential dwelling units not used for migrant or tenant housing are subject to zoning and subdivision regulations. Buildings used for sleeping purposes require a building permit and are subject to the requirements of the Building Codes.
3. The number and location exemption for residential dwellings shall be applied only to the primary farm unit or a tract of land greater than 10 acres.

NON-EXEMPTIONS

The following is a list of uses or activities that can not be classified as a Bona Fide Farm. This list is not inclusive and is subject to additions:

1. The boarding of animals, including horses and dogs.
2. Animal Feeder/Breeder Operation.
3. Wholesale Trade of Agricultural Products, not grown on site.

4. Nothing exempts farm related activities, including dwelling units, from Guilford County Environment Health and other state or federal requirements.

FUNCTIONAL DEFINITIONS

These definitions apply only with respect to Bona Fide Farms.

Animals - Including, but limited to, cattle, hogs, sheep, goats, poultry, fur bearing animals, rabbits, equines, finfish, shell fish, emu, and ostrich. Feral, exotic, dangerous or nondomestic animals are excluded.

Animal Feeder/Breeder - Defined as a Principal Permitted use in the Permitted Use Schedule of the Guilford County Development Ordinance. Any operation required to register as an Animal Feedlot Operation with the North Carolina Division of Environmental Management is defined an Animal Feeder/Breeder. Other operations maybe classified as an Animal Feeder/Breeder based upon the intensity of the use resulting from the number of animals and the nature of the confinement area(s).

Contiguous - For the purposes of this bulletin, contiguous does not necessarily mean abutting or touching. It can mean "near, though not in contact" or "neighboring," so that, for example, woodland or wasteland separated from the rest of an agricultural unit by a road may still be counted as part of that unit.

Farm Unit - Under each of the three classifications of bona fide farm, the potentially qualifying land must constitute a management unit. If lands are managed or worked as a single operation, such lands apparently would qualify as a "farm unit." For the agricultural and horticultural classifications management must be active and continuous. Land meeting forest classifications need not be actively managed.

Primary Farm Unit - A tract greater than 10 acres for Agricultural Land and greater than 5 acres for Horticultural Land that contains the majority of the farm operation as it relates to structures, storage of equipment, and production of crops.

Sound Management Program - This term embraces a program designed to obtain the greatest net return from the land consistent with the particular classification assigned to that land. It means primarily the operation of the land to obtain the greatest net return consistent with its conservation and long-term improvement. The Inspections Director will determine whether the Sound Management test is met.

This bulletin is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official Development Ordinance interpretation in any legal proceedings.

Virginia

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**STATE of VIRGINIA
and
SHENANDOAH COUNTY
LAND USE ASSESSMENT
TAXATION on the BASIS of USE VALUATION**

WHAT IS LAND USE ASSESSMENT ?

In 1971, the Virginia General Assembly enacted a law permitting localities to adopt a program of special assessments for agriculture, horticultural, forest and open space lands (Section 58.1-3299 through 58.1-3244 of the *Code of Virginia*). In 1979, The Board of Supervisors chose to adopt the ordinance based on State Law to conserve acreage that may otherwise be developed.

The purpose of the program is stated as: to encourage the proper use of such real estate in order to assure a readily available source of agricultural, horticultural and forest products and of open spaces; conserve natural resources to prevent erosion and protect adequate and safe water supplies; to preserve scenic natural beauty; to promote proper land-use planning and orderly development of real estate.

When your land qualifies for Land Use Taxation, the parcel receives a lower assessment than the fair market assessment. The difference in tax dollars is not a total abatement, but rather a deferment. Taxpayers owning real estate that meet the qualifications may enter the program under one or more of the following categories: Agricultural Use, Horticultural Use, Forestal Use or Open Space Use.

WHAT ARE THE QUALIFICATIONS FOR SPECIFIC LAND USE CATEGORIES?

QUALIFICATIONS: "AGRICULTURAL & HORTICULTURAL USE CATEGORIES"

Virginia State Code requires a minimum of five (5) contiguous (unimproved or more) acres. One acre is excluded for a house-site (if dwelling exists) or a

proposed house-site. The remaining five acres or more may qualify for Land Use taxation.

AND

The property must have a five (5) year previous history of continuous farming or horticultural activity before qualifying on the sixth year. If land is left vacant for one year or more, the farm history must begin again for five (5) continuous years.

AND

The entire farm must be qualified with adequate livestock: One mature cow, five goats, five sheep, or five swine, one hundred chickens, and/or sixty-six turkeys per every five acres for twelve (12) months. Horses can qualify the land only if they are being used for a breeding or boarding BUSINESS. Horses maintained exclusively for recreational purposes DO NOT qualify the land.

AND

Cropland needs to be qualified on the basis of selling crops or needs to be qualified by adequate livestock.

HORTICULTURAL crops must be produced for commercial use only to qualify for land use taxation.

QUALIFICATIONS: "FORESTAL USE CATEGORIES"

FORESTAL USE category requires twenty (20) contiguous acres unimproved or more exclusively devoted to forestal use with NO LIVESTOCK ACCESS. Forestal acreage with livestock access must be qualified under the AGRICULTURAL USE category. NO stripping or clear cutting is permitted unless working under the guidance of the Department of Forestry. Forestal participants are required to have a forestal commitment agreement. This can be obtained from the Land Use office, or you may consult an independent forester. Value of forestal acreage for land use purposes is obtained by county Land Use Coordinator from a scientifically derived table based on soils and stocking, NOT size, quality, or value of timber.

QUALIFICATIONS: "OPEN SPACE USE CATEGORIES"

This category is for specific types of parks, historical land, and recreational areas only. This category DOES NOT refer to open, unused land. Landowners under this category must have an Open Space Commitment filed with the Clerk of the Court at owner's expense. This Commitment can be obtained from the Land Use office.

HOW DO I APPLY FOR LAND USE ASSESSMENT ?

APPLICATIONS:

By State Law and County Ordinance, applications for Land Use Taxation on NEWLY purchased parcels NOT in land use at time of purchase, must be made by October 1 of the preceding year for which taxation is sought. Application for Land Use Taxation on NEWLY purchased parcels in Land Use at time of purchase, must be made within sixty (60) days of purchase.

If you sell acreage from a tract under Land Use, you must reapply within sixty (60) days of the transaction to put the remaining acreage back in the program.

INCOME TAX DOCUMENTATION:

Those who are in Land Use under AGRICULTURAL USE or HORTICULTURAL USE, must submit copy of Federal 1040 income tax schedule C (business), E (supplementary income - which is mostly applicable to those who lease the land), or F (farm) EACH YEAR while under Land Use taxation.

These forms may be requested to show the five (5) year history of continuous farming prior to being approved for Land Use. If you do not file one of these schedules and wish to be in the Land Use program, you will be required to submit documentation of a "bona fide" farm operation in another manner: feed receipts, fertilizer receipts, receipts from a sale of livestock/crops, etc.

FEES:

Application fee is \$10.00 for contiguous acreage totaling less than fifty (50) acres.

Non

contiguous land is \$10.00 per parcel if each parcel is less than fifty (50) acres.

Land over

fifty acres is \$0.20 per acre.

APPROVAL:

Approval of all applications is made by the Land Use Coordinator or Commissioner of the Revenue based on the use of the parcel, documentation submitted, acreage, etc.. In some instances, you may be requested to submit additional information before an application can be processed. If at any time, should it be determined that the parcel is not continuing to meet the requirements necessary to be taxed under a Land Use Assessment, it will be removed from the program. NO fees will be refunded on parcels removed from the program nor will fees be refunded on applications denied.

DO I NEED TO RE-APPLY EACH YEAR ?

RE-VALIDATION:

Yes, all parcels taxed under a Land Use Assessment MUST be revalidated annually, with no fee.

WHAT IF THE USE OF MY LAND CHANGES ?

CHANGE IN USE:

This is very IMPORTANT!! If you make one or more of the following transactions, you MUST contact this office within sixty (60) days to discuss reapplication, fees, and possible roll-back tax. These changes include:

1. Change the use of the land;

2. Sell acreage;
3. Transfer acreage by deed of gift or receive by will;
4. Re-survey the property boundaries, or vacate property lines
5. Change ownership, buy out an owner, remove/add an owner on the deed, or convey interest;
6. Property was rezoned;
7. Erect a dwelling or trailer

Failure to contact this office within sixty (60) days after recording one or more of the above transactions WILL result in the parcel being disqualified from the Land Use program and taxed at full fair market value.

ROLL-BACK TAXES:

If a landowner under Land Use Taxation makes one of the land use changes listed above, a roll-back tax may incur since the tax dollars saved by being assessed under land use valuation is a DEFERMENT. This roll-back is applied on the deferred amount on the non-qualifying acreage for six (6) years prior with interest and penalty. This roll-back is charged to the taxpayer making the change.

IS THERE ANYTHING ELSE I SHOULD KNOW ABOUT THIS PROGRAM ?

APPLICATION ON REASSESSMENT YEARS:

A new State application must be made for ALL parcels in Land Use on County reassessment years.

REAL ESTATE TAXES:

The taxes on a parcel in Land Use must be paid timely. If taxes become delinquent on a parcel under Land Use Assessment, that parcel will be removed from Land Use taxation and taxed at full fair market value. If the parcel has not been taxed under Land Use, and application has been made on the parcel, taxes must not become delinquent. If taxes are delinquent at the time application is to be processed, the application will not be processed.

YOUR ROLE:

Your role in the Land Use Assessment Program is important. You must "USE" your land according to the State and County prescribed standards and requirements. The land must be involved each year in a "bona fide production".

Oregon

Farm use (ORS 215.203)

Farm use means the current employment of land primarily for obtaining a monetary profit by raising, harvesting, and selling crops; feeding, breeding, managing and selling livestock, poultry, fur-bearing animals, and honeybees; dairying; or any other agricultural or horticultural use. Farm use also includes the preparation, storage, and disposal by marketing or otherwise of

the products or by-products raised on such land for human or animal use. The definition includes land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; land planted in orchards or other perennials prior to maturity; any land constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land classified for farm use; dry or water covered wasteland in or adjacent to land in farm-use; or land under dwellings or buildings supporting farm practices. Farm use also includes the stabling or training of equines (horses, mules, etc.) along with riding lessons and training clinics.

Eligibility for special tax use zoning

To be eligible for preferential farm value assessment under an exclusive farm-use zone, the land must be employed in a farm use as described in ORS 308A.056. For lands located outside an exclusive farm-use zone, the landowner must file an application with the county assessor by April 1 of the first year in which such assessment is desired. Applications for farm use special assessment only apply to non-EFU zones.

Note: refer to the "Property Tax Special Assessment" section of this handbook for more information.

West Virginia

The determination of whether farm land property is to be accorded Farm Use Valuation is made in accordance with West Virginia Legislative Rule 110 C.S.R. 1A, Valuation Of Farmland And Structures Situated Thereon For Ad Valorem Property Tax Purposes. Section 110-1A-2.5.6 of the Rule provides the following definition of "farm."

2.5.6 Farm. -- The term "farm" shall mean a tract or contiguous tracts of land currently being used as part of a farming operation, primarily for farming purposes, whether by the owner thereof, or by a tenant, and which has been so used at least seasonally during the year immediately preceding the then current tax year (unless it qualifies for one of the exceptions in Section 2.6.2.12.c of these of these regulations, but shall not include lands used primarily in commercial purposes: Provided, That the growing of Christmas trees or orchards and nursery stock shall not be deemed to be commercial forestry or the growing of timber for commercial purposes. See W. Va. Code § 11-1a-3(f) and (g) defining "farm" and "farming purposes" and § 11-4-3, defining "farm". For the purposes of this definition, "contiguous tracts" are farmlands which are in close proximity, but

not necessarily adjacent: Provided, That all such contiguous tracts are operated as part of the same farm management plan. (Emphasis added.)

The definition of "farm" requires the property to be used for "farming purposes." That term is defined in Section 110-1A-2.5.9.

2.5.9 Farm Purposes. -- The term "farm purposes" shall mean the utilization of land to produce for sale, consumption or use, any agricultural products, including, but not limited to, livestock, poultry, fruit, vegetables, grains or hays or any of the products derived from any of the foregoing, tobacco, syrups, honey, and any and all horticultural and nursery stock, Christmas trees, all sizes of ornamental trees, sod, seed and any and all similar commodities or products including farm wood lots and the parts of a farm which are lands lying fallow or in timber or in wastelands. See W. Va. Code § 11-1a-3(g).

It appears that the property in question may satisfy the definitional requirements to be qualified as a farm. However, even if the property is determined to be a farm, it must then satisfy the criteria and requirements for Farm Use Valuation which are found in Sections 110-1A-2.6.2 and 110-1A-2.6.3 respectively.

2.6.2 Criteria. -- The following factors shall be indicative of but not conclusive in determining whether lands which appear to be actively devoted to farm or agricultural use are in fact bona fide farms:

2.6.2.1 Present and past use of the land, in particular, the use during the year immediately preceding the then current tax year.

2.6.2.2 Participation in governmental or private agricultural programs such as soil conservation, farmland preservation or federal farm lending agencies.

2.6.2.3 Extent of production for sale of plants, livestock and food for human and animal consumption.

2.6.2.4 Size of the parcel or parcels farmed. In particular, whether such size is economically compatible with the agricultural use to which the land is purportedly devoted. 2.6.2.5 The amount of acreage in crops, pasture and woodland. 2.6.2.6 The amount of livestock or poultry maintained thereon. 2.6.2.7 Whether or not the farmer practices "custom farming" on the land in question. 2.6.2.8 The inventory of farm equipment and the condition thereof. 2.6.2.9 The number, type, utility and condition of farm buildings. 2.6.2.10 The ratio of farm or agricultural use of the land to other uses of the land. 2.6.2.11 The occurrence of multiple sales for nonfarm uses of parcels out of a tract. The marketing of land as evidenced by such sales shall be strong, but not conclusive, evidence that the property is not a bona fide farm.

2.6.2.12 Woodland shall be considered land of a bona fide farm only if:

2.6.2.12.a It is part of or appurtenant to a tract of land which is determined by the assessor to be actively devoted to farm or agricultural use; or

2.6.2.12.b It is contiguous to or operated in common with a tract of land in the same ownership which has been determined by the assessor to be actively devoted to agricultural use, and such woodland is not used primarily in commercial forestry or the growing of timber for commercial purposes or any nonfarm use.

2.6.3 Qualification. -- Qualifying farmland and the structures situated thereon shall be subject to farm use valuation, with primary consideration being given to the income which the property might be expected to earn, in the locality wherein situated, if rented. However, for land to qualify for farm use valuation, all of the following criteria must be met:

2.6.3.1 The property must be classified as a "farm," as defined in Section 2.5 of these regulations.

2.6.3.2 The property must be agricultural land used for "farm purposes," as defined in Section 2.5 of these regulations, at least seasonally during the year immediately preceding the then current tax year, except that property which because of a change in management, natural disaster or other good reason was temporarily out of production, or temporarily operated at less than full production, and did not produce a sufficient crop in the immediately preceding year will nevertheless qualify if it otherwise meets the requirements: Provided, That no individual event shall be considered adequate to allow exemption under this paragraph for more than two (2) consecutive years. See W. Va. Code §§ 11-1a-3(f) and 11-1a-3(g).

2.6.3.3 The property must, in total, comprise not less than five (5) acres of land, except that property comprising less than five (5) acres, which otherwise qualifies, may nevertheless qualify if it meets the income test set forth in Section 2.6.3.4.b, 2.6.3.4.c or 2.6.3.4.d below.

2.6.3.4 Unless excepted under Section 2.6.3.2, the land must be utilized to produce as follows:

2.6.3.4.a **General Rule.** -- The farm must produce for sale, consumption or use agricultural products (as listed in the definition of Farm purposes in Section 2.5 of these regulations) having a fair market value to the producer of at least one thousand dollars (\$1,000), including any government subsidies or payments for farm products which may be given away: or

2.6.3.4.b **Small Farm Rule.** -- If the farm has a total area of less than five (5) acres, then it must produce and sell at least five hundred dollars (\$500.00) worth of agricultural products (as listed in the definition of Farm Purposes in Section 2.5 of these regulations): or

2.6.3.4.c **Biennial Harvests.** -- If the property would qualify for farm use appraisal, except that it produced little or no harvest in the preceding tax year because it is substantially being used to produce a farm produce which does not normally produce a harvest every year, this property shall be classified as farm property even during the years when there is no harvest and required to meet the one thousand dollars (\$1,000.00) minimum production value, or the small farm five hundred dollars (\$500.00) minimum production and sale, only during those years when there is an actual harvest: or

2.6.3.4.d **Pre-production Rule.** -- If the property qualifies for farm use appraisal except for meeting the one thousand dollars (\$1,000.00) annual farm production test, then, if the failure is due to the farm product being in the growing or development stage (which by its very nature requires more than one (1) year to mature) the property is eligible for farm use appraisal: Provided, That

2.6.3.4.d.1 the crop must have been planted (in whole or in part) on or before the July first assessment day for which farm use value is sought; or

2.6.3.4.d.2 the livestock must have been acquired (in whole or in part) on or before the July first assessment day for which farm use value is sought. Additionally, a farm development plan must be attached to the application, outlining by year the plan for development of a productive farm. Within ten (10) years thereafter (including the first year for which farm use value is sought), the value of farm production must reach an annual wholesale value of one thousand dollars (\$1,000.00) or more. Otherwise, farm use value is lost for the next tax year. (Emphasis added.)

2.6.3.5 The annual wholesale [value] of such farm commodities or products must be fifty percent (50%) or more of the annual gross income derived from surface land use of the property. . . .

2.6.4 Disqualifications. -- The following land is not eligible for farm land valuation 2.6.4.1 Land not used at least seasonally during the year immediately preceding the current year for farming purposes, unless it qualifies under Section 2.6.3.2 of these regulations as land temporarily out of production or under Section 2.6.3.4.c as land producing crops which do not produce an annual harvest or under Section 2.6.3.4.d as land being developed to produce agricultural products. 2.6.4.2 Land consisting of a single tract of less than five (5) acres, (or contiguous tract of land, the combined acreage of which is less than five (5) acres) unless it qualifies as a small farm under Section 2.6.3.4.b.

2.6.4.3 Land used primarily in commercial forestry or the growing of timber for commercial purposes except that Christmas trees, ornamental plants and woodland products grown for human consumption are farm products grown not timber or forestry products. 2.6.4.3.a Occasional casual sales of other wood or woodland products in relatively small quantities, or sales of wood or woodland products incidental to, and normal part of, the operation of a farm shall not constitute commercial forestry or the sale of timber for commercial purposes. Such sales may be counted toward the annual determination of the value of farm commodities on products under Section 2.6.3.4 of these regulations. If timber from a portion of a farm is sold for commercial timber, and the proceeds from the sale are greater than the value of agricultural crops produced by the land, the timber area (only) shall be appraised as commercial timberland until and unless it is used for some other purpose or is being converted to farm production uses. **Example** -- Sales by orchardists or Christmas tree growers of trees, logs, limbs, or similar wood products as a result of the clearing of old trees and planting of new trees in accordance with good farming practice, or as a result of periodic pruning or trimming or removal of damaged or deceased trees is incidental to, and a normal part of, the operation of orchards, and shall not constitute commercial forestry or the sale of timber for commercial purposes. 2.6.4.4 Land owned by a corporation that is not primarily engaged in the business of farming. In the event that the controlling stock interest in such corporation is owned by another corporation, that corporation owning the controlling interest must also be primarily engaged in the business of farming. 2.6.4.5 Property contained in a managed timberland application (110 C.S.R. 1H, 15). 2.6.5 **Method.** -- Real property that is used primarily for farming purposes under these regulations shall be valued by giving primary consideration to the fair and reasonable income which the property might be expected to earn in the locality, where situated, if rented. To accomplish this valuation the following procedures shall be employed.

2.6.5.1 Rental information on a cash or share basis for pasture, tillable and wood lot land shall be collected and verified by the Tax Commissioner, or assessors in each county. Provided, That where rental information is not available or is deemed insufficient by the assessor in any given locale the rental information from similar neighboring locales, may be considered in order to determine the rent attributable to each classified acre of farmland. If that information is also deemed by the Commissioner to be insufficient, he may use the best rental information available to him. 2.6.5.2 Rental rates shall be established annually by the Assessors after a review of identifiable, willing seller-willing buyer arms-length farmland leases that have occurred in the State of West Virginia during the eight (8) years (W. Va. Code § 11-1A-3) prior to the appraisal date and through review of any other appropriate information. The review

2.6.6 Valuation. 2.6.6.1 **Farmland.** -- Farmland shall be classified based upon its actual farm use in the categories illustrated in Appendix 1. Rental amounts by class shall be assigned to each class of land on a per acre basis. The per acre rental value shall be capitalized to yield an appraised value per acre. The appraisal value per acre thus determined shall be multiplied by the number of farm surface acres to yield the appraised value of farmland. This value shall be the farm use value as required by W. Va. Code § 11-1A-10. 2.6.6.2 **Farm Buildings.** -- Rental value of farm buildings and other improvements on the farmland, shall be valued by determining the replacement cost of the building or structure by usual farm construction practices, and farm labor standards and subtracting therefrom depreciation. Both of these determinations shall be made in accordance with the Tax's Department's real property appraisal manual as filed in the State Register in accordance with Chapter 29A of the Code of West Virginia, 1931, as amended, and as it relates to agricultural buildings and structures. One (1) acre of land shall be assigned to all

buildings as a unit situate on the property, regardless of the actual acreage occupied by such buildings and shall be appraised at its farm-use valuation based on the highest class of farm land present on the farm.

. . .

2.6.3.4.c Biennial Harvests. -- If the property would qualify for farm use appraisal, except that it produced little or no harvest in the preceding tax year because it is substantially being used to produce a farm produce which does not normally produce a harvest every year, this property shall be classified as farm property even during the years when there is no harvest and required to meet the one thousand dollars (\$1,000.00) minimum production value, or the small farm five hundred dollars (\$500.00) minimum production and sale, only during those years when there is an actual harvest: or

2.6.3.4.d Pre-production Rule. -- If the property qualifies for farm use appraisal except for meeting the one thousand dollars (\$1,000.00) annual farm production test, then, if the failure is due to the farm product being in the growing or development stage (which by its very nature requires more than one (1) year to mature) the property is eligible for farm use appraisal: Provided, That

2.6.3.4.d.1 the crop must have been planted (in whole or in part) on or before the July first assessment day for which farm use value is sought; or

2.6.3.3 The property must, in total, comprise not less than five (5) acres of land, except that property comprising less than five (5) acres, which otherwise qualifies, may nevertheless qualify if it meets the income test set forth in Section 2.6.3.4.b, 2.6.3.4.c or 2.6.3.4.d below.

2.6.3.4 Unless excepted under Section 2.6.3.2, the land must be utilized to produce as follows:

2.6.3.4.a General Rule. -- The farm must produce for sale, consumption or use agricultural products (as listed in the definition of Farm purposes in Section 2.5 of these regulations) having a fair market value to the producer of at least one thousand dollars (\$1,000), including any government subsidies or payments for farm products which may be given away: or

2.6.3.4.b Small Farm Rule. -- If the farm has a total area of less than five (5) acres, then it must produce and sell at least five hundred dollars (\$500.00) worth of agricultural products (as listed in the definition of Farm Purposes in Section 2.5 of these regulations):

2.6.2.12 Woodland shall be considered land of a bona fide farm only if:

2.6.2.12.a It is part of or appurtenant to a tract of land which is determined by the assessor to be actively devoted to farm or agricultural use; or

2.6.2.12.b It is contiguous to or operated in common with a tract of land in the same ownership which has been determined by the assessor to be actively devoted to agricultural use, and such woodland is not used primarily in commercial forestry or the growing of timber for commercial purposes or any nonfarm use.

2.6.3 Qualification. -- Qualifying farmland and the structures situated thereon shall be subject to farm use valuation, with primary consideration being given to the income which the property might be expected to earn, in the locality wherein situated, if rented. However, for land to qualify for farm use valuation, all of the following criteria must be met:

2.6.2.1 Present and past use of the land, in particular, the use during the year immediately preceding the then current tax year.

2.6.2.2 Participation in governmental or private agricultural programs such as soil conservation, farmland preservation or federal farm lending agencies.

2.6.2.3 Extent of production for sale of plants, livestock and food for human and animal consumption.