

CHAPTER 10

DESIGNATION OF AGRICULTURAL AND NON-AGRICULTURAL LANDS FOR
PROPERTY TAXATION

Section 1. Authority.

These rules are promulgated under authority of W.S. 39-11-102(b).

Section 2. Purpose.

These rules are intended to describe the methods and procedures to be used for designating land as either agricultural or non-agricultural.

Section 3. Definitions.

For the purposes of these rules, the definitions set forth in Wyoming Statutes Title 39, as amended, are incorporated by reference. In addition, the following definitions shall apply:

- (a.) "Agricultural land" means contiguous or noncontiguous parcels of land presently being used and employed for the primary purpose of providing gross revenue from agricultural or horticultural use or any combination thereof unless part of a platted subdivision. Individual parcels of thirty five (35) acres or more within a subdivision may be considered for agricultural classification pursuant to W.S. 39-13-103 (b)(x)(B)(II). Agricultural land shall generally include land that is actively farmed, ranched or is used to raise timber for timber products (firewood will not be considered a timber product for agricultural classification purposes) to obtain a fair rate of return.
 - (i.) "Agricultural" means cultivation of the soil, the production of forage or crops, production of timber products; or the rearing, feeding, or management of livestock in domestic or captive environments consistent with the land's capability to produce.
 - (ii.) "Primary purpose of obtaining a monetary incentive" means during the year preceding the assessment year the owner of non-leased land has derived annual gross revenues of not less than five hundred dollars (\$500.00) from the marketing of agricultural products from the agricultural operation that includes the subject land and for leased land, the lessee has derived annual gross revenues of not less than one thousand dollars (\$1,000.00) from marketing of agricultural products when conducted consistent with the lands capability to produce.
 - (A.) Classification for a production year shall not be affected:
 - (1.) by independent intervening causes of production failure or non-productive use beyond the control of the owner or lessee; or
 - (2.) when the producer causes a marketing delay for economic advantage.
 - (3.) by participation in a bona fide conservation program, in which case proof by an affidavit showing qualification in a previous year shall suffice; or
 - (4.) when the producer has planted a crop that will not yield an income in the tax year; or
 - (B.) The assessor shall also consider that certain activities which appear to be agricultural in nature do not by themselves qualify land for agricultural

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assessment. The activity, by itself, either does not raise the expectation of monetary incentive consistent with the capability of the land to produce or occurs after the agricultural product has been raised and harvested.

- (1.) Activities on land which occur after the crop is harvested or animal has been raised do not qualify land for agricultural assessment. A storage activity by a non-producer does not qualify property for agricultural assessment. Processing activities, whether or not by a producer, such as pasteurizing and bottling milk, cheese making, honey candy manufacturing or slaughtering, dressing and packing meat do not qualify land for agricultural assessment.
 - a. In general, processing begins with those activities typically carried out at the first level of trade beyond production, which activities enhance the value of primary agricultural products. Milling grain, pasteurizing milk, packaging vegetables and milling timber constitute processing. Packaging products for transport to either the wholesale or retail markets does not constitute processing, but packaging them for sale does. The test is whether the packaging used for transport is suitable packaging for retail sale. Storage within the wholesale trade constitutes processing, as would slaughter of livestock. The producer's interim storage or slaughter prior to sale to a wholesaler or other middleman is not processing.
 - b. For silage, while the final product is different from the product as initially stored, the process shall still be considered a primary production activity.
 - (2.) Grazing on land by any animal kept as a hobby will not be considered agricultural unless accompanied by other agricultural activities, which would produce a monetary incentive and are consistent with the land's capability to produce.
 - (3.) Harvesting firewood, shrubs or seeds that grow wild on the land will not qualify land as agricultural unless accompanied by other agricultural activities, which would produce a monetary incentive and are consistent with the land's capability to produce.
 - (4.) The activity of hunting or harvesting game animals or birds will not qualify land as agricultural unless accompanied by other agricultural activities which would produce a monetary incentive and are consistent with the land's capability to produce.
- (b.) "Platted Subdivision" means for the purpose of Chapter 13 of Title 39, the creation of a lot, parcel, or other unit of land; or division of a lot, parcel, or other unit of land into one or more parts that has received approval from the governing body in whose jurisdiction the property resides at the time of creation and is recorded in the records of the county clerk.
- (c.) "Non-agricultural lands" shall include but not be limited to lands as described in the State of Wyoming market valuation of Residential, Commercial and Industrial Lands as published by the Department of Revenue, Ad Valorem Tax Division:

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- (i.) Lands classified within neighborhood boundaries as residential, commercial, industrial or rural, whether vacant or improved;
 - (ii.) Lands in active transition from agricultural use to residential, commercial or industrial use, which includes creation or division of a tract, parcel or other unit of land for the purpose of sale or development for such use.
 - (iii.) Farmsteads with lands occupied by buildings which constitute the home site including one or more acres (as determined by the County Assessor) of land used in direct connection with the home site;
 - (iv.) Condominium complexes with proportionate interests in ownership of the land;
 - (v.) Commercial land used for retail stores and shops, commercial parking, high-rise structures, shopping centers, offices, apartment houses, warehouses, commercial feed lots, dude ranch facilities, and other commercial or income purposes;
 - (vi.) Land or land and improvements altered to accommodate industrial uses for assembling, processing or manufacturing a product or in providing a service;
 - (vii.) Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops, timber or to graze livestock.
 - (viii.) Resort or recreational lands, including dude ranch facilities, summer homes or mountain cabins; and
 - (ix.) Parcels of land thirty five (35) acres or less unless the landowner provides proof that such land should otherwise be classified as agricultural land.
 - (x.) Land zoned for purposes, which exclude agricultural uses
- (d.) “Primarily” means chiefly or the first importance.

Section 4. Designation and Valuation of Non-agricultural Lands.

In determining the fair market value for tax purposes of non-agricultural lands as defined in these Rules, the appraiser shall use the methods outlined in Chapter 9, section 6 of these Rules.

Section 5. Prescribed Sworn Affidavit

The following form is prescribed as the sworn affidavit for use by all county assessors pursuant to Wyoming Statute 39-13-103(b)(x)(A). The sworn affidavit shall be available in the county assessor's office upon request. Any producer wishing to receive agricultural classification of his/her land shall provide the prescribed sworn affidavit, as well as supporting documentation, to the county assessor.