

QUALIFICATION REQUIREMENTS

(Reference: Manual of the State Land Evaluation and Advisory Council)

AGRICULTURAL/FORESTAL DISTRICT

Requirements: Land which falls under an agricultural/forestal district must comply with the Land Use requirements to have land use values applied. *"Land used in agricultural and forestal production within an agricultural and forestal district shall qualify for an agriculture/forest value assessment if the requirements for such assessment are satisfied". "Agricultural/forestal districts created qualifies for land use valuation and taxation if such agriculture/forest land satisfies the requirements of the Land Use Act".* (See Attorney General Opinion below).

Benefit: Agricultural/forestal districts can provide land use values in localities which have not adopted the Land Use Ordinance. *...it is my opinion that a locality may implement the AFDA without regard to whether the same locality has adopted the Land Use Act".* (See Attorney General Opinion below).

ATTORNEY GENERAL OPINION: 1/3/78 (Can forest and agriculture districts qualify for land use? Yes, if the requirements for land use are satisfied).

AGRICULTURE

ATTORNEY GENERAL OPINION: 5/23/83 (Will sludge storage, which is used for fertilizer, qualify? No).

**Minimum
Acreage:**

A minimum of 5 acres in production is required (excluding home site). *"...real estate devoted solely to agricultural use consists of a minimum of five acres..."*. (See 58-1.3233).

➔ Exception:

Only contiguous parcels may have less than the 5 acre minimum for that parcel. See Continuous Property listed above under APPLICATIONS.

○ There is no allowance in the State Code or SLEAC Manual for agriculture acreage less than 5 acres to qualify as a piggy back to forest use.

○ There is an allowance in the SLEAC Manual for forest acreage under 20 acres to qualify if incidental to farm operations. (See SLEAC Manual 19-1-A-11 or User Manual, Forest).

ATTORNEY GENERAL OPINION: 9/12/72 (Can a locality adopt a larger minimum acreage requirement? No).

Federal

Compensation: Land qualifies if the property owner is receiving payments or compensation from participating in an agriculture program with the "federal government" regardless of its use. *"...devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government".* (See 58.1-3230).

➔ Only federal programs - not state or local programs.

**Recreational
Activities:**

Land qualifying under the Standards of Classification can permit a recreational use provided it does not change the character of the qualifying use. "Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner". (See 58.1-3230).

**Five Year
History:**

Must have a consecutive five year history. "...real estate sought to be qualified must have been devoted, for at least five consecutive years previous,". (See SLEAC Manual 18-1-A).

- ➔ This would include the most "recent" five years.

Exceptions:

- ⊙ Converted from a qualifying stand of timber. "If a tract of real estate is converted from a qualifying use (forestry or open space) to agricultural or horticultural production, the tract may qualify without the five-year history of agricultural or horticultural use". (See SLEAC Manual 1-C-2).
- ⊙ If expanding a current operation owned by the applicant, regardless of location. "If a tract of real estate is converted from other uses or a non-production to agricultural or horticultural production, the tract may qualify without a five year history when the change expands or replaces production enterprises existing on other tracts of real estate owned by the applicant, regardless of location".
 - * Owned by the applicant shall mean same owner, regardless of whether other operation is owned by additional individuals.
 - * This includes operations conducted outside of your locality, "regardless of location".

Sales

Verification:

Verification for sale of crop should be submitted to establish a bona fide commercial production. "...the applicant to certify that the real estate is devoted to the bona fide production for sale of agricultural products... may find one of the following documents useful ...". See SLEAC Manual 20-3-A.

- ➔ Sales receipts "gross sales averaging more than \$1,000 annually over the previous three years".
- ➔ Federal Income Tax Form: Schedule F (Farm Expenses and Income).
- ➔ FSA (Farm Service Agency) farm and tract number. The detailed acreage report provides listing by field number providing acreage and crop grown in each field. Also aerial photos are often available.

Idle

Property:

1997 Report of the Attorney General, dated 12/2/97, referencing property which sat idle for a few months while changing farmers. "the property remained IDLE during the lapse between tenants and was not used for a more intensive purpose". Conclusion - "the property in question has remained IDLE..., it is my opinion that rollback tax liability would not attach". The fact that production still occurred on the property on the remaining months of the year kept this tract qualifying. Production yields were still met. Obviously, property which sits idle for a much longer period of time, would have difficulty meeting the necessary requirements such as crop yield, land management and production for sale to keep it qualified. (See below)

ATTORNEY GENERAL OPINION: 12/2/97 (References property left idle for a short period of time).

Land

Management: To qualify, land must be used in a planned program of soil management and soil conservation practices. (See SLEAC Manual 19-2-A). Land must be used in a planned program of management and production of field crops, livestock, etc., or horticultural products for sale. (See SLEAC Manual 19-2-B).

Field Crops:

Use: Crops used for the owner's personal consumption or use; or the lessee's personal consumption or use does NOT qualify for the Special Assessment Program. "... real estate sought to be qualified ... production of field crops or horticultural products FOR SALE of plants and animals useful to man". (See SLEAC Manual 18-1-A).

The land must be devoted to a bona fide production for sale of products. "... the real is devoted to the bona fide production for sale of agricultural and horticultural products ... and timber products". (See SLEAC Manual 20-3-A).

- ⊖ Example: 20 acres of land is leased to grow hay. Simply leasing the property does not justify a qualifying use. To qualify for land use taxation, the lessee must sell the hay or provide as feed to livestock which in turn are sold for the public benefit.

Yields: Crop yield for each crop must be at least half of the county average on each crop during the immediate three years. "...the average crop yield per acre on each crop grown on the real estate during the immediate three years previous, shall be equal to at least one-half of the county average for the past three years".

- ⊖ Exception: The local government may reduce the requirements when low crop yield is due to unusual circumstances. "...the local government may prescribe lesser requirements when unusual circumstances prevail and such requirements are not realistic". (See SLEAC Manual 19-B).

Livestock:

Use: Livestock used for the owner's personal consumption or use; or the lessee's personal consumption or use does not qualify for the Special Assessment Program. "... real estate sought to be qualified ... production of livestock FOR SALE of plants and animals useful to man". (See SLEAC Manual 18-1-A).

The land must be devoted to a bona fide production for sale of products. "... the real is devoted to the bona fide production for sale of agricultural and horticultural products ... and timber products". (See SLEAC Manual 20-3-A).

Livestock shall be primarily for commercial sale. "Livestock...production shall be primarily for commercial sale of livestock...".

- ⊖ Personal use is allowed in minimal proportion. A commercial operation should be the basis of the agriculture activity.

Animal

Units: Livestock shall have a minimum of twelve animal unit-months per five acres in the previous year.

- ⊖ One animal unit to be one cow, one horse, five sheep, five swine, one hundred chickens, sixty-six turkeys, or one hundred other fowl. An animal unit month means one mature cow or the equivalent on five acres of land for one month times twelve months. (See SLEAC Manual 19-2-B).

LETTER FROM THE ATTORNEY GENERAL: 6/20/96 (If pleasure horses and qualifying livestock graze the same pasture land, does it qualify for land use? Yes, as long as there is a sufficient number of cattle for sale to keep it qualified).

Horses:

This section is not as clearly defined and requires decisions to be made once familiar with the actual use of the horses and property. The references below were taken from opinions by Paxton Marshall, a former SLEAC staff member.

- ➔ **Horses owned and used for personal use, do not qualify.** *"Horses maintained for the owner's personal use only do not qualify under the standards. When horses are the only animals kept on property, they must qualify under Section 3-B. of the Standards for Classification of Real Estate Devoted to Agricultural Use. (Production of livestock, Livestock Products).*
- ➔ **Horses must be kept for commercial purposes.** *"Horses owned and used for recreational purposes meet the standards for agricultural classifications if the horses are maintained for breeding purposes or the services of the horses such as riding academies, etc., are sold)".*
 - ⊖ Examples: boarding, breeding purposes, riding academies, sale of manure and training.
- ➔ **Horses, which are infrequently bought and sold, must be other reasons for commercial use in order to qualify.** *(such as thoroughbreds or miniature horses). "Where horses are infrequently bought and sold, there must be other reasons for commercial use of the horses in order to qualify. If the primary operation is for boarding horses owned by someone else, being paid for board and/or training appears to make it a commercial operation. Also, riding lessons that are paid for appears to be a commercial operation. If riding lessons are only incidental to other uses, it would NOT appear to be a commercial operation. Also, a combination of any of the above including selling manure may be considered commercial if total payment received from such operation more than covers the cost of keeping the animals".*