

**AGRICULTURAL LAND CLASSIFICATION
INFORMATION PACKET**

Dear Taxpayer:

This packet provides general information concerning the necessary land use requirements and state regulations for “agricultural” land classification for property assessment purposes. Colorado Revised Statutes (C.R.S.) and Colorado Division of Property Taxation (DPT) regulations set forth specific requirements that the assessor is required to follow when determining agricultural land classification. Please complete and return the included questionnaire to be used in determining the correct classification of your parcel.

This packet is not an all-encompassing document and the ultimate determination of property classification rests with the assessor. Colorado law does not give presumption in favor of agricultural classification. The property owner must demonstrate a qualifying agricultural use in order for the assessor to grant agricultural classification.

It is the goal of this office to assure that all property in Delta County is properly classified. We appreciate your cooperation in this effort. Please feel free to contact our office if you have questions.

Sincerely,



Jolene George
Delta County Assessor



AGRICULTURAL LAND CLASSIFICATION POLICY & PROCEDURE

Proper classification of each parcel of land must take place prior to valuation. The assessor must evaluate all facts and circumstances for each case when making the decision of whether land qualifies as agricultural land within the meaning of the Colorado statutes.

Resolution of borderline cases depends on physical inspection, knowledge of pertinent appellate and Supreme Court cases, and the use of sound judgment.

STATUTORY CRITERIA

- I. Zoning [§ 39-1-102(1.6)(I), C.R.S.]
 - A. Whether located in an incorporated or unincorporated area and regardless of the uses for which the land is zoned.
 1. In town, or out of town
 2. In a subdivision or not
 3. Zoning does not matter
- II. Current use [§ 39-1-102(1.6(a)(I), C.R.S.)]
 - A. Used the previous two years, and
 - B. Presently being used as a farm or ranch
 1. Agricultural classification requires actual use as a farm or ranch during a three-year period.
 2. Property beginning the agricultural use must wait until the third year to receive the classification. (except for decreed water right)
- III. Farm [§ 39-1-102(3.5), C.R.S.]
 - A. Produces agricultural products
 - B. Products must be grown in the ground (not in pots)
 - C. Primary purpose of growing products is to obtain monetary profit.
 1. A full cycle of agricultural farming activity includes planting, growing, harvesting and selling product.
- IV. Ranch [§ 39-1-102(13.5), C.R.S.]
 - A. Grazes livestock
 - B. Use of the grazing livestock is to obtain monetary profit.
 1. Two-prong test: 1) animals must graze 2) the use of the animals must be to derive a profit.
- V. Livestock [§ 39-1-102(13.5), C.R.S.]
 - A. Domestic animals: The determination of whether animals are domestic is important to the understanding of the definition of grazing livestock. The Division of Property Taxation developed suggested criteria when classifying animals as domestic:
 1. The animals can be bought and sold. A bill of sale is typically provided when transferring ownership of the animal.
 2. Veterinary and other services are provided for the health of the animals.
 3. The animals are not the property of the State of Colorado. All wildlife

- (undomesticated animals) are the property of the state and permission is required of the state to own and confine species which are typically found in the wild.
4. The animals are confined to the property and shelter may be provided.
 5. The animals can be approached by man with undue alarm and accustomed to the presence of man.
 6. The animals are intended to serve man in some capacity as food for animal or human consumption, for draft, or for breeding for resale and are being managed for the benefit of man.
 7. The animals are identifiable by brands, tags, or tattoos.
 8. Use of the livestock [§ 39-1-102(13.5), C.R.S.]
 - a) Food for human or animal consumption
 - b) Breeding
 - c) Draft, or
 - d) Profit

Satisfying the majority of the above criteria provides a strong case for defining animals as domestic animal. However, undue emphasis should not be placed on any one criterion when determining whether animals meet the definition of livestock. The livestock must graze the land as part of the ranch definition.

The land owner need not own the livestock to qualify as a ranch. The owner of the livestock must be engaged in an agricultural endeavor from the raising of livestock.

Animals which are not used for these purposes do not meet the definition of a ranch, regardless of whether or not the land owner makes a profit from the grazing of such animals.

EXAMPLE: A landowner who leases his land for the grazing and boarding of pleasure horses owns land that does not qualify as a ranch. Since they are not being bred or sold for profit, the horses are not livestock for the primary purpose of obtaining a monetary profit under the statutory definition. Land leased to the owner of horses being raised for breeding or sale would qualify as a ranch assuming the rest of the statutory conditions were met.

EXAMPLE: Trespass grazing without the approval of the land owner or livestock wandering onto neighboring land, does not meet the statutory requirement for agricultural status. There must be some evidence in the form of a contractual agreement to lease the land for the primary purpose of either the lessor or lessee to obtain a monetary profit by grazing livestock in order for the land to qualify as agricultural.

VI. Conservation [§ 39-1-102(1.6)(a)(I),C.R.S]

The consideration of land being restored through conservation, yet retaining an agricultural classification is only relevant to land currently classified agricultural. In other words, an agricultural classification would never be given to land claiming conservation but not already classified as agricultural. Various types of conservation include:

- A. Letting land lie fallow
- B. Restricting grazing to reestablish grass growth
- C. Tillage of soil to allow for retention, rather than runoff, of water and soil
- D. Retirement of cropland via replanting of native grasses
- E. Planting wind breaks to prevent soil erosion
- F. Government programs such as the CRP
- G. Statutory requirement

The owner/operator claiming that the land is being restored through conservation practices must be able to establish the type of conservation program or plan approved by an appropriate conservation district as if the land has been placed in a CRP. Supporting documentation of the type of conservation must be provided by the taxpayer.

Conservation practices are not to be confused with conservation easements.

VII. Continuity [§ 39-1-102(1.6)(a)(I), C.R.S.]

- A. The land must continue to have agricultural use.
- B. The use must not be interrupted. Failure of a parcel to meet the agricultural land definition for one year is the required basis for reclassifying agricultural property.

For information on conservation easements, forest land, and decreed water rights as they pertain to agricultural land classification please contact the assessor's office.

TAXPAYER DOCUMENTATION

The following includes documentation that the assessor can reasonably request, along with the agricultural land classification questionnaire. However, failure of the taxpayer to supply information requested cannot be the sole reason for denying the agricultural classification.

1. IRS Form 1040F (or equivalent)
2. Leases from the property owner to a lessee that grazes livestock or grows agricultural products on the lessor's land. *In some instances, the assessor may also require affidavits signed by the lessee under penalty of perjury that states the exact nature of agricultural endeavor engaged in on the lessor's property as well as the fiduciary relationship between the lessor and lessee—especially in cases where a lease is unwritten or terms of the lease are ambiguous.*
3. Receipts for services rendered and items purchased relevant to the agricultural operation
4. Brand inspection certificates
5. Enrollment documents from Federal Agricultural programs
6. Ownership of irrigation water shares
7. Sales invoices of Agricultural products or livestock



AGRICULTURAL LAND CLASSIFICATION QUESTIONNAIRE

Dear Respondent,

Please read the definitions prior to the completion of the form. The assessor's office is implementing a confirmation program which is designed to correctly classify all agricultural property in the county. The program will gather pertinent information through physical inspections, agricultural committees, county extension agents, agricultural industry representatives, and responses to questionnaires. To ensure that your property is correctly classified, please provide the following information.

Agricultural land in Colorado is valued by the income approach based on the earning capability of the land (**See definitions on the reverse side**).¹ If your land is no longer used agriculturally it will be valued based on the applicable approaches to value that will reflect a current market value. In order to make an informed decision on the proper classification, all information will be analyzed. The classification of your property will not be based solely on the information you supply on this questionnaire.

Parcel number - Legal description: _____

Total Acres: _____

Physical location (address): _____

1. What percentage of the property is used as a:
Ranch: _____
Farm: _____
Other (explain): _____
2. If the land is being used as a farm, what crops are being cultivated? _____
A) Number of acres planted. _____
B) Number of acres harvested. _____
3. If the land is being used as a ranch, what livestock are being grazed? _____
A) Do the livestock belong to the land owner? _____
B) If not, who owns the livestock? _____
C) What is the number of livestock grazed, and for what period of time? _____
4. If your land is used by another party in an agricultural endeavor, by what arrangements or conditions is the land being used? _____
5. If the parcel contains a residence, does the occupant of the residence regularly participate in the agricultural endeavor?

6. If not, is the occupant related to anyone regularly participating in the agricultural endeavor? If yes, how so?

To assure that the land is currently being used in an agricultural endeavor, additional information supporting the use may be attached to this form and submitted to our office. The following information may be considered in determining the current agricultural use **and will be treated as confidential**.

*Copy of lease agreement or a receipt of lease payment
*1040F or equivalent form from IRS return
*Sales invoices of agricultural products or livestock

*Account balance sheets
*Brand inspection certificates
*Profit/loss or financial statements

¹ See agricultural land definition on back.

Print Name: _____

Signature: _____ Date: _____



USE OF FORM: This form is designed specifically for the use of classifying parcels of land wherein the class of land is unknown, questionable, or in contention. The assessor may conduct a physical inspection of the parcel of land in conjunction with the use of this form. Please provide as much written documentation to support your classification and aid in the determination and classification of the parcel.

DEFINITIONS:

"Agricultural land" means a parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsection (3.5) and (13.5) of this section, or that is in the process of being restored through conservation practices. Such land must have been classified or eligible for classification as "agricultural land", consistent with this subsection (1.6), during the ten years preceding the year of assessment. Such land must continue to have actual agricultural use. "Agricultural land" under this subparagraph (I) shall not include two acres or less of land on which a residential improvement is located unless the improvement is integral to an agricultural operation conducted on such land. "Agricultural land" also includes the land underlying other improvements if such improvements are an integral part of the farm or ranch and if such other improvements and the land area dedicated to such other improvements are typically used as an ancillary part of the operation. The use of a portion of such land for hunting, fishing, or other wildlife purposes, for monetary profit or otherwise, shall not affect the classification of agricultural land. § 39-1-102(1.6)(a)(I)(A), C.R.S.

"Integral to an agricultural operation" means for purposes of subparagraph (A) of this subparagraph (I) if an individual occupying the residential improvement either regularly conducts, supervises, or administers material aspects of the agricultural operation or is the spouse, or a parent, grandparent, sibling, or child of the individual. § 39-1-102(1.6)(a)(I)(B), C.R.S.

"Farm" means a parcel of land which is used to produce agricultural products that originate from the land's productivity for the primary purpose of obtaining a monetary profit. §39-1-102(3.5), C.R.S.

"Ranch" means a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit. For the purpose of this subsection (13.5), "livestock" means domestic animals which are used for food for human or animal consumption, breeding, draft, or profit. § 39-1-102(13.5), C.R.S.

"Actual value determined - when" Once any property is classified for property tax purposes, it shall remain so classified until such time as its actual use changes or the assessor discovers that the classification is erroneous. The property owner shall endeavor to comply with the reasonable requests of the assessor to supply information which cannot be ascertained independently but which is necessary to determine actual use and properly classify the property when the assessor has evidence that there has been a change in the use of the property. Failure to supply such information shall not be the sole reason for reclassifying the property. Any such request for such information shall be accompanied by a notice that states that failure on the part of the property owner to supply such information will not be used as the sole reason for reclassifying the property in question. § 39-1-103(5)(c), C.R.S.

Instructions: If you have any questions or require assistance in completing this form, please contact the Delta County Assessor's Office at 970-874-2120.

The legal description and the total number of acres and property address will be provided by the assessor. If there is a difference, please explain.

1. Indicate what percentage of the property is being used for farming, ranching or any other type of use.
2. Indicate what crops are being planted, grown, and harvested.
3. Indicate the type, ownership, and number of livestock being grazed on the ranch.
4. Explain the type of agreement between the owner of the property and the operator of the farm or ranch.

