

Wildlife Management Use is one subset of the 1-D-1 Open Space\Agricultural Use valuation category of the Texas Tax Code. Under 1-D-1, land designated for, and used primarily for, agricultural purposes can be valued at a rate lower than other land classifications (such as commercial or industrial). Under 1-D-1, a special tax rate is established and applies to ventures such as livestock production, farmland, grassland cover crops, timber production, wildlife management, and even occasionally federally-backed program where the land is set aside for recovery (to allow cover to develop to reduce erosion or to promote improved water quality in streams and rivers).

WMU is achieved by setting forth, in a plan, reasonable activities that will improve the habitat for wildlife on the property, when the property is conducive to promoting wildlife populations. For example, the Club may select coastal shorebirds as a suite of species to benefit and be approved, but a management plan targeting pronghorn antelope would not be approved. On the Texas Gulf Coast, the obvious choice for habitat improvement is for migratory birds, shorebirds, and waterfowl. The Texas Gulf Coast has one of the busiest migratory bird flyways of anywhere in North America. The Club is situated in an way that you can protect the shoreline through the management of the bulkhead, you can promote cover for birds through landscaping, you can provide supplemental food to birds through feeders (songbirds, hummingbirds, neotropical migrants, etc), and one of the most important activities is to conduct surveys (censuses). By counting what passes through, and knowing which species are present, your management decisions moving forward can be tailored to have the most direct benefit at the most appropriate times of the year. You can also better defend your actions if you can show that your activity is set to directly benefit a species that is documented to use the area. Within the Management Plan, there are seven categories. Each year, you must complete one activity in three different categories. Supplemental feed and censuses are the two most common activities I see implemented, followed by habitat management through brush control and establishment and supplemental watering.

WMU does not necessarily set restrictions on the use of the land, although remaining compliant through the tax code may mean that you adjust some aspects of management and use. Since WMU through the tax office is not a program that offers you funding for projects, or a contract to conduct yourself in a particular manner, there is no penalty for operating outside the parameters of the tax code except your eligibility to remain under 1-D-1 WMU status. Obtaining a status as a nature preserve or sanctuary is quite difficult. That process requires a large entity to provide financial backing and amendments to titles\deeds in the form of restrictions. These processes are lengthy and would be initiated by the Board, not by a county tax appraiser's office. Several years ago, I worked with a landowner near Bayside who wanted to acquire a designation for a wildlife and bird sanctuary. The land was rural, secluded, limited access, and fairly large, but the paperwork was a nightmare and finding an organization to provide the legal and financial backing to achieve the designation was nearly impossible. It has been a while, and I do not believe the designation has ever been finalized.

The land remains the private property of the owners. If you were able to legally conduct an activity before this designation, you can legally continue to do that activity. As for vehicle

access, if you can operate a vehicle on the beach now, then you may continue to do so. WMU through the Tax Code does not allow you to modify any laws or statute governing the beach. With the concern regarding nesting birds on the property, you have the same restrictions whether you are under WMU or not. Nests may be removed during their construction phase, but once eggs appear, the nest must be left alone until the young leave the nest. I receive many calls from apartment complexes every year regarding this exact concern. The law applies across the board.

Just because the Club may be pursuing a Wildlife Management Use classification from the county tax appraisal district does not mean that you cannot work to promote that wildlife you enjoy, while deterring that wildlife you do not like. Additionally, there is no inspection process or mandatory survey that would allow Texas Parks & Wildlife or U.S. Fish & Wildlife to enter the property and declare some sanctuary or limited-use designation without first approaching you for access. Endangered species, generally, are only protected as individuals and only a few carry any habitat protection on private lands. The presence of an endangered species, especially in the case of birds, does not change how you may use your property. There is a law against the harassment of wildlife, but that applies to whooping cranes as well as racoons. If an animal is bothering you or threatening your property, you may deter it or encourage it to leave. If an animal is tending a nest and someone repeatedly causes the adults to vacate the nest, then that is harassment of wildlife and law enforcement may intervene. There is a distinct difference between harassing wildlife and disturbing wildlife. Simply walking along the beach or hosting a gathering that may cause wildlife to disperse is not harassment. If you have a particular duck, goose, or other bird that may have taken up residence, trying to make that bird leave by using a paintball gun, horn, or other direct, repeated activity would be harassment. If you have a goose that develops a behavior of attacking a person that is taking the trash out, then you may work to change that behavior or deter that animal because it represents a threat to personal safety, especially if children are nearby or are targeted.

Ranchers, wildlife managers, and farmers will tell you, though, that with an improved habitat for a group of species, comes the introduction of nuisance wildlife. Wildlife managers despise feral hogs for the damage they can do to roads, ponds, water troughs, and the loss of feed provided for other species. Farmers despise just about any wildlife that will utilize their crops as bedding areas and buffets, causing an economic loss to their enterprise. Urban wildlife managers see an influx of nuisance animals as well. Most commonly, I receive calls about the mud nests that common house sparrows and European starlings build in corners of porches, balconies, walkways, and patios. The accumulation of droppings under these nests becomes a real eyesore for many. Property owners do have a course of action to repel or prevent these birds from nesting in undesirable locations. If the nest is “under construction,” owners can remove the nest, encouraging the birds to nest where they are not bothered. Once the nest is complete, the females will lay their eggs, and owners must not disturb an active nest until the young can fly away from the nest. As a preventative measure, you can install flashing, spike strips, or other impedances to their construction.

The other common “nuisance” I receive calls about is bats. Bats are a valuable tool for insect control, but few people want to live around an animal that has such a negative connotation

and tie to disease (rabies). Rabies in bats is exceedingly uncommon. While always a possibility, the chances of being impacted by a rabies-positive bat is far, far less than being impacted by other dangerous wildlife (like startling a racoon by a trash can, or encountering jellyfish, stingrays, or sharks in the bays).

The implementation of the Wildlife Management Plan as developed for tax purposes lies with the property owners. You may contract through an environmental management\consulting firm to have them assist and direct you on how to conduct certain aspects of the plan, or even have them complete the activities at your direction, but ultimately the Board, in this case, will need to know how to act to remain compliant under the tax code. You may seek out NGOs or non-profits for guidance – my thoughts immediately go to the Coast Bend Bays & Estuaries Program and the local Master Naturalists and Audubon Society. In the case of coastal bird management, they are a well-educated group that may express great interest in working with an organization interested in quality habitat management. I can assist if you have directed questions, as in the case of this letter, but setting up reminders or designing and suggesting projects on a regular basis is not something that I can commit to when it could affect the Club's financial or legal well-being.

Your members may be interested in reviewing a blank Wildlife Management Plan to see what activities may be implemented. That form can be found on TPWD's website. From the Home Page, follow the "Land" link to "Forms and Publications." Under "Forms," PWD-885 is the state-wide template for Ag Use Wildlife Management Plans. Members can then see the flexibility and variety of projects that can be used to meet the tax burden. Additionally, more information can be found under "Land – Private Lands" by following the link for "Agricultural Tax Appraisal." The FAQs and "Rules and Standards" covers a wide range of topics that some members may be more interested in but were not addressed here. Many of the documents on that page may be of interest to the Club for future review and continuity of knowledge. You may also opt to share the contents of the WMP as developed for the Club so that members can understand the direction and projects that may become necessary for the Club.

WMU through the Tax Code is not meant as a burden to landowners. This additional land use category was fought for across many legislative sessions. Upon its passage, Texas became a trend-setter for other states in recognizing the importance of sustaining and improving wildlife habitats in a time of expanding urban sprawl and the fragmentation of large ranches (that fragmentation leading to a decline in livestock production as small acreages became unable to sustain an economically-viable livestock venture). The value of reducing the tax burden on these lands ensured that the lands would be held in a more wild state and would retain the historic culture and generational ties to agri-business by opening an avenue (wildlife management) that before was only a hobby or side-venture.

I understand that groups working together in management of a property will always have concerns and questions. I generally work with hunting camps and have to settle disagreements regularly. If, within the Club, there are questions or concerns, please funnel them through the Board and send them my way. I can provide written guidance when appropriate or can make a visit to see first-hand what concerns may need to be addressed. In the time of COVID, TPWD is

working to follow the CDC and TxSHS guidelines for appropriate interactions and meetings, so we may have to limit any in-person meetings to small groups, socially-distanced with masks, but I do not believe that would come as a surprise to anyone.

I hope my comments have been helpful in clarifying 1-D-1 WMU and your options for wildlife management as a property owner\manager. Please do not hesitate to seek clarification if needed.

Thank you.

A handwritten signature in blue ink, appearing to read "Dustin Windsor". The signature is stylized with a large, sweeping flourish at the end.

Dustin Windsor

Texas Parks & Wildlife Department

Natural Resource Specialist: Nueces, San
Patricio, Aransas, Jim Wells, & Duval
Counties