



Yuma County, Arizona
DEPARTMENT OF DEVELOPMENT SERVICES

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MEMORANDUM

TO: Interpretation and Procedure Files

FROM: Paul Melcher, Planning Director *PM*

SUBJECT: Guidelines for the Determination of Grazing or General Agricultural Purpose Exemption as per A.R.S. §11-830 and Article III, Section 306.02 of the Yuma County Zoning Ordinance (September 25, 2006).

DATE: February 28, 2008

EFFECTIVE DATE: March 3, 2008

The purpose of this memorandum is to provide an updated determination of what constitutes an eligible *grazing or general agricultural purpose* exemption as per A.R.S. §11-830 and its subsequent identification within Article III, Section 306.02 of the September 25, 2006 version (as amended), of the Yuma County Zoning Ordinance. This interpretation supersedes the interpretation of December 27, 2005 for the determination of Agricultural Exemption.

The Yuma County Department of Development Services recognizes the statutory protections and definitions for agriculture contained in but not limited to A.R.S. §11-830, §42-12152, §11-865, §23-603 and §3-111 as well as various Superior and Appellate Court rulings--particularly the court's opinion in *Braden Trust v. The County of Yuma*, 205 Ariz. 272 (2003)--when making determinations of agricultural exemption.

When combined with the definitions and provisions of the Yuma County Zoning Ordinance, these individual components create an extensive framework wherein the Planning Director can make consistent *grazing or general agricultural purpose* exemption determinations, and, as a result, create a baseline condition for identifying an existing *general agricultural purpose*.

In *County of Kendall v. Aurora Nat'l Bank Trust No. 1107*, 524 N.E. 2d 262 (Ill. App. 1988) the court acknowledged that the agricultural use exemption from county regulation should not "be manipulated and twisted into a protection for virtually any use of the land as long as some agricultural activity [is] maintained on the property". In effect, one can assume with reasonable certainty that while the Courts recognize the explicit and implicit statutory protections afforded agriculture in general, such exemptions are not intended to undermine the integrity of a county's planning documents, zoning regulations, or other pertinent development regulations.

As a final note, *grazing or general agricultural purpose* exemptions expire upon the determination of the Planning Director that the subject property's use no longer supports an existing general agricultural purpose.

Grazing or General Agricultural Purpose Exemption Criteria

Key Terms:

- 1) ***Agriculture*** means all activities by the owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products. (Yuma County Zoning Ordinance Section 202.00)
- 2) ***Agricultural Commodity*** means any commodity defined as an agricultural commodity in section 15(g) of the agricultural marketing act, as amended (46 Stat. 1550, sec. 3; 12 U.S.C. 1141j), or in connection with the ginning of cotton or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes. [ARS §23-603 (A)(4)]
- 3) ***Agricultural Labor*** means in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm. [ARS §23-603 (A)(3)]
- 4) ***Agricultural Land—Taxation*** means property eligible for this classification according to the requirements detailed in ARS §42-12152.
- 5) ***Agricultural Operations*** means all activities by the owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products. (ARS §3-111)
- 6) ***Commercial Acre*** means a tract 36,000 square feet in size exclusive of streets, easements, and other non-developable square footage.
- 7) ***Farm*** means stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for raising agricultural or horticultural commodities and orchards. [ARS §23-603 (B)]
- 8) ***Farmland*** means land devoted primarily to the production for commercial purposes of livestock or agricultural commodities. (ARS §3-111)
- 9) ***Incidental*** is generally defined as “subordinate to something of greater importance; having a minor role.” [Black’s Law Dictionary 765 (8th Edition 1999)]
- 10) ***Incidental Construction or Operation to Farming or Agriculture*** means functions that are tangentially related to the principal activity of the farm. [Braden Trust v. Yuma County 205Ariz. 272 (2003)]

Not every term listed above is used in the following Grazing or General Agricultural Purpose Exemption *General Requirements*. However, the terms themselves are important in establishing the global concept of *general agricultural purpose* and might be used in discussions or further written *grazing or general agricultural purpose* interpretations.

General Requirements for Exemption:

- 1) Property must be at least five contiguous commercial acres in size.
- 2) Yuma County Tax Assessor shall have classified the subject property "Agricultural Land".
- 3) Property must support an existing general agricultural purpose, which is defined as the production of livestock or a definable agricultural commodity, custom farming services, and the storage of equipment related to agricultural production or operations.
- 4) Any person applying for a certificate of exemption shall submit site plans and other supporting documentation as is required to show evidence of an existing general agricultural use.

Other Factors for Consideration

Incidental uses are those uses subordinate to the agricultural activity of the farm. Any person applying for a certificate of exemption where an incidental use is involved is required to show evidence of the use's relationship to the farm activity.