

**ORDINANCE ESTABLISHING
REGULATIONS TO DETERMINE CRITERIA
FOR AGRICULTURAL CLASSIFICATION OF LAND
ORDINANCE NO: 2004-**

WHEREAS, N.M.S.A. 1978, Section 7-36-20 requires the County Assessor of each County to determine the value of land used primarily for agricultural purposes on the basis of the land's capacity to produce agricultural products land; and

WHEREAS the Department of Taxation and Revenue (Department) has issued 3.6.5.27 N.M.A.C. Special Method of Valuation, land used primarily for agricultural purposes, pursuant to N.M.S.A. 1978, Section 7-36-20C and D, and

WHEREAS, the Board of Commissioners of Colfax County, New Mexico and the Assessor of Colfax County desire to establish additional criteria to be used in making a determination that land is being used primarily for agricultural purposes; and

WHEREAS, the Board of Commissioners of Colfax County, New Mexico and the Assessor of Colfax County held public hearings to receive comments and suggestions concerning the proposed criteria from the members of the Board of Commissioners of Colfax County, New Mexico and the Assessor of Colfax County and members of the public; and

WHEREAS, the Colfax County Commissioners have participated in the hearings described above and reviewed the evidence submitted concerning the special method of valuation of agricultural lands at such hearings and the Department's existing regulations concerning the special method of valuation of agricultural lands and have further considered their experience in the administration of County Government and factors concerning the specific needs and conditions of Colfax County, and have given due weight to the decisions of the New Mexico Supreme Court and New Mexico Court of Appeals related to the special method of valuation of agricultural lands, and on the basis of such considerations agreed upon the form and content of these regulations; and

WHEREAS if any section, subsection, paragraph, sentence, clause, phrase, provision, or part or portion of any section, subsection, paragraph, sentence, clause, phrase or provision of this ordinance is, for any reason, held to be unconstitutional, invalid, or void, the remaining portions shall not be affected, since it is the express intent of the Board of

Commissioners of Colfax County, New Mexico to pass each section, subsection, paragraph, sentence, clause, phrase or provision and every part hereof separately and independently of every other part.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. LARGE TRACTS:

For purposes of making determinations concerning the agricultural classification of land that is used primarily for agricultural purposes, pursuant to N.M.S.A. 1978, Section 7-36-20, the Colfax County Assessor shall consider tracts of land that are in excess of fifty (50) acres in size to be large tracts.

2. LARGE TRACT CRITERIA:

If the owner of record of a large tract of property, which is grazing land, has stocked such tract or a portion of such tract with livestock in accordance with the land's carrying capacity as described in the regulations promulgated by the New Mexico Taxation and Revenue Department and such livestock are carried upon the tax rolls of Colfax County, then and in such event the Colfax County Assessor shall determine that the portion of such property that is thus stocked with livestock is used primarily for agriculture within the meaning of N.M.S.A. 1978, Section 7-36-20. If the livestock grazing upon such large tract are not owned by the owner of the real estate, the Colfax County Assessor shall consider whether the owner of the real estate has a written grazing lease for such property.

3. SMALL TRACT CRITERIA:

If the owner of record of a small tract of property, that is to say a tract that is fifty (50) acres or less and is grazing land, shall request agricultural classification for such tract or if the Colfax County Assessor shall make a determination concerning whether such land is used primarily for agriculture within the meaning of N.M.S.A. 1978, Section 7-36-20, the Colfax County Assessor shall consider the following criteria in making such determination:

- A: Whether any bona fide agricultural use is presently conducted on the property, which is the primary use conducted thereon.
- B. Whether the tract has been divided, without regard to whether such division was made pursuant to an exemption from the Colfax County Subdivision Regulations, an approval of a Summary Subdivision Plat, an approval of a Final Subdivision Plat, or an illegal subdivision;
- C. Whether the tract or any portion of the tract is for sale;
- D. Whether the tract or a portion of such tract is stocked with livestock in accordance with the land's carrying capacity as described in the regulations promulgated by the New Mexico Taxation and Revenue Department;
- E. Whether livestock stocked upon such small tract are being carried upon the tax rolls of Colfax County;
- G. Whether the owner of such small tract has filed a Schedule F as part of the owner's federal income tax return which shows income from agricultural production upon such tract; and
- H. Whether the owner has a written grazing lease for such property.
- I. Whether the owner of the small tract is conducting other non-agricultural uses upon such tract or portions of such tract.

4. PARTIAL TRACTS:

The Colfax County Assessor may determine that only a portion of either a large tract or small tract as described herein is being used primarily for agriculture and is entitled to the agricultural classification, pursuant to N.M.S.A. 1978, Section 7-36-20.

5. SEVERABILITY:

Nothing set forth herein is intended to conflict with the case law of the appellate courts of the State of New Mexico, the New Mexico Property Tax Code, Articles 35 through 38 of Chapter 7 NMSA 1978, or the regulations promulgated by the New Mexico Taxation and Revenue Department, and all of the provisions of this ordinance should be interpreted and construed to be consistent with such laws and regulations; provided, however, in the event that any of the provisions of this ordinance should ever be held by a court of competent jurisdiction to conflict with the laws or regulations of the State of New Mexico or to be invalid for any reason, then the remaining provisions of this ordinance shall remain in full force and effect.

NOW, THEREFORE, by virtue of the power vested in us as duly elected members of the Board of County Commissioners of Colfax County, New Mexico, under the Laws of the State of New Mexico, we do hereby approve, ratify, adopt and promulgate these regulations as "Criteria to Determine Agricultural Classification of Land in Colfax County, New Mexico" and authorize and direct the Colfax County Clerk to file, record and publish such regulations as required by law.

DONE in open meeting this 8th. day of June, 2004.

BOARD OF COMMISSIONERS
OF COLFAX COUNTY, NEW MEXICO

Roy E. Ackerman
Roy E. Ackerman, Chairman

Charles B. Gonzales
Charles B. Gonzales, Vice Chairman

James B. Marchietti
James B. Marchietti, Commissioner

ATTEST:

Barbara Castillo

BARBARA CASTILLO, CLERK OF THE BOARD

