

CHAPTER 7 VOLUNTARY FARMLAND PRESERVATION ORDINANCE

(Adopted 6/7/2004)

ARTICLE I TITLE

An ordinance of the Board of County Commissioners of Rockingham County, North Carolina, entitled, "**VOLUNTARY FARMLAND PRESERVATION ORDINANCE.**"

ARTICLE II AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-744 and Chapter 153A.

ARTICLE III PURPOSE

The purpose of this ordinance is to promote agricultural values and the general welfare of the county and more specifically, to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE IV AGRICULTURAL ADVISORY BOARD

- A. Creation and Membership. The Board of Commissioners hereby establishes a Rockingham County Agricultural Advisory Board consisting of three to seven members appointed by the Board of Commissioners to implement the provisions of this ordinance.
- B. Membership Requirements.
1. Each Advisory Board member shall be a Rockingham County resident, at least eighteen years of age, and an owner of qualifying farmland in the county.
 2. Each Agricultural Area as described in Article VI shall have a representative on the Advisory Board.
 3. At least fifty-one percent of the Advisory Board members shall be actively engaged in farming.
 4. The Advisory Board members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Rockingham County Farm Bureau, Soil and Water Conservation District/Natural Resources Conservation Service, or the Cooperative Extension Service with an effort to have the broadest geographical representation possible.
- C. Tenure. Members shall serve terms of three years, except that initial board members may serve staggered terms of one, two or three years and members appointed to fill vacancies shall be appointed for the remainder of the unexpired term. After the initial appointment, members may serve a maximum of two consecutive terms after which the member must be off the board for at least one year before being eligible for re-appointment.
- D. Removal. Members of the Advisory Board serve at the pleasure of the Board of Commissioners.
- E. Funding. The Board of Commissioners may fix the per diem compensation, if any, of the members of the Advisory Board and may appropriate funds to the Advisory Board to perform its duties.

F. Advisory Board Procedure:

1. Chairperson. The Advisory Board shall elect a chairperson at its first meeting each fiscal year to preside over all regular or special meetings of the Advisory Board and may elect additional officers as needed.
2. Rules of Procedure. The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.
3. Advisory Board Year. The Advisory Board shall use the Rockingham County fiscal year (which is currently July 1 through June 30th) as its meeting year.
4. Meetings. Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by the effected Advisory Board member.
5. Majority Vote. The concurring vote of a majority of the members of the Advisory Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this ordinance.
6. Records. The Advisory Board shall keep minutes of the proceedings showing the vote of each member and shall keep records of its examinations and other official actions which shall be filed in the Office of the Advisory Board.
7. Administrative. The Advisory Board may contract with the Soil and Water Conservation District Office or other appropriate County agency for record keeping, correspondence, application procedures or for other services the Board needs to complete its duties.

G. Duties. The Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
2. Conduct public hearings specifically permitted or required under this ordinance;
3. Advise the Board of Commissioners (at least annually) on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
4. Review and make recommendations concerning proposed amendments to this ordinance and/or draft a countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) (1) for presentation to the Board of Commissioners;
5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

ARTICLE V CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

- A. Implementation. In order to implement the purposes stated in Article III, voluntary agricultural districts may be created that meet the following standards:

1. Each District, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation: 5 acres for horticulture use, 10 acres for agriculture use, or 20 acres for forestry use. When considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.
 2. The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with the requirements of this ordinance in a form approved by the Advisory Board.
 3. Once a qualifying tract is registered and accepted into the program it shall be designated as an agricultural district and identified as lying within one or more of the following Agricultural Areas:
 - a. Area 1- consisting of the townships of Williamsburg, Reidsville, and Simpsonville.
 - b. Area 2- consisting of the townships of Ruffin, Wentworth, and New Bethel.
 - c. Area 3- consisting of the townships of Leaksville, Price, Mayo, Madison, and Huntsville.
- B. Education. The county may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.
- C. Withdrawal of farmland from existing district. In the event one or more participants in a District withdraws and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm in that district.

ARTICLE VI PUBLIC NOTICE

Upon approval of a District, appropriate maps shall be updated so that a person wishing to ascertain the proximity of a particular tract to a District may do so. Such maps shall contain a notice as follows: "Rockingham County has established Agricultural Districts to protect and preserve agricultural, silvicultural, horticultural and livestock lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery, tractor, truck operations, livestock operations, sawing, and similar activities may take place in these districts." Agricultural District maps shall be maintained in the offices of the Rockingham County Planning Department with copies or access being available for the convenience of the public in other county offices such as the Register of Deeds Office, Soil Conservation District Office, and Cooperative Extension Office as recommended by the Agricultural Advisory Board and approved by the Rockingham County Commissioners.

ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND

- A. Requirements. In order for farmland in Rockingham County to qualify for participation under the terms of this program, it shall meet the following requirements:
1. The farm property is participating or is eligible to participate in the farm present-use-value taxation program;

2. The property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:
 - a. Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops, including Christmas trees and ornamentals;
 - b. Have good soil qualities;
 - c. Are favorable for all major crops common to the county where the land is located;
 - d. Have a favorable growing season; and
 - e. Receive the available moisture needed to produce high yields for an average of eight out of ten years.
3. As an alternate to requirement 2 above, at least two-thirds of the property has been actively used in agricultural (which includes the commercial production or growing of crops, plants or animals under a sound management program), horticultural or forestry operations as defined by N.C.G.S. §105-277.2 (1), (2) and (3) during each of the five years immediately previous to the date application is made;
4. The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and
5. The property is the subject of a conservation agreement, as defined in N.C.G.S. §121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning, subdivision and development regulations. The property owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article VIII.

ARTICLE VIII APPLICATION, APPROVAL AND APPEAL PROCEDURE

A. Application Procedure:

1. A landowner may apply to participate in the program by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board and accompanied by documentation to establish eligibility as required by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
2. A conservation agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within ninety days to approve or disapprove the application. The chairperson or designated staff person shall notify the applicant by first class mail of approval or disapproval of participation in the district within two weeks of the Advisory Board's determination.

2. Upon receipt of an application, the chairperson or designated staff person will forward copies immediately to the following offices which shall have a period of twenty days to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. The Rockingham County tax assessor; and
 - b. The Rockingham County Soil and Water Conservation District office; and,
 - c. The Natural Resources Conservation Service.
- C. Appeal. If the Advisory Board denies an application, the petitioner shall have thirty days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke a Preservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article X for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a voluntary agricultural district.

ARTICLE X PUBLIC HEARINGS

- A. Purpose. To implement N.C.G.S. §106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a district until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.
- B. Procedure.
 1. Within thirty days of receipt of a request to hold a public hearing on a proposed condemnation, the Advisory Board shall hold a public hearing and submit its findings and recommendations to the condemning agency.
 2. The Advisory Board shall meet to review:
 - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the district within which the proposed action is to take place.
 3. The Advisory Board may consult with the Rockingham County Farm Bureau, the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
 4. Pursuant to N.C.G.S. §106-740, the condemning agency may not formally initiate a condemnation action during the period of time, not to exceed thirty days, while the proposed condemnation is properly before the Advisory Board.

ARTICLE XI NOTIFICATION

- A. Public Notice. Upon approval of a district, appropriate maps shall be updated within a reasonable time so that a person wishing to ascertain the proximity of a particular tract to a district may do so.
- B. Signs. The Advisory Board may cause signs to be placed along public roadways to notify the public of the presence or proximity of a district.
- C. Limit of Liability. In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
- D. No Cause of Action. In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

ARTICLE XII DESIGNATION OF DISTRICTS ON DEVELOPMENT PLANS

Developers of major subdivisions or planned unit developments shall designate on preliminary and final development plans and plats, the existence of farmland preservation districts within one aerial mile of the boundaries of the proposed development.

ARTICLE XIII WAIVER OF WATER AND SEWER ASSESSMENTS

- A. No Assessment. A landowner belonging to the District shall not be assessed for or be required to connect to Rockingham County water and/or sewer systems.
- B. Abeyance. Water and sewer assessments shall be held in abeyance, without interest, for farms inside a district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
- C. Termination of Abeyance. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
- D. Suspension of Statute of Limitations. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
- E. Other Statutory Abeyance Procedures. Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. §153A-201, or other applicable law.
- F. Conflict with Water and/or Sewer System Construction and Improvements Grants. To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

ARTICLE XIV CONSULTATION AUTHORITY

The Advisory Board may consult with the Rockingham County Farm Bureau, North Carolina Cooperative Extension Service, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

ARTICLE XV NC AGENCY NOTIFICATION AND ANNUAL REPORT

A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services after adoption. At least annually, the Advisory Board shall submit a written report to the Board of Commissioners for forwarding to the North Carolina Commissioner of Agriculture on the county's agricultural district program, including the following information: number of landowners enrolled; number of acres enrolled; number of acres certified during the reporting period; number of acres denied during the reporting period; number of acres for which applications are pending; copies of any amendments to the ordinance; and any other information the Advisory Board deems useful.