

4.13 - VOLUNTARY AGRICULTURAL DISTRICT PROGRAM

Commentary: The Voluntary Agricultural District is not an overlay zoning district, and is not implemented in the same way as a zoning district would be.

4.13.1. Authority

The standards and provisions of this Voluntary Agricultural District Program are established pursuant to the authority conferred by G.S. §§ 106-735—106-743 and Chapter 153A.

4.13.2. Purpose

The purpose of this Program is to promote the health, safety, rural agricultural values, and general welfare of the county, and more specifically, increase identity and pride in the agricultural community, its way of life, and its importance in preserving the agrarian heritage of the county; encourage the economic and financial health of farming; increase protection from undesirable, non-farm development; and increase the protection of farms from nuisance suits anti other negative impacts on properly managed farms.

4.13.3. Initial Participation is Voluntary

Nothing contained within this Section shall require a landowner to initiate participation in the Program. Upon participation in the Program, compliance with the requirements of this Section shall be required to maintain status.

4.13.4. Implementation of Program

In order to implement the purposes stated in above, this Program provides for the creation of Voluntary Agricultural Districts (VADs) as follows:

A. Application

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. The application to participate in a VAD may be filed concurrent with the certification for qualifying farmland (see Section 4.13.7).
2. The Advisory Board shall meet within ninety (90) days of receipt of a complete application to render a decision on the application.

B. Fees

Applicants wishing to implement (Section 4.13.4), expand (Section 4.13.5), or withdraw (4.13.6) from a VAD shall pay any administrative fees required for the action. A schedule of the required fees shall be available from the Cooperative Extension.

C. Criteria for Qualification

A VAD, when initially established, shall contain a minimum of ten (10) contiguous acres of qualified farmland; or two (2) or more qualified farms which contain a minimum of ten (10) acres in total and are located within a mile of each other.

D. Review and Recommendation

Upon receipt of an application, the chairperson shall forward copies immediately to the following offices for review and comment. Comments, if any, shall be returned to the Advisory Board at least one week prior to the date set for the Advisory Board action on the application.

1. The Brunswick County Tax Assessor;
2. Brunswick County Planning Department;
3. The Brunswick Soil and Water Conservation District office; and
4. The Natural Resources Conservation Service.

E. Final Action

Within ninety (90) days of receipt of the application, the Advisory Board shall vote on the application in conformance with Section 2.5.1.C.

F. Notification of Decision

The chairperson shall notify the applicant of the Board's decision by first class mail.

G. Preservation Agreement

The landowner(s) requesting inclusion in a VAD shall execute a Preservation Agreement with the County to sustain agriculture in the VAD in accordance with this Program. The Agreement shall be in a form which is reviewed and approved by the Agricultural Advisory Board (See Section 2.5).

H. Appointment of New Advisory Board Members

The following agencies shall appoint a member from each newly created VAD to represent the District on the Agricultural Advisory Board.

1. Farm Bureau;
2. Cooperative Extension;
3. Soil and Water Conservation District;
4. Farm Service; and
5. One at-large appointed by Agriculture Board.

I. Appeal of Advisory Board Decision

If an application is denied by the Advisory Board, the applicant shall have thirty (30) days to appeal the decision to the Board of County Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners shall be final.

(Ord. No. UDO-10-04, § 1, 9-7-10)

4.13.5. Expansion of Program

The Agricultural Advisory Board may decrease or increase the number of Voluntary Agricultural Districts as set forth above in "Implementation," above.

4.13.6. Withdrawal from Program

A. By the Owner

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke a Preservation Agreement.

B. By the Agricultural Advisory Board

The Advisory Board may revoke the Agreement based on noncompliance by the landowner.

C. Effect on Lands No Longer Included in a VAD

1. Revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in the Program.
2. Revocation by a landowner of an Agreement shall in no way affect the eligibility of the land to be taxed at its present use value as provided in G.S. §§ 105-277.2—105-277.6.

D. Effect on Lands Remaining in an VAD

In the event that one or more participants in a VAD withdraw and the remaining acreage becomes less than ten (10) acres or results in the remaining land being noncontiguous, the VAD will continue to exist so long as there is one qualifying farm located within the District.

4.13.7. Renewal

Conservation Agreements shall be deemed automatically renewed for an additional term of ten (10) years, unless either the Advisory Board or the landowner gives written notice prior to the termination date.

(Ord. No. UDO-10-04, § 1, 9-7-10)

4.13.8. Certification and Qualification of Farmland

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- A. The farmland shall be real property consisting of at least three (3) acres and not located in a planned development (Major Subdivisions, Planned Unit Developments (PUD), and Planned Groups of Structures) unless the development was originally designed and approved to accommodate agricultural uses and documented on the preliminary plan, site plan, and/or associated plats;
- B. The property must be engaged in agriculture and defined as a Bona Fide Farm per Article 12 (Definitions) of the Brunswick County Unified Development Ordinance;
- C. The property must be managed, if highly erodible land exists on the property, in accordance with the Natural Resources Conservation Service of the United States Department of Agriculture defined erosion-control practices that address highly erodible land.
- D. The property is the subject of a Preservation Agreement, as defined in 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 (10) years, except for the creation of not more than three (3) lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this Preservation Agreement by submitting a written request to the Advisory Board in accordance with Section 4.13.6.
- E. The property must be located in the unincorporated area of Brunswick County, unless there is an agreement in place with a municipality where the county is authorized to exercise the authority of the municipality on its behalf.

(Ord. No. UDO-10-04, § 1, 9-7-10; Ord. No. UDO-12-01, § 5, 4-2-12; Ord. No. UDO-13-01, § 1, 4-1-13)

4.13.9. Record Notice of Proximity to a VAD

- A. Procedure

When Brunswick County computerizes its County Land Records System, the following requirements outlined in this subsection shall be implemented and enforced upon certification of qualifying farmland and designation of real property as an VAD District, the title to that qualifying farmland and real property within a VAD which is contained in the Brunswick County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half (½) aerial mile of a VAD District.

Commentary: With the automation of the Land Records System, research on any tract within ½ aerial mile of an APD should alert a person of the proximity of the District to the tract being reviewed.

B. 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.

C. 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 VAD as defined in this Ordinance.

4.13.10. Education

The County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to promote the purposes and objectives of this Program and encourage the formation of VADs including the implementation of a public information program to reasonably inform landowners of the Program.

4.13.11. Abeyance of Water and Sewer Assessments

A. Purpose

The purpose of this section is to help mitigate the financial impacts on farmers by some local and State capital investments unused by such farmers.

B. Assessment and Abeyance

1. Landowners belonging to voluntary agricultural districts shall not be assessed for, or required to connect to, water and/or sewer systems. Water and sewer assessments shall be held in abeyance, without interest, for farms inside a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. Assessment procedures followed under 0.5. [G.S.] §§ 153A-185 et seq. shall conform to the terms of this article with respect to qualifying farms that entered into preservation agreements while such article was in effect.

C. Termination of Abeyance

When the period of abeyance ends, the assessment shall be payable in accordance with the term set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations dependent upon the operation of County ordinances 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 G.S. § 153A-201.

F. Conflict with Water and/or Sewer System Construction and Improvement 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.

4.13.12. Advertisement of an Voluntary Agricultural District

The Advisory Board, in cooperation with the County, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons adjoining any designated VAD with a goal of informing all current and potential residents and property owners in and adjoining the District, that farming and agricultural activities may take place in this VAD any time during the day or night.

A. Signage

Signs identifying an approved VAD shall be placed by the farmer upon the farmowner's property and outside of the NCDOT right of way.

B. Maps

Maps identifying approved VADs shall be provided to the following:

1. North Carolina Cooperative Extension Service;
2. Brunswick County Planning Department;
3. Natural Resources Conservation Service;
4. Soil and Water Conservation District;
5. Brunswick County Tax Department;
6. Register of Deeds; and
7. Any other such agency or office the Advisory Board deems appropriate.

C. Public Notice

The following notice provided by the Advisory Board shall be displayed in a prominent position in the office of the Register of Deeds and the public access area in the Brunswick County Tax Department:

NOTICE TO REAL ESTATE PURCHASERS IN BRUNSWICK COUNTY
BRUNSWICK COUNTY VOLUNTARY AGRICULTURAL DISTRICT PROGRAM
Brunswick County has established the Voluntary Agricultural District to protect and preserve agricultural lands and activities within the County.

Voluntary Agricultural Districts have been developed and mapped to inform all purchasers of real property that agricultural activities, including but not limited to: pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, controlled burning, and similar activities may take place in these Districts any time during the day or night.

For more information, contact the North Carolina Cooperative Extension Service.

(910) 253-2610
P.O. Box 429

D. Unified Development Ordinance Review

Developers of Major Subdivision or Planned Unit Development shall designate on the preliminary development plan(s) and final plat(s), the existence of VAD Districts within a one-half (½) mile radius of the proposed development.

(Ord. No. UDO-10-04, § 1, 9-7-10)

4.13.13. Consultation Authority

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the Natural Resources Conservation Service, 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.

4.13.14. North Carolina Agency Notification

An official copy of this Program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year, the County shall submit a written report to the North Carolina Commissioner of Agriculture and Consumer Services including the status, progress and activities of the County's Voluntary Agricultural District Program to include but not limited to:

- A. Number of landowners enrolled;
- B. Number of acres for which applications have been made;
- C. Number of acres certified;
- D. Number of acres denied;
- E. Date acres certified

4.13.15. Condemnation of Qualifying Farmland within a VAD

Pursuant to G.S. § 106-740, no public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a VAD until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed action. The procedures for such hearings shall be as set forth below.

A. Schedule Public Hearing

Upon receipt of a request for a public hearing, the Advisory Board shall have thirty (30) days after receiving a request under this article to hold a public hearing and submit its findings and

recommendations to the agency that proposed the condemnation. No formal initiation of condemnation may be initiated while the proposed condemnation is properly before the Advisory Board within the time limitations set forth in this Section.

B. Advertise Public Hearing

The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in Brunswick County at least ten (10) days prior to the date established for the hearing. The notice shall contain the date, time, and place of the hearing and shall provide the name of the agency requesting the hearing and the purpose of the action. The notice shall also indicate the approximate address of the property(ies) under consideration.

C. Conduct Public Hearing

1. The Advisory Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of Brunswick County. Additionally, the Advisory Board shall consider the following:
 - i. Has the need for the project requiring the condemnation been satisfactorily shown by the agency requesting the action?
 - ii. Has a financial impact analysis been conducted by the agency seeking the action?
 - iii. Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland base of the VAD within which the proposed action is to take place?
2. The Advisory Board shall invite and allow input by the North Carolina Cooperative Extension Agent, U.S.D.A. Natural Resources Conservation Services, Farm Service Agency Personnel, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Advisory Board's review of the proposed action.

D. Findings and Notification

Within ten (10) days after the public hearing, the Advisory Board shall make a report containing its findings and be conveyed recommendations regarding the proposed action. The report shall be conveyed to the decision-making body of the agency proposing acquisition and made available to the public for comment.

4.13.16. Conflict with Other Ordinances and Statutes

Whenever the provisions of this Program (Section 4.13) conflict with other ordinances of Brunswick County, the provisions of this Program shall govern. Whenever the provisions of any Federal or State statute require more restrictive provisions than are required by this Program, the provisions of such statute shall govern.

4.13.17. Amendments to the Voluntary Agricultural District Program

The provisions of this Program (Section 4.13) may be amended from time to time after a public hearing and in consultation with the Advisory Board to the Board of Commissioners. Notice of the hearing shall be sent to program participants by first class mail at least thirty (30) days prior to the hearing.