

CHAPTER 156: FARMLAND PRESERVATION

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MADISON COUNTY - LAND USAGE

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GENERAL PROVISIONS

156.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVISORY BOARD. The County Agricultural Advisory Board.

BOARD OF COMMISSIONERS. The Board of Commissioners of the County.

CHAIRMAN. Chairman of the County Agricultural Advisory Board.

DISTRICT. A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.

156.002 TITLE.

This chapter, adopted by the Board of Commissioners of the county shall be known as the Madison County Farmland Preservation Program Ordinance.

156.003 AUTHORITY

The subchapters and sections of this chapter are adopted pursuant to authority conferred by G.S. 106-735 through 106-744.

Farmland Preservation

156.004 PURPOSE.

The purpose of this chapter 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 and its way of life; encourage the economic and financial health of farming; increase protection from undesirable, non-farm development and increase the protection of farms from nuisance suits and other negative impacts on properly managed farms.

156.005 JURISDICTION.

The jurisdiction of the County Farmland Preservation Program chapter shall be Madison county.

QUALIFICATIONS AND CERTIFICATION OF FARMLAND

156.020 REQUIREMENTS.

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.

(B) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3

(C) Soils.

(1) The property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension office and the FSA, 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 and horticultural 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; or
- (2) Soils on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in G.S. 105-277.2(1), (2), and (3) during each of the five previous years, previous years, measured from date on which the determination must be made as to whether the land in question qualifies.
- (D) 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 the highly erodible land.
- (E) The property is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of the land that prohibits non-farm use or development of the land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality or local government entity which apply to the farm property.

The property owner may voluntarily revoke this conservation agreement by submitting a written request to the board in accordance with 156.039.

156.021 CERTIFICATION.

The owner of the farm seeking to qualify his or her property for participation in the farmland preservation program shall submit written evidence that the property conforms with the requirements of 156.020 of this program. This written information shall be submitted to the Chairman of the Advisory Board or the designated staff person on forms provided by the Board. The certification may be submitted at the same time the owner applies for inclusion in a district.

VOLUNTARY AGRICULTURAL DISTRICTS

156.021 CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS.

In order to implement the purposes stated in 156.004, this program provides for the creation of voluntary agricultural districts which meet the following standards:

- (A) The district, when initially established, shall contain a minimum of 200 acres of qualified farmland.
- (B) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with 156.020(E) of this program. The agreement shall be in a form which is reviewed and approved by the Advisory Board.
- (C) For each district created under the terms of this program, one of the existing Advisory Board members shall be assigned to represent the district.

156.036 APPLICATION TO PARTICIPATE.

A landowner may apply to participate in the program by making application to the chairman 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 district may be filed with the certification for qualifying farmland.

156.037 APPROVAL PROCESS.

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 30 days to approve or disapprove the application. The chairman shall notify the applicants by first class mail of the approval or disapproval of participation in the district.

156.038 APPEAL.

If an application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the County Board of Commissioners is final.

156.039 REVOCATION OF CONSERVATION AGREEMENTS.

By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to 156.020(E) of this program, or the Board may revoke same preservation agreement based on noncompliance by the landowner. The revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the programs provided they meet all other requirements except the minimum area requirements of 156.035(A).

AGRICULTURAL ADVISORY BOARD

156.050 CREATION.

In accordance with G.S. 106-739, the Board of Commissioners established an Agricultural Advisory Board to implement the provision of this program.

156.051 APPOINTMENTS AND MEMBERSHIP.

(A) Membership. The Agricultural Advisory Board shall consist of five members appointed by the County Board of Commissioners. The Farm Services Agency, CED, the County Extension Director and the Natural Resources Conservation Service, DC will serve as ex-officio members.

(B) Requirements.

(1) Each Agricultural Advisory Board member shall be a county resident and register to vote in the county.

(2) All of the members shall be actively engaged in farming.

(3) The members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District, the Cooperative Extension Service and the Farm Service Agency, with an effort to have the broadest geographical representation possible.

(C) Tenure. The members are to serve for terms of three years, except that the initial board is to consist of two appointees for a term of two years and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted.

(D) Vacancies. Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

(E) Removal for Cause. Any member of the Agricultural Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

156.052 PROCEDURES.

The Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

156.053 DUTIES.

The Agricultural Advisory Board shall:

- (A) Review and approve applications for qualified farm-land and voluntary districts.
- (B) Hold public hearings pursuant to 156.070 and 156.071.
- (C) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts.
- (D) Perform other related tasks or duties assigned by the Board of Commissioners.

PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

156.070 PURPOSE.

The purpose of this section is to provide the procedures for hearings pursuant to 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 farmlands within a voluntary agricultural district until the agency or unit has requested the Advisory Board hold a public hearing on the proposed condemnation.

156.071 PROCEDURES.

(A) Establish Public Hearing. Upon receipt of a request for a public hearing, the Agricultural Advisory Board shall have 30 days to set a date for a public hearing on the proposed condemnation pursuant to G.S. 106-740. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the Board within the time limitations set forth in this section.

(B) Notice of Public Hearing. The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in the county at least ten 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 condemnation.

(C) 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 the county. Additionally, the Advisory Board shall address the following questions:

- (a) Has the need for the project requiring the condemnation been satisfactorily established by the agency requesting the action?
- (b) Has a financial impact analysis been conducted by the agency seeking the action?
- (c) Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place?

(2) The Advisory Board shall consult with the county Cooperative Extension agent, USDA Natural Resources Conservation Service District Conservationist, the FSA, 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 days after the public hearing, the Advisory Board shall make a report containing its findings and 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.

LAND USE INCENTIVES

156.085 PURPOSE.

The purpose of this subchapter is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

156.086 PROCEDURE FOR NOTIFICATION.

(A) Generally. The Advisory Board, in cooperation with the county, shall provide notification of property owners, residents, and other interested persons in, and adjacent to, any designated agricultural district. The purpose of such notification is to inform all current and potential residents and property owners in, and adjacent to, an agricultural district, that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing and similar activities.

(B) Types of Notification.

(1) Signs identifying approved agricultural districts may be placed along the right-of-way of major roads.

(2) Maps identifying approved districts shall be provided to the Register of Deeds Office, the Natural Resources Conservation Service, the Cooperative Extension Office, the FSA, the Inspections Department, the County Land Records Office, and the County Planning Department.

(3) The following notice shall be posted in the Office of the Register of Deeds and in the Land Records Office of the County Courthouse.

NOTICE TO REAL ESTATE PURCHASERS IN MADISON COUNTY
MADISON COUNTY AGRICULTURAL DISTRICTS

Madison County has established agricultural districts protect and preserve agricultural 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 and truck operations, livestock operations, sawing, and similar activities, may take place in these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from the Cooperative Extension Office, Register of Deeds, County Planning Office, Natural Resources Conservation Service, and the FSA.

(4) Upon the recordation of maps in the County Land Records Office and the Register of Deeds Office pursuant to 156.086(B)(2), the County Tax Assessor's Office shall set forth in the general remarks' section of the parcel detailed appraisal inquiry, real estate inquiry functions, within the County Land Records computer program, a notation that subject property is located in a farmland preservation district, and such notation will also be placed upon the maps of property maintained in the County Land Records Office.

156.087 EXPENDITURE OF COUNTY FUNDS FOR NON-FARM USES.

Prior to initiating condemnation proceedings which would convert land in a voluntary agricultural district non-farm uses, the county or any other local unit of government shall submit to the Advisory Board that the governmental unit has considered alternatives. Such consideration shall include the criteria listed in 156.071(C)(1)(a) through (c).

156.088 NO DISTRICTS IN DESIGNATED GROWTH CORRIDORS.

At such time as the county might establish growth corridors, agricultural districts will not be permitted in designated growth corridors, as delineated on the official county planning map without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may expand to include

adjoining property purchased by a landowner presently participating in the County Voluntary Farmland Preservation Program. The approval of the Board of Commissioners will be on a case-by-case basis.

AGENCY NOTIFICATION

156.100 CONSULTATION WITH STATE DEPARTMENT OF AGRICULTURE AND OTHER AGENCIES.

The Board shall consult with the Cooperative Extension office, the County Natural Resources Conservation Service, the FSA, the State Department of Agriculture, and any other such agency the Board deems necessary to properly conduct its business.

156.101 RECORDING THE PROGRAM.

(A) An official copy of this chapter shall be recorded with the State Commissioner of Agriculture's office after adoption.

(B) At least once a year, the county shall submit a written report to the Commissioners of Agriculture, including the status, progress, and activities of the county's farmland reservation program, and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled.
- (2) Number of acres applied.
- (3) Number of acres certified.
- (4) Number of acres denied.
- (5) Date certified.

MADISON COUNTY FARMLAND PRESERVATION PROGRAM

APPLICATION FORM

SS# _____

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____

1. You must either join an existing Agriculture District or form a new one.

Existing District you wish to join: _____

Name of new District you wish to create: _____

NOTE: In order to create a new District you must meet one of the following:

- A. One or more farms totaling 200 acres in size.
2. The tract of land must be eligible for or already be in the farm present-use value taxation program in Madison County. NOTE: If the tract is not presently participating the landowner must prove eligibility to the tax assessor's office.
 3. The tract must have been used for agricultural, horticultural or forestry purposes for the past 5 years or be suitable for such purposes as determined by the Agricultural Advisory Board.
 4. All highly erodible land on the tract must be managed according to Natural Resources Conservation Service (NRCS) practices. If you do not have an NRCS Plan on your land, you will be contacted by an NRCS representative to develop one.

PROPERTY INFORMATION

What kind of agricultural uses currently take place on these tracts?

PRESERVATION AGREEMENT

If certified by the Agricultural Advisory Board, I agree to sustain, promote and encourage agriculture in the district, support protection against nuisance suits, undesired nonfarm development and other negative impacts on participating farms and I agree to prohibit nonfarm use of land under this Agreement. This agreement may be revoked by the landowner by written notice to the board or the board may revoke such agreement based on noncompliance by the landowner.

Signed _____ Date _____
(landowner)

MAIL TO: Madison Soil & Water Conservation District
4388 Hwy. 25/70, Marshall, NC 28753