

# Alexander County Voluntary Farmland Preservation Program Ordinance



## ARTICLE I TITLE

This program, adopted by the Board of Commissioners of ALEXANDER COUNTY, NORTH CAROLINA, shall be known as the, "ALEXANDER COUNTY VOLUNTARY FARMLAND PRESERVATION PROGRAM ORDINANCE."

## ARTICLE II AUTHORITY

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes 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, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture, and forestry; and decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors.

This Ordinance establishes a Voluntary Agricultural District ("VAD") Program, which provides the following benefits:

- Preserves and maintains agricultural areas in the county.
- Informs non farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells, which may avoid conflicts between neighbors and potential nuisance claims.
- Gives the farming community an enhanced voice in Alexander County Commissioners' decisions affecting farmland.
- Conserves open space and natural resources as the county's population and development expand.
- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time.

## ARTICLE IV JURISDICTION

The jurisdiction of the Alexander County Voluntary Farmland Preservation Program Ordinance shall be the unincorporated areas of Alexander County.

## ARTICLE V DEFINITIONS

The following are defined for the purposes of this Ordinance:

**Advisory Board:** Alexander County Agricultural Advisory Board.

**Board of Commissioners:** Alexander County Board of Commissioners.

**Chairperson:** Chairperson of the Alexander County Agricultural Advisory Board.

**District:** Voluntary Agricultural District as established by this Ordinance.

**Nonfarm Use:** Any use of land that does not qualify as bona fide farm use, other than single family residential uses allowed under North Carolina General Statute §106-737(4).

**Conservation Agreement:** A ten (10) year revocable agreement signed by the landowner committing to keep land in agricultural or forest use, as described in N.C.G.S. 121-35.

## ARTICLE VI AGRICULTURAL ADVISORY BOARD

### A. Creation

The Board of Commissioners hereby establishes the Alexander County Agricultural Advisory Board to implement the provisions of this program.

### B. Membership

1. The Advisory Board shall consist of seven (7) members appointed by the Alexander County Board of Commissioners representing the Voluntary Agricultural Districts approved under this Ordinance.

2. Each Advisory Board member, except those serving in an ex officio capacity, shall be an Alexander County resident.
3. At least five (5) of the seven (7) members shall be actively engaged in agriculture as defined in N.C.G.S. §106-581.1. This determination shall be made without reference to ex officio members.
4. The sixth member shall have special interest, experience, or education in agriculture and/or rural land preservation.
5. 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 Natural Resources Conservation Service, the Cooperative Extension Service, the U.S. Farm Service Agency Committee, the Alexander County Farm Bureau, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and the public at large with an effort to have the broadest geographical representation possible.
6. Additional members may be appointed to the Board in an ex officio capacity from the Soil and Water Conservation District Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Agency, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an ex officio capacity shall neither vote nor count toward quorum requirements.

#### C. Tenure

The members are to serve for terms of four (4) years, except that the initial board is to consist of one (1) appointee for a term of one year, two (2) appointees for a term of two years, two (2) appointees for a term of three years, and two (2) appointees for a term of four years. Thereafter, all appointments are to be for terms of four (4) years, with reappointments permitted. The terms from the initial board members will be determined by lottery.

#### D. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.

#### E. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners upon written charges and after a public hearing.

#### F. Funding

1. Compensation: Per meeting compensation of the members of the board shall be fixed by the Board of Commissioners.
2. Appropriations: Funds shall be appropriated by the Board of Commissioners to the Soil and Water Conservation District for performance of duties by the Advisory Board.

#### G. Advisory Board Procedure

1. Chair and Vice Chair: The Advisory Board shall elect a chairperson and vice-chairperson from those members appointed by the commissioners each year at the Advisory Board's first meeting of the fiscal year. The chairperson shall preside over all the regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.
2. Jurisdiction and Determination of Procedure: The Advisory Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes. The jurisdiction and procedures of the board are set out in this article, except that the board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
3. Advisory Board Year: The Advisory Board shall use the Alexander County fiscal year, July 1 – June 30, 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. Meeting dates and times shall be posted as far in advance as possible by all means of public dissemination required by N.C.G.S. §143-318.12. All meetings shall be open to the public and follow the Open Meetings Laws.

5. Meeting Location: Meetings shall be held at the Alexander County Services Center. If this facility is unavailable or if the business of the Advisory Board makes it necessary or more convenient to meet at a different location, the chairperson shall determine this location and provide timely notification to all board members and to the public.
6. Majority Vote and Quorum Requirements: All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as a majority of the members. No business may be conducted by the Advisory Board without a quorum present.
7. Records: The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board, or its designee, and shall be a public record.
8. Administration: The Alexander Soil and Water Conservation District office will serve the Advisory Board for record keeping, correspondence, and application procedures, and whatever services the Board needs in order to complete its duties.

#### H. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into the Voluntary Agricultural Districts. By approval of this Ordinance the County Board of Commissioners has delegated authority pursuant to N.C.G.S. §106-739(1) to enroll qualifying farms into agricultural districts.
2. Make recommendations concerning the establishment and modification of Agricultural Districts.
3. Conduct public hearings related to public condemnation of qualifying farmland and other agricultural issues.
4. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities within the county that may affect Agricultural Districts.

5. Review and make recommendations concerning proposed amendments to this ordinance.
6. Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners.
7. Perform other agricultural, horticultural, and forestry related tasks or duties assigned by the Board of Commissioners
8. Consider development of a draft countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners.

## ARTICLE VII CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

### A. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts which shall meet the following standards:

1. When initially established, the District shall contain a minimum of ten (10) contiguous acres of qualified farmland, OR, two or more qualified farms which each contain a minimum of ten (10) acres and are located within a mile of each other.
2. Landowner(s) requesting inclusion in the VAD shall execute a conservation agreement with the county to sustain agriculture in the VAD in accordance with Article VIII of this ordinance. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

### 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.

## ARTICLE VIII CERTIFICATION AND QUALIFICATION OF FARMLAND

### A. Requirements

In order for farmland to qualify for inclusion in a Voluntary Agricultural District under the terms of this program, it must be real property that meets the following requirements:

1. Is used for bona fide farm purposes, as that term is defined in G.S. §160D-903, and shall be participating in the farm present-use-value taxation program as established by G.S. § 105-277.2 through G.S. § 105-277.7 or is otherwise determined by the county to meet all the qualifications of the present-use-value taxation program.
2. Be managed, if highly erodible land exists on the farm, in accordance with the Alexander County Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land.
3. The property is the subject of a conservation agreement as defined in G.S. §121-35 between the county and the owner of such land that prohibits nonfarm 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 municipal and county zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. §106-739.

## ARTICLE IX APPLICATION, APPROVAL, AND APPEAL PROCEDURE

### A. Application Procedure

A landowner may apply to participate in the Voluntary Farmland Preservation Program by submitting an application and providing documentation that the property conforms to the requirements of Article VIII (A) of this program to the Alexander Soil and Water Conservation District. The application shall be on forms provided by the Alexander Soil and Water Conservation District and approved by the Advisory Board.

### B. Approval Process

Upon receipt of an application, the Alexander Soil and Water Conservation District will forward copies to the members of the Advisory Board and all ex officio members for their evaluation.

The Advisory Board shall meet within ninety (90) days of receipt of a completed application to determine if the application meets the minimum requirements established by this ordinance. The applicant(s) shall be notified of approval or disapproval.

#### C. Appeal

If the Advisory Board determines an application does not meet the requirements of this ordinance, the applicant shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final.

## ARTICLE X NOTIFICATION

#### A. Public Awareness

Upon approval of a Voluntary Agricultural District, the Soil and Water Conservation District shall provide notification of said District to the following:

1. Notification shall be issued to the property owner/applicant.
2. The Alexander County Tax Department/GIS Mapping shall maintain maps of approved Districts within the Alexander County Geographic Information Mapping System Database as well as an overlay for all tracts located within one-half (1/2) mile of the property line of any tract of land enrolled in a voluntary agricultural district.
3. The mapping information shall provide notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one half mile of an agricultural district. This mapping information may be viewed by accessing the Alexander County GIS website.
4. The following notice shall be displayed in a prominent position in the office of the Register of Deeds and the public access area in the Alexander County Tax Department:

#### NOTICE TO REAL ESTATE PURCHASERS IN ALEXANDER COUNTY AGRICULTURAL DISTRICTS

Alexander County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped 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, hunting and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Alexander County GIS Website or the Soil and Water Conservation District.

5. Each real estate purchaser shall be required to sign a form stating the following:

I certify that I have read the notice to real estate purchasers concerning Agricultural Districts and reviewed the most current Alexander County Agricultural Districting Map found in the Register of Deeds office. I noted the proximity of the Agricultural District boundaries to my property. I understand the farming activities that may occur at any time in these areas.

6. Notice of these methods of District notification and identification shall be included in all Alexander County Voluntary Farmland Preservation Program information brochures made available to the public by the Alexander Soil and Water Conservation District.

#### B. Signage

Alexander County may place signs identifying approved Agricultural Districts along major roads that pass through or next to those districts in a way calculated to reasonably notify the public of the presence of agricultural activity. Members of the Agricultural Districts have the privilege of posting signs on their individual farms denoting their Agricultural Districts membership. Signs must be placed on the landowner's property outside of any right-of-ways or easements and shall conform to the sign regulations of the Alexander County Zoning Ordinance.

#### C. Maps

Maps identifying approved agricultural districts shall be updated at least once each year and shall be displayed in the building(s) where the following agencies or offices are located:

- Alexander County Cooperative Extension
- Alexander Soil and Water Conservation District office
- Alexander County Planning and Zoning Department
- Alexander County Register of Deeds
- Any other such agency or office the Advisory Board deems appropriate.

## ARTICLE XI

### REVOCATION AND ENFORCEMENT, TRANSFER OF LAND, AND RENEWAL OF CONSERVATION AGREEMENTS

#### A. Revocation and Enforcement

By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland may revoke his/her participation in the Voluntary Farmland Preservation Program formulated pursuant to Article IX of this Ordinance, or the Advisory Board may revoke the same participation based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district.

#### B. Transfer of Land

Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless the land no longer meets the requirements contained in Article VIII. Enforcement of the terms of a Conservation Agreement for land enrolled in a Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits therefrom.

#### C. Review of Conservation Agreements

Conservation agreements shall be reviewed every ten (10) years to ensure the land still meets the requirements contained in Article VII.

#### D. Renewal of Conservation Agreements

Conservation agreements shall automatically renew for subsequent ten (10) year terms upon review unless the land no longer meets the requirements contained in Article VIII or either the landowner or the county provides written notice to the contrary at least thirty (30) days prior to the expiration of the conservation agreement.

#### E. Term

The duration of a conservation agreement shall be for ten (10) years.

## ARTICLE XII

### PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

A. Purpose

Pursuant to N.C.G.S. §106-740, 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

Upon receiving a request to hold a hearing on the proposed condemnation, the Advisory Board shall publish notice describing the proposed action in the appropriate newspaper of Alexander County within ten (10) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within thirty (30) days of receipt of the request.

The Advisory Board shall meet to review:

1. 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.
2. 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 shall consult with the Soil and Water Conservation District, Cooperative Extension Agricultural Agent(s), 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. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. Within five (5) days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing the acquisition by condemnation.
5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
6. After the ten (10) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition by condemnation.

7. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition shall not exceed thirty (30) days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

The State, local government agency or governmental unit proposing to acquire property by condemnation may not formally initiate condemnation action while the proposed condemnation is properly before the Advisory Board.

The Board of Commissioners shall condemn farmland within an Agriculture District only as a “last resort” if it is considering condemnation for County purposes.

## ARTICLE XIII LAND USE INCENTIVES

### A. Waiver of Water and Sewer Assessments

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.

1. The waiver procedure shall be as follows:
  - a. Landowners belonging to voluntary agricultural districts shall not be assessed for, or required to connect to, water and/or sewer systems.
  - b. 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.
  - c. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
  - d. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
  - e. Assessment procedures followed under 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.
2. Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. §153A-201.

## ARTICLE XIV SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivision, apartment complexes or planned unit developments shall designate on preliminary development plans the existence of any and all Agricultural Districts within ½ aerial mile of the proposed development.

## ARTICLE XV COUNTY LAND-USE PLANNING

### A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners or the agency or office to which the Board of Commissioners has delegated the authority to oversee county land-use planning, on the status, progress, and activities of the county's agricultural district program and to also coordinate the formation and maintenance of agricultural districts with the county's land-use planning activities and county's land-use plan if one currently exists at the time this is enacted or when one is formed.

### B. Growth Corridors

At such time as the county might establish designated growth corridors, agricultural districts shall not be permitted in the 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.

## ARTICLE XVI CONSULTATION AUTHORITY

The Advisory Board may consult with the Alexander Soil and Water Conservation District, North Carolina Cooperative Extension, 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.

## ARTICLE XVII NORTH CAROLINA AGENCY NOTIFICATION

At least annually, Alexander Soil and Water Conservation District shall submit a written report to the Office of the Commissioner of Agriculture and Consumer Services 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
- Date certified.
- Number of acres for which applications are pending
- Copies of any amendments to this Ordinance
- Any other information the Advisory Board deems useful.

## ARTICLE XVIII LEGAL PROVISION

### A. Severability

If any article, section, subsection, clause, phrase, or portion of this is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

### B. Conflict with other ordinances and statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Alexander County, this Ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this Ordinance, the provisions of such statute shall govern.

### C. Amendments

This Ordinance may be amended from time to time by the Board of Commissioners.

### D. Exclusion of Liability

1. In no event shall Alexander County or any of its officers, employees, members of the Advisory Board, 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.
2. 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.

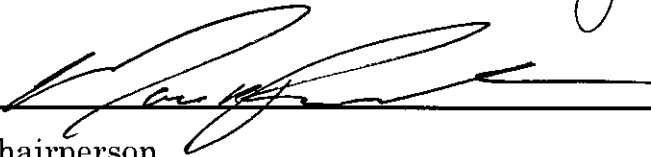
E. Notice

A copy of this ordinance, once adopted, shall be recorded with the Commissioner of the N.C. Department of Agriculture and Consumer Services.

ARTICLE XIX  
ENACTMENT

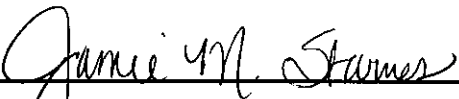
The Alexander County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the 19<sup>th</sup> day of June, 2023.



Chairperson

ATTEST:



Clerk to Board of Commissioners