

ARTICLE IV. VOLUNTARY AGRICULTURAL DISTRICTS

DIVISION 1. IN GENERAL

Sec. 20-141. Title.

This program, adopted by the county board of commissioners, shall be known as the Bladen County Voluntary Agricultural Districts Ordinance.

(Ord. of 6-4-2007, art. I)

Sec. 20-142. Authority.

The articles and sections of this article are adopted pursuant to the authority conferred by G.S. 106-735—106-743.

(Ord. of 6-4-2007, art. II)

Sec. 20-143. Purpose.

The purpose of this article 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 agriculture; increase protection from non-farm development; and increase the protection of farms from suits and other negative impacts on properly managed farms.

(Ord. of 6-4-2007, art. III)

Sec. 20-144. Jurisdiction.

There will be four areas from which agricultural board members will be selected. Each will be composed of approximately one-fourth of the county and will follow the lines/boundaries as indicated on the attached map. These areas will cover all unincorporated land within the county.

(Ord. of 6-4-2007, art. IV)

Sec. 20-145. Definitions.

Agricultural board. The county agricultural board.

Board of commissioners. The county board of commissioners.

Chairman. Chairman of the agricultural board.

District. A voluntary agricultural district established under the terms and conditions of this program by the board of commissioners.

(Ord. of 6-4-2007, art. V)

Secs. 20-146—20-160. Reserved.

DIVISION 2. QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Sec. 20-161. Requirements.

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

- (1) The farmland shall be real property engaged in agriculture as defined by G.S. 106-581.1;
- (2) Reserved;
- (3) The property shall be certified by USDA FSA and reviewed by the natural resources conservation service, the county cooperative extension service, and the county SWCD as being a farm on which at least two-thirds of the land is composed of soils that:
 - a. Have good farming qualities.
 - b. Are favorable for crops, livestock, ornamentals, Christmas trees or timber common to the county.
- (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 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 watershed and subdivision regulations, or the regulations of any municipality 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 division 4.

(Ord. of 6-4-2007, art. VI; Ord. of 1-17-2012, art. VI)

Sec. 20-162. Certification.

The owner of the farm seeking to qualify his property for participation in the farmland preservation program ordinance shall submit written evidence that the property conforms with the requirements of section 20-161 of this program. This written information shall be submitted to the chairman of the agricultural board or the designated staff person on forms provided by the board. The certification shall be submitted at the same time the owner applies for inclusion in a district.

(Ord. of 6-4-2007, art. VI)

Secs. 20-163—20-175. Reserved.

DIVISION 3. APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS

Sec. 20-176. Creation of voluntary agricultural districts.

In order to implement the purposes stated in section 20-143, this program provides for the creation of voluntary agricultural districts which shall meet the following standards:

- (1) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agricultural in the district in accordance with section 20-161(5) of this program. Said agreement shall be in a form which is reviewed and approved by the agricultural board; and
- (2) For each district created under the terms of this program, one of the existing agricultural board members shall be assigned to represent the district.

(Ord. of 6-4-2007, art. VII)

Sec. 20-177. Application to participate.

A landowner may apply to participate in the program by making application to the chairman of the agricultural board or to a designated staff person. The application shall be on forms provided by the agricultural board.

(Ord. of 6-4-2007, art. VII)

Sec. 20-178. Approval process.

Upon review by the technical review committee of the written certification and application submitted by the property owner, the board shall meet within 180 days to review or approve the application. The board or representative thereof shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Notification of new agricultural districts shall be sent to the county tax assessor quarterly.

(Ord. of 6-4-2007, art. VII)

Sec. 20-179. Appeal.

If an application is denied by the agricultural board, the petitioner has 30 days to appeal the decision to the county board of commissioners. Such appeal shall be presented in writing. The decision of the board of commissioners is final.

(Ord. of 6-4-2007, art. VII)

Secs. 20-180—20-195. Reserved.***DIVISION 4. REVOCATION OF CONSERVATION AGREEMENTS*****Sec. 20-196. Revocation of the preservation agreement.**

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to section 20-161(5) of this program, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such 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. Revocation by a landowner of a preservation agreement and the resulting loss of qualifying farmland status for the purpose of participation in a voluntary agricultural district 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. 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 program, provided they meet all other requirements except the minimum area requirements of section 20-176(1).

(Ord. of 6-4-2007, art. VIII)

Secs. 20-197—20-205. Reserved.

DIVISION 5. AGRICULTURAL BOARD

Sec. 20-206. Creation.

In accordance with G.S. 106-739, the board of commissioners hereby establishes an agricultural board to implement the provisions of this article.

(Ord. of 6-4-2007, art. IX)

Sec. 20-207. Appointments and memberships.

The agricultural board shall consist of five members appointed by the county board of commissioners.

- (1) *Requirements.* Each board member shall be a county resident or land owner of the county.
- (2) *Membership.*
 - a. The agricultural board shall consist of no less than five members which will be appointed by the county board of commissioners. All members will be actually engaged in farming. One shall be appointed from each of the four quadrants of the county as defined in appendix 4 and one will be an at large member. In addition there will be a non-voting advisory technical review committee with one member each appointed by the Bladen Soil and Water Conservation District, the county cooperative extension service, the county planning board and the county farm service agency board.
 - b. The five members actively engaged in farming may be selected for appointment by the board of commissioners from the names of individuals submitted to the board of commissioners by the county cooperative extension service, the soil and water conservation district, the farm service agency committee, the county planning department, farm bureau and any other farm related agencies, with an effort to have the broadest geographical and commodity representation possible.
- (3) *Tenure.* The initial five farming members of the agricultural board shall consist of one member appointed for a term of one year, two members appointed for a term of two years, and two members appointed for a term of three years. Thereafter, all appointments to the agricultural board will be for a period of three years with reappointment permitted for no more than two consecutive terms. The terms for the appointment of the initial agricultural board will be determined by lottery.
- (4) *Vacancies.* Any vacancy on the agricultural 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.

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- (5) *Removal for cause.* Any member of the agricultural board may be removed for cause by the board of commissioners upon written charges and after a public hearing.
 - (6) *Funding. Appropriations for performance of duties.* Funds may be appropriated by the board of commissioners to the agricultural board to perform its duties. As needed, a budget request will be presented to the county commissioners annually.

(Ord. of 6-4-2007, art. IX)

Sec. 20-208. Procedures.

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

- (1) *Chairperson.* The board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.
- (2) *Jurisdiction and procedures—Supplementary rules.* 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) *Board year.* The board shall use the county fiscal year as its meeting year.
- (4) *Meetings.* Meetings of the board, following such notice as required by this article, shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. A called meeting shall be held at least semi-annually. A quorum shall consist of a majority of the members of the board.
- (5) *Voting.* The concurring vote of a majority of the members of the 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 article.
- (6) *Records.* The 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 immediately filed in the office of the board and shall be a public record.
- (7) *Administrative services.* The cooperative extension service office shall serve the agricultural board for recordkeeping, correspondence, and application procedures under this article together with such other services the board needs to complete its duties.

(Ord. of 6-4-2007, art. IX)

Sec. 20-209. Duties.

The agricultural board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts;
- (2) Advise the board of commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts;
- (3) Perform other related tasks or duties assigned by the board of commissioners;

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- (4) Review and make recommendations concerning proposed amendments to this article;
 - (5) Develop a county-wide farmland protection plan as defined in G.S. 106-744(e)(1) for presentation to the board of commissioners; and
 - (6) Study additional methods of farmland preservation and make recommendations to the board of commissioners.

(Ord. of 6-4-2007, art. IX)

Secs. 20-210—20-225. Reserved.

***DIVISION 6. LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT
FORMATION***

Sec. 20-226. Purpose.

The purpose of this article 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. Nothing in this document should be viewed as a change in the status of the numerous non-farm landowners currently located throughout the county. Those landowners retain the same rights and standing held prior to the enactment of an agricultural district.

(Ord. of 6-4-2007, art. X)

Sec. 20-227. Public notification.

- (a) Upon certification of qualifying farmland and designation of real property as an agricultural district, the title to that qualifying farmland and real property, which is contained in the county land records system, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract that such tract is located within one aerial mile of a voluntary agricultural district.
- (b) The agricultural board, in cooperation with the county, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to any designated agricultural district with a goal of informing 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.
 - (1) Members of the agricultural district will place signs on their individual farms denoting their agricultural district membership in a way calculated to reasonably notify the public and adjoining landowners of the presence of the farm property.
 - (2) Information identifying approved districts shall be provided to the register of deeds office, the Bladen Soil and Water Conservation District, the cooperative extension service office, the farm service agency, the county planning department, and the county tax department.
 - (3) 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 county tax department:

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

Bladen 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, 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 cooperative extension service office, county planning department, register of deeds, natural resources conservation service, the county farm service agency office, and the county tax department.

- (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 article.
- (d) *No cause of action.* In no event shall any cause of action arise out of the failure of any person, including 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 article.

(Ord. of 6-4-2007, art. X)

Sec. 20-228. Expenditure of county funds for non-farm uses.

Prior to expending any monies which would convert land in a voluntary agricultural district to non-farm uses, the county or any other local unit of government shall submit to the agricultural board detailed information showing that said governmental unit has considered alternatives.

(Ord. of 6-4-2007, art. X)

Sec. 20-229. No districts in designated 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. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to remain. Upon request, districts located in growth corridors designated after the effective date of this program may be allowed to expand to include adjoining property purchased by a landowner presently participating in the Bladen County Voluntary Agricultural District Ordinance.

Any requests made under this section, should be made through the planning board. The approval of the board of commissioners will be on a case by case basis.

(Ord. of 6-4-2007, art. X)

Sec. 20-230. Waiver of water and sewer assessments.

- (a) *Purpose of section.* 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) *Procedure.* The waiver procedure shall be as follows:
 - (1) Landowners belonging to voluntary agricultural districts shall not be assessed for, or required to connect to, water and/or sewer systems.

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- (2) 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.
 - (3) When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
 - (4) Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
 - (5) 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.
 - (6) Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201.

(Ord. of 6-4-2007, art. X)

Secs. 20-231—20-245. Reserved.

DIVISION 7. SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Sec. 20-246. Proposed development near agricultural districts.

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the agricultural districts within one aerial mile of the proposed development.

(Ord. of 6-4-2007, art. XI)

Secs. 20-247—20-260. Reserved.

DIVISION 8. PUBLIC HEARINGS

Sec. 20-261. Purpose.

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 farmland within a district until such agency or unit has requested the advisory board to hold a public hearing on the proposed condemnation.

(Ord. of 6-4-2007, art. XII)

Sec. 20-262. Procedure.

- (a) Upon receiving a request, the advisory board shall publish notice describing the proposed action in the appropriate newspapers of the county within five 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 ten days of receipt of the request.
- (b) The advisory board shall meet to review:

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- (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; and
 - (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.
- (c) The advisory board shall consult with 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.
 - (d) Within five 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 prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
 - (e) There will be a period of ten days allowed for public comment on the report of the advisory board.
 - (f) After the ten 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.
 - (g) 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 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.
 - (h) Pursuant to G.S. 106-740, the board of commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the advisory board.

(Ord. of 6-4-2007, art. XII)

Secs. 20-263—20-280. Reserved.

DIVISION 9. NORTH CAROLINA AGENCY NOTIFICATION

Sec. 20-281. Consultation with North Carolina Department of Agricultural and Consumer Services and other agencies.

The board may consult with the cooperative extension service office, the natural resources conservation service office, the farm service agency office, the state department of agricultural and consumer services, and any other such agency the board deems necessary to properly conduct its business.

(Ord. of 6-4-2007, art. XIII)

Sec. 20-282. Recording the program ordinance.

An official copy of this program ordinance shall be recorded with the state commissioner of agriculture's office after adoption. At least once a year, the county shall submit a written report to the commissioner of agriculture, including the status, progress and activities of the county's farmland preservation program and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled;

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- (2) Number of acres applied;
 - (3) Number of acres certified;
 - (4) Number of acres denied; and
 - (5) Date certified.

(Ord. of 6-4-2007, art. XIII)

Secs. 20-283—20-295. Reserved.

DIVISION 10. LEGAL PROVISIONS

Sec. 20-296. Severability, conflict with other ordinances and statutes, and amendments.

- (a) *Severability.* If any article, section, subsection, clause, phrase or portion of this article is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article.
- (b) *Conflict with other ordinances and statutes.* Whenever the provisions of this article conflict with other ordinances of the county, the board of commissioners shall determine which shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this article, the provisions of such statute shall govern.
- (c) *Amendments.* This article may be amended from time to time after a public hearing, notice of which shall be sent to program participants by first class mail 30 days prior to the hearing, and in consultation with the agricultural board to the board of commissioners.

(Ord. of 6-4-2007, art. XIV)

Secs. 20-297—20-310. Reserved.