

Chapter 32 FARMLAND PRESERVATION

ARTICLE I. IN GENERAL

Sec. 32-1. Title.

An ordinance of the Board of County Commissioners of Cabarrus County, North Carolina, entitled, "Voluntary Agricultural District Ordinance" and "The Enhanced Voluntary Agricultural District Ordinance."

(Ord. No. 2005-20, Art. I, 11-21-05)

Sec. 32-2. Authority.

The articles and sections of this chapter are adopted pursuant to authority conferred by the G.S. 106-735 through 106-744 and Chapter 153A. In conjunction with Ratified House Bill 607.

(Ord. No. 2005-20, Art. II, 11-21-05)

Sec. 32-3. Purpose.

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

Enhanced voluntary agricultural district. The enhanced voluntary agricultural district ordinance creates a district that will provide greater benefits to farmers than the current program. Participating farms will be allowed to receive up to 25 percent of their gross sales from certain types of non-farm products and still qualify for agricultural zoning exemptions and be eligible for a higher percentage of cost-share program funding and have priority for other state grant programs.

(Ord. No. 2005-20, Art. III, 11-21-05)

Sec. 32-4. Definitions.

The following are defined for purposes of this chapter:

Advisory board: Cabarrus County Agricultural Advisory Board.

Chairperson: Chairperson of the Cabarrus County Agricultural Advisory Board.

District: Voluntary agricultural district as established by this chapter.

Board of commissioners: Cabarrus County Board of Commissioners.

(Ord. No. 2005-20, Art. IV, 11-21-05)

Secs. 32-5—32-20. Reserved.

ARTICLE II. AGRICULTURAL ADVISORY BOARD

Sec. 32-21. Creation.

The board of commissioners shall establish an agricultural advisory board to implement the provisions of this program.

(Ord. No. 2005-20, Art. V(A), 11-21-05)

Sec. 32-22. Membership.

The advisory board shall consist of no less than seven members appointed by the board of commissioners.

(Ord. No. 2005-20, Art. V(B), 11-21-05)

Sec. 32-23. Membership requirements.

- (a) Each advisory board member shall be a Cabarrus County resident or landowner.
- (b) At least four of the members shall be actively engaged in farming.
- (c) At least one of the advisory board members actively engaged in farming shall be nominated by the Cabarrus County Soil and Water Conservation District Board of Supervisors.
- (d) The members actively engaged in farming, as well as other members, shall be selected for appointment by the board of commissioners from the names of individuals submitted to the board of commissioners by the Cabarrus County Soil and Water Conservation District Board of Supervisors, the Cabarrus County Cattlemen's Association, the county office of the North Carolina Cooperative Extension Service, St. John's Grange, Piedmont Farmer's Market, Cabarrus County Farm Bureau, the Natural Resource Conservation Service, the U.S. Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.
- (e) The planning and zoning commission eastern area representative will hold an ex-officio seat on the agricultural advisory board.

(Ord. No. 2005-20, Art. V(C), 11-21-05)

Sec. 32-24. Tenure.

The initial board is to consist of two appointees for terms of one year; two appointees for terms of two years; and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted.

(Ord. No. 2005-20, Art. V(D), 11-21-05)

Sec. 32-25. Vacancies.

Any vacancy on the advisory board is to be filled by the board of commissioners for the remainder of the unexpired term.

(Ord. No. 2005-20, Art. V(E), 11-21-05)

Sec. 32-26. Removal.

Any member of the advisory board may be removed by the board of commissioners upon a two-thirds vote of the commissioners. No cause for removal shall be required. Appropriate conduct by advisory board members will be required.

(Ord. No. 2005-20, Art. V(F), 11-21-05)

Sec. 32-27. Funding.

The per diem compensation, if any, of the members of the advisory board may be fixed by the board of commissioners and funds may be appropriated to the advisory board to perform its duties.

(Ord. No. 2005-20, Art. V(G), 11-21-05)

Sec. 32-28. Advisory board procedure.

- (a) *Chairperson.* The advisory board shall elect a chairperson and vice-chairperson each year at its first meeting of the calendar year. The chairperson shall preside over all 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.
- (b) *Jurisdiction.* The advisory board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of state law.
- (c) *Advisory board year.* The advisory board shall use the calendar year as its meeting year.
- (d) *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 or upon the request of at least a majority of the advisory board membership. 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 all advisory board members. Meeting dates and times shall be posted as far in advance as possible on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the advisory board membership. All meetings shall be open to the public. The Cabarrus County Commissioners have the right to call a meeting of the agricultural advisory board at any time for any reason.
- (e) *Majority vote.* All issues shall be decided by a majority vote of the members of the advisory board, except as otherwise stated herein.
- (f) *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 and shall be a public record.

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- (g) *Administrative.* The advisory board may contract with the North Carolina Cooperative Extension Cabarrus County Center to serve the board for record keeping, correspondence, application procedures under this chapter, and whatever services the board needs to complete its duties.

(Ord. No. 2005-20, Art. V(H), 11-21-05; Ord. No. 2006-10, 6-19-06)

Sec. 32-29. Duties.

The advisory board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts or enhanced voluntary agricultural districts and make recommendations concerning the establishment and modification of these agricultural districts;
- (2) Conduct public hearings;
- (3) Advise the board of commissioners 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 chapter;
- (5) Develop a draft county wide farmland protection plan as defined in N.C.G.S. § 106-744(e)(1) for presentation to the board of commissioners;
- (6) Study additional methods of farmland preservation and make recommendations to the board of commissioners; and
- (7) Perform other agricultural related tasks or duties assigned by the board of commissioners.

(Ord. No. 2005-20, Art. V(I), 11-21-05)

Secs. 32-30—32-40. Reserved.

ARTICLE III. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

Sec. 32-41. Regions.

Cabarrus County is hereby divided into three regions as defined below:

- (1) Northwest.
- (2) Eastern Cabarrus.
- (3) Midland.

(Ord. No. 2005-20, Art. VI(A), 11-21-05)

Sec. 32-42. Implementation.

In order to implement the purposes stated in section 32-3, this program provides for the creation of voluntary agricultural districts or enhanced voluntary agricultural districts which meet the following standards:

- (1) The district shall contain a minimum of 20 contiguous acres of qualified farmland; or
- (2) The district shall contain two or more qualified farms within areas designated by the advisory board.

All land enrolled in a region, defined in section 32-41, above, shall be part of a single district. If a single farm has acreage in two or more regions, the farm shall participate in the district where the largest acreage is found.

(Ord. No. 2005-20, Art. VI(B), 11-21-05)

Sec. 32-43. 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. The county may contract with the North Carolina Cooperative Extension to serve as the educational advisor and organization charged with delivering this educational program.

(Ord. No. 2005-20, Art. VI(C), 11-21-05)

Sec. 32-44. Addition and withdrawal.

- (a) Qualifying farmland in a region with an existing district shall be added to the district as herein provided.
- (b) In the event that one or more participants in the district withdraw 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.
- (c) *Enhanced voluntary agricultural districts* require a conservation agreement between Cabarrus County Government and the agricultural producer that cannot be revoked for at least ten years.

(Ord. No. 2005-20, Art. VI(D), 11-21-05)

Secs. 32-45—32-60. Reserved.

ARTICLE IV. PROCEDURES; HEARINGS; NOTIFICATION

Sec. 32-61. Certification and qualification of farmland.

In order for farmland to qualify for inclusion into the voluntary agricultural district or the enhanced voluntary agricultural district, it must be real property that:

- (1) Is engaged in agriculture as that word is defined in G.S. 106-581.1.1.
- (2) Be 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 at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.
- (3) Agree to the conservation agreement between Cabarrus County and the owner that the enhanced voluntary agricultural district cannot be revoked for at least ten years.

(Ord. No. 2005-20, Art. VII, 11-21-05; Ord. No. 2016-04, 3-21-16)

Sec. 32-62. Application procedure.

- (a) A landowner may apply to participate in either 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 district may be filed with the certification for qualifying farmland.
- (b) A conservation agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the advisory board. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation.

(Ord. No. 2005-20, Art. VIII(A), 11-21-05)

Sec. 32-63. Approval process.

- (a) Upon submission of the application to the advisory board, the advisory board shall meet quarterly to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district.
- (b) Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the advisory board prior to the date set for the advisory board vote on the application.
 - (1) The Cabarrus County Tax Assessor;
 - (2) The Cabarrus Soil and Water Conservation District office;
 - (3) The Natural Resources Conservation Service; and
 - (4) The North Carolina Cooperative Extension Office; and
 - (5) The Cabarrus County Commerce Department.

(Ord. No. 2005-20, Art. VIII(B), 11-21-05)

Sec. 32-64. Appeal.

If an application is denied by the advisory board, the petitioner shall have 30 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.

(Ord. No. 2005-20, Art. VIII(C), 11-21-05)

Sec. 32-65. Revocation and renewal of preservation agreement.

- (a) *Revocation.* By providing 30 days advance written notice to the advisory board, a landowner of qualifying farmland may revoke the preservation agreement or the advisory board may revoke the same preservation agreement based on noncompliance by the landowner, subject to the same provisions as contained in section 32-64 for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. Absent noncompliance by the landowner, neither the advisory board nor the board of commissioners shall revoke any preservation agreements prior to its expiration.

In the event of the original landowner's death, any surviving heirs have the same 30 days advance written notice consideration for removal from the preservation agreement as stated above.

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- (b) *Renewal.* Properties entered into the voluntary agricultural district or the enhanced voluntary agricultural district shall be deemed automatically renewed for an additional term of ten years on July 1 of the tenth anniversary year, unless either the advisory board or the landowner gives written notice no later than 30 days prior to the termination date. Notification of automatic renewal will be sent to qualifying land owners a minimum of 60 days prior to the renewal date.

(Ord. No. 2005-20, Art. IX, 11-21-05; Ord. No. 2016-04, 3-21-16)

Sec. 32-66. Public hearings.

- (a) *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.
- (b) *Procedure.*
- (1) Upon receiving a request, the advisory board shall publish notice describing the proposed action in the appropriate newspapers of Cabarrus 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.
 - (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 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.
 - (4) 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.
 - (5) There will be a period of ten days allowed for public comment on the report of the advisory board.
 - (6) 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.
 - (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 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.
 - (8) 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. No. 2005-20, Art. X, 11-21-05)

Sec. 32-67. Notification.

- (a) *Record notice of proximity to voluntary agricultural district.*
- (1) *Procedure.* When Cabarrus County computerizes its county land records system the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a district, the title to that qualifying farmland and real property, which is contained in the Cabarrus 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 aerial mile of a voluntary agricultural district.
 - (2) *Limit of liability.* In no event shall the county or any of its officers, employees, members of the advisory board, or agents be held liable in damages for any misfeasance, malfeasance, or malfeasant occurring in good faith in connection with the duties or obligations imposed by this chapter.
 - (3) *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 chapter.
- (b) *Signage.* Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads that pass through or next to those districts. There shall at least one sign posted along every ten miles of such roads or as many as may be deemed appropriate by the advisory board, or its administrative agent for the county's agricultural district program. Placement of signage shall be coordinated with the N.C. Department of Transportation.
- (c) *Maps.* Maps identifying approved agricultural districts shall be provided to the following agencies or offices:
- (1) Commerce (planning) department;
 - (2) Register of deeds;
 - (3) Natural resources conservation service;
 - (4) North Carolina cooperative extension service;
 - (5) Soil and water conservation district; and
 - (6) Any other such agency or office the advisory board deems appropriate.

(Ord. No. 2005-20, Art. XI, 11-21-05)

Sec. 32-68. Subdivision ordinance and zoning ordinance review.

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the districts within ten aerial mile(s) of the proposed development.

(Ord. No. 2005-20, Art. XII, 11-21-05)

Sec. 32-69. Waiver of water and sewer assessments.

- (a) *No connection required.* A landowner belonging to the district shall not be required to connect to Water and Sewer Authority of Cabarrus County water and/or sewer systems.
- (b) *Abeyance.* Water and sewer assessments shall be held in abeyance, without interest, for farms in an agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

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- (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 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.

(Ord. No. 2005-20, Art. XIII, 11-21-05)

Sec. 32-70. 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 delegate 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 the county's land use plan if one currently exists at the time this chapter is enacted or when one is formed.
- (b) *Posting of notice.* The following notice, of a size and form suitable for posting, shall be posted in the office of the register of deeds, and any other office or agency the advisory board deems necessary:

Cabarrus County has established agricultural districts to 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 and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, and other common farming activities may occur 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 North Carolina Cooperative Extension Service office, the office of the register of deeds, the county planning office, or the natural resources conservation service office.
- (c) *Growth corridors.* At such time as the county might establish designated growth corridors, agricultural districts will 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.

(Ord. No. 2005-20, Art. XIV, 11-21-05)

Sec. 32-71. Consultation authority.

The advisory board may consult with the 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.

(Ord. No. 2005-20, Art. XV, 11-21-05)

Sec. 32-72. North Carolina Agency notification.

Annually report to the North Carolina Department of Agriculture and Consumer Services.

A copy of this chapter shall be sent to the office of the North Carolina Commissioner of Agriculture and Consumer Services, the board of commissioners, the county office of the North Carolina Cooperative Extension Service, and the soil and water conservation district office after adoption. At least annually the county shall submit a written report to the commissioner of agriculture and consumer services on the county's agricultural district program, including the following information:

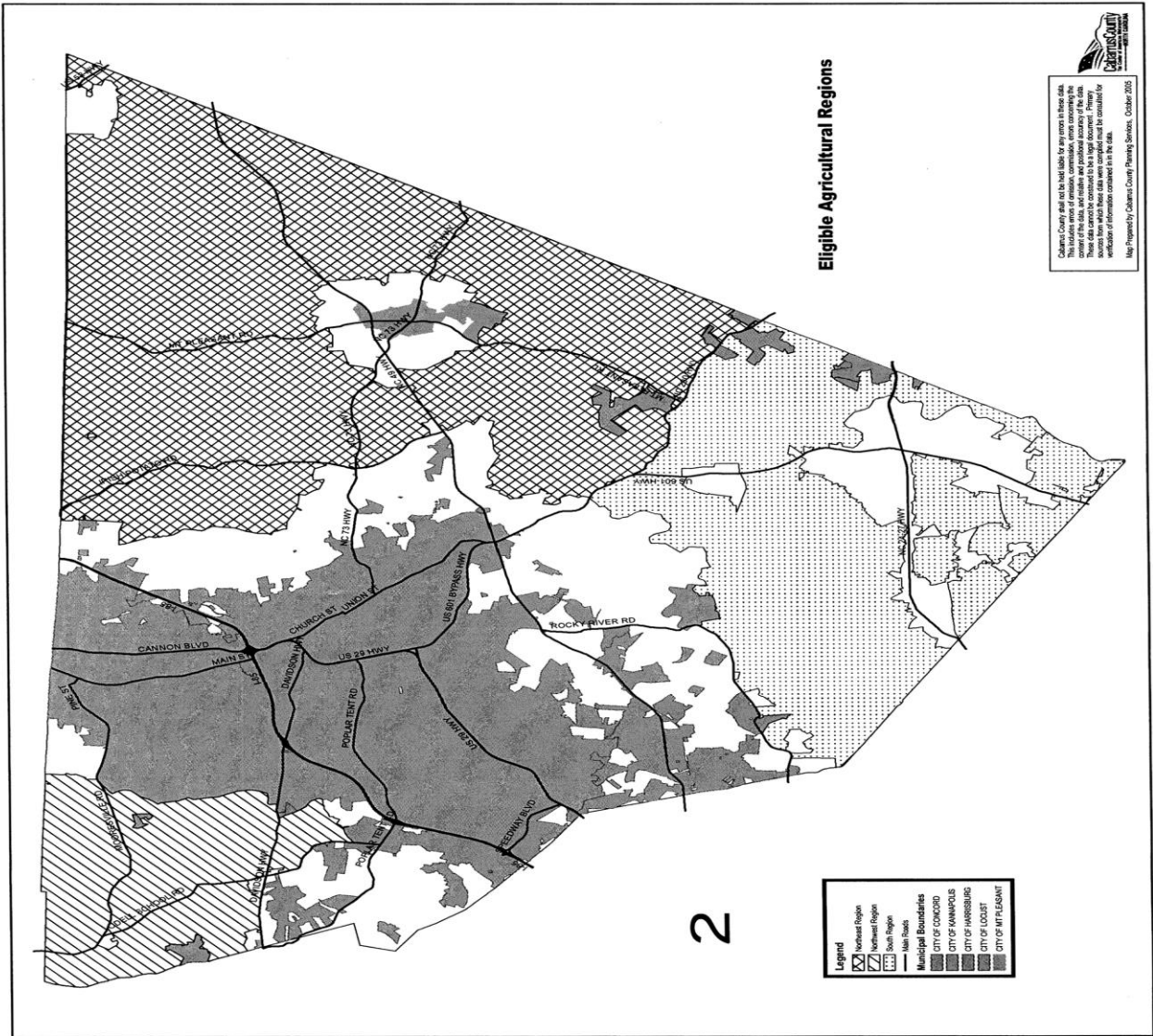
- (1) Number of landowners enrolled;
- (2) Number of acres enrolled;
- (3) Number of acres certified during the reporting period;
- (4) Number of acres denied during the reporting period;
- (5) Number of acres for which applications are pending;
- (6) Copies of any amendments to the ordinance; and
- (7) Any other information the advisory board deems useful.

(Ord. No. 2005-20, Art. XVI, 11-21-05)

Sec. 32-73. Conflict with other ordinances and statutes.

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

(Ord. No. 2005-20, Art. XVII(B), 11-21-05)



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