

**DUPLIN COUNTY
VOLUNTARY AGRICULTURAL DISTRICTS
ORDINANCE**

**ARTICLE I
TITLE**

This program, adopted by the Board of Commissioners of Duplin County, North Carolina, shall be known as the **Duplin County Voluntary Agricultural Districts Ordinance**.

**ARTICLE II
AUTHORITY**

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N. C. General Statutes §106-735 through 106-743.

**ARTICLE III
PURPOSE**

The purpose of this program ordinance 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.

**ARTICLE IV
JURISDICTION**

The Duplin County Voluntary Agricultural Districts will follow the lines/boundaries of the existing five county commissioner's districts within the County and will cover all unincorporated areas within those to include the extra territorial jurisdictions (ETJ) of each town.

**ARTICLE V
DEFINITIONS**

Agricultural board: The Duplin County Voluntary Agricultural District Board is a committee of representatives from each Commissioner district, the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, the President of the Duplin County Agribusiness Council, and performs duties outlined in this Voluntary Agricultural District (VAD) Ordinance.

Administrative Support: Designated staff from Duplin County Cooperative Extension Service, Soil and Water Conservation District (SWCD), and Natural Resources Conservation Service (NRCS) will provide administrative/technical assistance and support to the Voluntary Agricultural District (VAD) Board.

Alternates: The Duplin County Board of Commissioners may appoint alternates for the five district members.

Board of Commissioners: The Board of Commissioners of Duplin County, North Carolina.

Chairman: Chairman of the Duplin County Voluntary Agricultural Board (VAD).

District: A voluntary agricultural district (VAD) established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600, 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;
- (2) 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;
- (3) The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, 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

- (f) 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.
- (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 of 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 Article VIII.

Section 601. 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 to the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Voluntary Agricultural District Board or the designated staff person on forms provided by the Board. The certification may be submitted at the time the owner applies for inclusion in a district.

ARTICLE VII APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

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) The district, when initially established, shall either:
 - (a.) contain a minimum of ten (10) contiguous acres of qualified farmland, OR
 - (b.) contain two (2) or more qualified farms which at least one (1) farm contains a minimum of ten (10) acres and are located within one (1) mile of each other,
OR
 - (c.) contain the minimum amount of acreage of qualified farmland required under N. C. General Statute § 105-277.3 as determined by the County.
- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the County to sustain agriculture in the district in accordance with Section 600 (5) of

this program. Said agreement shall be in a form which is reviewed and approved by the Voluntary Agricultural District Board; and

- (3) For each district created under the terms of this program, one of the existing Voluntary Agricultural District Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Voluntary Agricultural District Board or to a designated staff person. The application shall be on forms provided by the Duplin County Voluntary Agricultural Board. The application to participate in a district may be filed with the certification of qualifying farmland.

Section 702. Approval Process

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 90 days, if possible, to review all qualifying and any non-qualifying applications. The chairman or his/her designee shall notify the applicants of said approval or disapproval of participation in the district.

Upon receipt of an application, the chairman of the Voluntary Agricultural District Board may forward a copy of the application to the County Manager, the County Tax Assessor, and the County Planning Board which may be asked to provide comments, if any, to the Duplin County Voluntary Agricultural Board prior to the vote on the application.

Section 703. Appeal

If an application is denied by the Duplin County Voluntary Agricultural District Board, the petitioner has 30 days from the date of the letter to appeal the decision to the Duplin County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII REVOCATION OR WITHDRAWAL OF CONSERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (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 N. C. G. S. § 105-277.2 through N. C. G. S. § 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 700 (1).

ARTICLE IX AGRICULTURAL BOARD

Section 900. Creation

In accordance with N. C. G. S. § 106.739, the Board of Commissioners hereby establishes a Duplin County Voluntary Agricultural District Board to implement the provisions of this program ordinance.

Section 901. Appointments and Memberships

The Duplin County Voluntary Agricultural District Board shall consist of five members appointed by the Duplin County Board of Commissioners, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, and the President of the Agribusiness Council.

Requirements: Each Board Member appointed by the Duplin County Board of Commissioners shall be a County resident or landowner in Duplin County.

(1) Membership:

- (a) The Duplin County Voluntary Agricultural District Board shall consist of no less than nine members. One member that is actively engaged in farming shall be appointed from each of the five districts, plus the Director of the Duplin County Cooperative Extension Service, the Duplin County Planner, the Register of Deeds, and the President of the Agribusiness Council. These shall be known as the Permanently Established Committee Members for purposes of establishing a quorum (see item (c) below regarding quorum). In addition, any alternate committee Members shall be counted to establish a quorum if the Permanently Established Committee Member(s) is absent from the Board Meeting.
- (b) The five board members and any alternates actively engaged in farming representing the Commissioner Districts shall be recommended for appointment by the Agribusiness Council and approved by the Board of Commissioners. The Director of the Duplin County Cooperative Extension

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Service, the Duplin County Planner, and the Register of Deeds will be required to participate on this board as part of their job description additional duties.

- (c) A quorum shall be five or more committee members. Voting on items of business shall be by those Permanently Established Committee Members as listed in item (a) above. If the Permanently Established Committee Members are absent, then the Permanently Established *Alternate* Committee Member(s) shall be counted to establish a quorum in order to conduct business of the Committee and be allowed to vote on all items of business at the Committee meeting. The Permanently Established *Alternate* Committee Member(s) shall not be counted to establish a quorum if the Permanently Established Committee Member(s) are present nor be allowed to vote on items of business.
- (2) Tenure: The initial Duplin County Voluntary Agricultural District Board shall consist of two members 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 Voluntary Agricultural District Board will be for a period of three years with reappointment permitted. The terms for the appointment of the initial Voluntary Agricultural District Board will be determined by lottery.
- (3) Vacancies: Any vacancy on the Duplin County Voluntary Agricultural District 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 upon recommendations from the Agribusiness Council or by employee replacement.
- (4) Removal for Cause: Any member of the Duplin County Voluntary Agricultural District Board may be removed for cause, (the inability or unwillingness to serve), by the Board of Commissioners upon written notice.
- (5) Funding: Appropriations for Performance of Duties. Funds shall be appropriated by the Board of Commissioners to the Duplin County Voluntary Agricultural District Board to perform its duties. A budget request will be presented to the County Commissioners annually.

Section 902. 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 calendar 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) 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 regular meeting shall be held at least quarterly. The normal schedule of these meetings will be the 4th Tuesday evenings of the months of January, April, July, and October unless delayed by call of the Chairperson. A quorum shall consist of five 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. Authority to vote is explained in above item 901 (1) (c).
- (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 (Cooperative Extension) and shall be a public record.
- (7) Administrative Services: The Cooperative Extension Service Office shall serve the Agricultural Board for record keeping, correspondence, and application procedures under this article together with such other services the Board needs to complete its duties.

Section 903. Duties:

The Voluntary Agricultural District 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.
- (4) Review and make recommendations concerning proposed amendments to this ordinance.

- (5) Make recommendations to the Duplin County Board of Commissioners on the implementation of the Duplin County Agricultural Protection Plan adopted as the county wide strategic agriculture plan on December 20, 2010 in support of the Duplin County agricultural needs, and as defined in N. C. G. S. § 106-744 (C)(1) ; and
- (6) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

ARTICLE X LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT INFORMATION

Section 1000. Purpose

- (1) 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 Duplin County Land Records System, shall be changed to include a notice reasonably calculated to alert any person researching the title of a particular tract and such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District.
- (2) The Duplin County Voluntary Agricultural District 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.
 - (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads leading into the County. Members of the Duplin County Voluntary 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 of the presence of the farm property.
 - (b) Information identifying approved districts shall be provided to the Register of Deeds Office, the Duplin Soil and Water Conservation District, the Cooperative Extension Service Office, the Farm Service Agency, the Duplin County Planning Department, and the Duplin County Tax Department.

- (c) 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 Duplin County Tax Department.

NOTICE TO REAL ESTATE PURCHASERS IN DUPLIN COUNTY
DUPLIN COUNTY VOLUNTARY AGRICULTURAL DISTRICTS

Duplin 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, the County Planning Department, the Register of Deeds, the Natural Resources Conservation Service, the Farm Service Agency Office, and the County Tax Department.

- (3) Limit of Liability – In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
- (4) 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 ordinance.

Section 1002. 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 Duplin County Voluntary Agricultural District Board detailed information showing that said governmental unit has considered alternatives.

ARTICLE XI
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the agricultural districts within one-half (1/2) aerial mile of the proposed development.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with N. C. Department of Agriculture 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 N. C. Department of Agriculture and Consumer Services, and any other such agency the Board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's Office after adoption. At least once a year, the Voluntary Agricultural Board shall submit a written report to the Commissioner of Agriculture and County Commissioners, including the status, progress and activities of the Duplin County Agricultural Protection Plan 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; and
- (5) Date certified.

ARTICLE XIII
LEGAL PROVISIONS

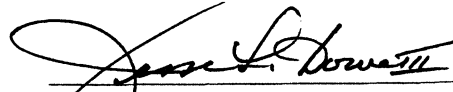
Section 1300. Severability, Conflict with Other Ordinances and Statutes, and Amendments

- (1) Severability: If any article, section, subsection, clause, phrase or portion of this ordinance 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 ordinance.
- (2) Conflict with other ordinances and statutes: 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.
- (3) Amendments: This ordinance 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 Duplin County Voluntary Agricultural District Board to the Board of Commissioners.

ARTICLE XIV
ENACTMENT

The Duplin County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance as amended.

Adopted this the 16 day of April, 2018.



Chairman
Board of Duplin County Commissioners

ATTEST:




Clerk to the Board

APPROVED as to form:


Wendy Sivori
County Attorney