

FARMLAND PROTECTION PROGRAM

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MOORE COUNTY VOLUNTARY FARMLAND PROTECTION PROGRAM ORDINANCE

Title.

An ordinance of the Board of County Commissioners of Moore County, North Carolina entitled "Voluntary Forestry, Open Land and Farmland Protection Program Ordinance."

Authority.

The articles and sections of this ordinance are adopted pursuant to the authority conferred by N.C.G.S. 106-735 through N.C.G.S. 106-743; and N.C.G.S. Chapter 153A.

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; and increase protection from non-farm development and other negative impacts on properly managed farms and properties.

This ordinance establishes a Voluntary Agricultural District Program that provides the following benefits for participating farmers and other county residents:

The program preserves and maintains agriculture, horticulture, silviculture, or open land areas within the County;

The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust and smells (a feature which may assist in avoiding conflicts between neighbors and potential nuisance claims);

The program gives the farming community a better voice in Moore County Commissioners' decisions affecting farmland;

Landowner participation in the program is voluntary and the farmer may terminate his/her participation at any time;

The program requires the Moore County Commissioners to use agriculture, horticulture, silviculture or open land areas as "a last resort" if they are attempting to condemn County lands;

The program would protect greenspace and natural resources as the county's population increases and development expands;

The program maintains opportunities to produce locally grown food and fiber.

MOORE COUNTY CODE

Definitions.

The following are defined for purposes of this Ordinance:

Advisory board means the Moore County Agricultural Advisory Board.

Chairman means the chairman of the Moore County Agricultural Advisory Board.

District means Voluntary Agricultural District as established by this Ordinance.

Board of Commissioners means the Moore County Board of Commissioners.

Agricultural Advisory Board

(a) *Creation.* The Board of Commissioners establishes the Moore County Agricultural Advisory Board to implement the provisions of this program.

(b) *Appointments and Membership.* The agricultural advisory board shall consist of seven (7) members appointed by the Moore County Board of Commissioners. The Board of Commissioners may expand the Agricultural Advisory Board if the need arises.

(1) Requirements.

- a. Each board member shall be a county resident and registered to vote in Moore County.
- b. The seven Board members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Agricultural Advisory Board, or by application.

(2) *Tenure.* The members are to serve for terms of three years, with a maximum of six consecutive years. Thereafter, any member must be off of the board for at least one year before being reappointed.

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

(4) *Removal for cause.* Any member of the Agricultural Advisory Board may be removed for cause by the Board of Commissioners.

(c) Advisory Board procedures.

(1) *Chairman and vice-chairman.* The advisory board shall elect a chairman and vice-chairman each year at its first meeting of the fiscal year. The chairman shall preside over all regular or special

meetings of the Advisory Board. In the absence or disability of the chairman, the vice chairman shall preside and shall exercise all the powers of the chairman. Additional officers may be elected as needed.

- (2) *Jurisdiction.* The advisory board may adopt Rules of Procedure consistent with this ordinance or with other provisions of state law.
 - (3) *Advisory Board year.* The advisory board shall adopt the Moore County fiscal year as its meeting year.
 - (4) *Meetings.* Meetings of the advisory board shall be held pursuant to the meeting schedule adopted by the advisory board, or at the call of the Chairman and at such other times as the advisory board may specify in its rules of procedure. A meeting shall be held at least quarterly, and in no case more than ninety (90) days since the previous meeting. Notice of any meetings should be in writing unless otherwise agreed to by all advisory board members. Meetings shall follow open meetings law. Agenda item preparation and public notice shall be the responsibility of the staff of the Soil and Water Conservation District who performs those duties at the pleasure of the chairman of the advisory board. An annual schedule of meetings shall be adopted at the final meeting of each calendar year.
 - (5) *Majority vote.* All issues shall be decided by majority vote of the members of the advisory board present at any meeting.
 - (6) *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 the official actions, which shall be filed in the Office of the Advisory Board, and shall be public record.
- (d) *Duties.* The advisory board shall:
- (1) Review and approve or disapprove applications for compliance with the Ordinance for membership in a Voluntary Agricultural District (hereafter VAD) and make recommendations concerning the establishment and modification of any VAD.
 - (2) Conduct public hearings.
 - (3) Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the county which may affect agricultural districts.
 - (4) Review and make recommendations concerning proposed amendments to this Ordinance.
 - (5) Study additional methods of farmland protection and make recommendations to the Board of Commissioners.
 - (6) Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

- (7) At the request of the Board of Commissioners, the Advisory Board shall produce a written report to the Board of Commissioners that shall include the status, progress and activities of the County's VAD program.
- (8) Advisory Board members hold their positions for the benefit of the general public and Moore County. Conflicts may arise in situations in which an advisory board member's duty to act in the public interest conflicts with a potential desire to advance his/her own interest. These conflicts of interest may include financial, associative, and personal bias. Each member shall disclose any conflict of interest and refrain from taking part in discussing or voting on such matters, if his/her situation might reasonably call into question the impartiality or fairness of such discussions.

Creation of voluntary agricultural districts (VADs).

- (a) *Implementation.* In order to implement the purposes stated in this Ordinance, this program provides for the creation of VADS which meet the following standards:
 - (1) The district, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation, which is: five acres for horticultural use; ten acres for agricultural use; and twenty acres for forestry use.
 - (2) The landowner(s) requesting inclusion in the VAD shall execute an agreement with the county to sustain agriculture in the VAD in accordance with subsection "Qualifications and Certification of Farmland" of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.
- (b) *Purpose.* The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between VAD participants and non-farm landowners in proximity to said districts.
- (c) *Procedure of notification.* The Advisory Board, in cooperation with the County, shall provide notification to property owners, residents and other interested persons within one-half mile and adjacent to any designated VAD. See N.C.G.S. 106-741(a). The purpose of such notification is to inform current and potential residents and property owners in and adjacent to a VAD that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to, the following: pesticide spraying, manure spreading, machinery, truck or tractor operations, livestock operations, sawing, and similar activities.
 - (1) Types of notification.

- a. Signs identifying approved agricultural districts shall be placed on private property adjacent to major roads adjoining the VAD in such a manner so that current and potential residents and property owners are made aware that farming and agricultural activities may occur at any time. Specific location of the signs, including the number of signs necessary to provide adequate notice of the specific district, shall be approved by the county Planning Director.
- b. Maps identifying approved VADS shall be provided to the Register of Deeds office, the Soil and Water Conservation District Office, the Cooperative Extension Office, the Farm Service Agency, the Natural Resources Conservation Service, the Moore County Planning Department, and County GIS.
- c. The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds:

**'NOTICE TO REAL ESTATE PURCHASERS IN MOORE COUNTY
MOORE COUNTY AGRICULTURAL DISTRICTS**

Moore 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 activities including, but not limited to, pesticide spraying, manure spreading, machinery, tractor or truck operations, livestock operations, sawing and similar activities may take place in those districts. This map may be obtained from the Register of Deeds Office, Soil and Water Conservation District Office, Cooperative Extension Office, Farm Service Agency, the Natural Resources Conservation Service, and the Moore County Planning Department."

Qualifications and Certification of Farmland.

Requirements. In order for farmland to qualify for inclusion in a VAD to participate under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property.
- (2) The farmland must be engaged in **agriculture** as that word is defined in N.C.G.S. 106-581.1 which includes:
 - (a.) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants;
 - (b.) The planting and production of trees and timber.
 - (c.) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
 - (d.) Aquaculture, as defined in NC.G.S. 106-758;
 - (e.) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation;
 - (f.) When performed on the farm "agriculture," "agricultural," and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for

agricultural purposes, packing, treating, processing, sorting, storage and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.

- (g.) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain. (1991, c.81, s. 1; 2005-390, s. 18; 2006-255, s. 6; 2013-347, s. 2.)
- (3) The farmland must be managed in accordance with the Natural Resource Conservation Service defined erosion control practices that are addressed to highly erodible land.
- (4) The farmland must 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 nonfarm 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 and municipal zoning and subdivision regulations.
- (5) A conservation agreement entered into for the purpose of enrolling real property in a voluntary agricultural district pursuant to this article and G.S. 106-737(4) shall be recorded by the Moore County Register of Deeds.

Application, approval and appeal procedure.

(1) *Application Procedure.*

- (a) A landowner may apply to participate in the program by making application to the chairman of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a VAD may be filed with the certification for qualifying farmland.
- (b) An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

- (2) ***Approval Process.*** Upon submission of the application to the advisory board, the advisory board shall meet within 90 days to approve or disapprove the application. The chairman shall notify the applicant by first class mail of approval or disapproval of participation in the VAD. Upon receipt of an application, the chairman shall forward copies immediately to the Moore County Soil and Water Conservation District which shall review, complete and return their copies to the chairman within 30 days of receipt.

- (3) ***Appeal.*** If an application is denied by the Advisory Board, the applicant has 30 days within which to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioner shall be final.

Revocation of Conservation Agreement.

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Conservation Agreement, or the Advisory Board may revoke the Conservation Agreement based upon noncompliance by the landowner subject to the same provisions as contained in section "Application, Approval and Appeal Procedure" for appealing denials of applications. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a VAD. The process will be completed within 30 days of receipt of written notification. The Planning Board and the Register of Deeds shall be notified of any revocation.

Public hearings.

- (1) *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 a VAD until such agency or unit has requested the advisory board to hold a public hearing on the proposed condemnation. This Ordinance provides for such a hearing.
- (2) *Procedure.*
 - (a) Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in a newspaper of general circulation in Moore 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 30 business days of receipt of the request.
 - (B) 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. 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 Cooperative Extension Agent, Moore County Forest Service, USDA-NRCS District Conservationist, the Moore County Farm Bureau and may consult with 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.
 - (D) Within ten business days after the public hearings, 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 acquisition.
 - (E) Pursuant to G.S. 106-740(3), 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 within these time limitations.

Public notice.

- (1) *Procedure.* Pursuant to G.S. 106-741(a), upon certification of qualifying farmland and designation of real property as a VAD, the Moore 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 a tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.
- (2) *Limit of liability.* Pursuant to G.S. 106-741(b), 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.
- (3) *No cause of action.* Pursuant to G.S. 106-741(c), 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 VAD as defined in this ordinance.

Subdivision ordinance and zoning ordinance review.

Developers of major subdivision or planned unit developments shall designate on preliminary and final site developments plans, the existence of the VADs within one-half mile of the proposed development.

County land-use planning.

- (1) *Signed registration.* Moore County shall require persons applying for a building permit or persons registering a deed to sign the following statement, a record of which shall be maintained at the office of the Planning Department:

"I certify that I have reviewed the most current Moore County Agricultural Districting Map found in the Register of Deeds and/or Planning Office. I have noted the proximity of Agricultural District Boundaries to my property. I understand that activities such as pesticide spraying, manure spreading, machine operation, livestock operations and or other common farming activities may occur at any time in these areas."

Consultation authority.

The Advisory Board may consult with the Cooperative Extension Office, the Moore County Soil and Water Conservation Office, the Natural Resources Conservation Service, the Forestry Service, the Moore County Farm Bureau, the North Carolina Farm Bureau, and any other such agency the Advisory Board deems necessary to properly conduct its business.

North Carolina agency notification.

- (1) *Record annually with the Department of Agriculture.* A record of this ordinance shall be recorded with the Office of the North Carolina Commissioner of Agriculture after adoption and after any amendment or modification. At least once per year the office of the Advisory Board shall submit a written report to the Commissioner of Agriculture concerning the status, progress and activities of the county's Farmland Protection Program including the VAD Information regarding the following:

- (a) Number of landowners enrolled;
- (b) Number of acres for which applications are pending;
- (c) Date and number of acres certified or de-certified; and
- (d) Number of acres denied.

Legal provisions.

- (1) *Severability.* If any section, subsection, clause, phrase or portion of this Ordinance is for any reason determined to be 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 this Ordinance conflict with other ordinances of Moore County, those ordinances 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.
- (3) *Amendments.* This article may be amended from time to time upon recommendation by the Advisory Board to the Board of Commissioners. Upon receipt from the Advisory Board of a recommended amendment, the Board of Commissioners shall conduct a public hearing to consider the amendment. Any amendment(s) shall be filed with the Commissioner of Agriculture upon adoption pursuant to G.S. 106-743. See also section "North Carolina agency notification."

REVISED

DATE:

Enactment.

The Moore County Board of Commissioners hereby adopts and enacts the preceding sections of this Ordinance as amended.

Adopted this 19 day of July 2016.

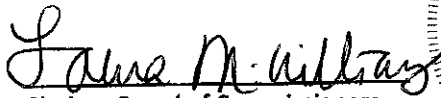
Motion adoption by Saunders

Seconded by Graham

MOORE COUNTY BOARD OF COMMISSIONERS


(CHAIRMAN)

ATTEST:


Clerk to Board of Commissioners

