

NORTHAMPTON COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of Northampton County, North Carolina, entitled, “VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.”

ARTICLE II
AUTHORITY

The articles and sections of this program are adopted pursuant to authority conferred by the N.C.G.S. Sections 106-735 through 106-743, Chapter 153A, and other applicable law.

ARTICLE III
PURPOSE

The purpose of this ordinance is to promote the preservation of farmland in Northampton County so that development and growth will be accompanied by protection of farms from non-farm development and other negative impacts on properly managed farms, recognizing the importance of agriculture to the economic and cultural life of the county.

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

The program preserves and maintains agricultural areas within the county.

The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, smells, etc. This may help avoid conflicts between neighbors.

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

The program conserves green space and natural resources as the county’s population and development expands.

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

ARTICLE IV DEFINITIONS

The following are defined for purposes of this ordinance:

Advisory Board: Northampton County Agricultural Advisory Board.

Chairperson: Chairperson of the Northampton County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Northampton County Board of Commissioners.

ARTICLE V AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners hereby establishes the Northampton County Agricultural Advisory Board to implement the provisions of this ordinance.

B. Appointments and Memberships

The Advisory Board shall consist of no less than seven (7) members appointed by the Board of Commissioners.

Requirements

1. Each Advisory Board member shall be a Northampton County resident or landowner.
2. At least six (6) of the members shall be actively engaged in farming or own qualifying farmland in Northampton County.
3. 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 Northampton County Soil and Water Conservation District, the county office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency, Northampton County Farm Bureau, and any other agricultural-related individual or group.
4. Each of the four (4) districts established in Article VI shall be represented on the Board by a person owning farmland in the district.
5. The remaining three (3) members of the Board shall be appointed at-large by the Board of Commissioners to represent a broad range of agricultural interests. One (1) of these members shall be a member of the Board of Commissioners. This member shall not be eligible to serve as the Advisory Board's representative on the Northampton County Planning Board as established pursuant to Article V, Section G.3. of this Ordinance.

C. Tenure

1. The initial board is to consist of two (2) appointees for terms of one year; two (2) appointees for terms of two years; and three (3) appointees for terms of three years. Thereafter, all appointments are to be for terms of three (3) years, with reappointment permitted.
2. Terms of appointment shall be staggered so that no more than three (3) members' appointments expire annually.
3. Following the initial staggered appointments, all members shall be eligible to serve a maximum of two (2) consecutive terms. Former members may be reappointed following a break in service.
4. Individuals initially appointed to terms of less than three (3) years in establishment of the staggered term rotation shall be eligible for reappointment so as to serve two full terms in addition to the initial term of less than three (3) years. This shall include any current member serving at the time of the effective date of this amendment.

D. Vacancies

Any vacancy on the Advisory Board is to be filled, from recommendations of the above groups, by the Board of Commissioners for the remainder of the unexpired term.

E. Removal

Any member of the Advisory Board may be removed by a unanimous vote of the Board of Commissioners.

F. Funding

The Board of Commissioners shall fix the per diem compensation, if any, of the members of the Advisory Board and funds shall be appropriated to the Advisory Board to perform its duties.

G. Advisory Board Procedure

1. Advisory Board Year

The Advisory Board shall use the Northampton County fiscal year as its meeting year.

2. Officers

The Advisory 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 Advisory Board. In the absence or disability of the Chairperson, the Vice-Chairman shall preside and exercise all powers of the Chairperson. Additional officers may be elected as needed.

3. The Advisory Board shall recommend, to the Board of Commissioners, one (1) of its members for appointment to the Northampton County Planning Board. Members shall be appointed to a term of three (3) years shall be subject to term limitations of the Planning Board. Individuals initially appointed to terms of less than three (3) years shall be eligible for reappointment so as to serve two full terms in addition to the initial term of less than three (3) years. Should the term on the Advisory Board end before the appointment on the Planning Board, the member shall complete their term on the Planning Board.
4. Jurisdiction
The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.
5. Meetings
Meetings of the Advisory Board shall be held at least annually and otherwise 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. Notice of all meetings shall be made to the members in writing, unless otherwise agreed to by all Advisory Board members. Meetings shall be open to the public. All meetings shall be conducted in accord with the current Roberts Rules of Order.
6. Majority Vote
All issues shall be decided by a majority vote of the members of the Advisory Board, except as otherwise stated herein.
7. Records
The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board and shall be public record.
8. Administrative
The Advisory Board shall work through the Northampton County office of the North Carolina Cooperative Extension Service for record keeping, correspondence, application procedures under this ordinance, and whatever service the Board needs to complete its duties.

H. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
2. Review and make recommendations concerning any ordinance amendment adopted or proposed for adoption under this ordinance;
3. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or agricultural community within the county;
4. Prepare a draft of the report required by G.S. 106-743 giving the status, progress and activities of the county's farmland preservation program;
5. Have the authority to recommend to the Board of Commissioners to waive the minimum acreage requirements for a qualifying farm; and
6. Perform other related tasks or duties assigned by the Board of Commissioners or applicable law.
7. Develop a draft countywide farmland protection plan as defined in N.C.G.S. 106-744 (e) (1) for presentation to the Board of Commissioners.

ARTICLE VI CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Regions

Four (4) regions are hereby established.

1. Region I shall be bordered on the South by U.S. 158 and on the East by Highway 305, Peanut Market Drive (1324), Big John Store Road (1300), and Drewett Store Road (1323). The northern border shall be the North Carolina/Virginia state line and the western border shall be the Northampton County/ Halifax County line and Northampton County/Warren County line.
2. Region II shall be bordered on the West by Highway 305, Peanut Market Drive (1324), Big John Store Road (1300), and Drewett Store Road (1323). The Northern border shall be the North Carolina/Virginia state line. The Southernmost border shall be U.S. 158 and the Eastern border shall be the Northampton County/Hertford County line.
3. Region III shall be bordered on the North by U.S. 158 and on the East by the Northampton County/Hertford County line. The Western and Southern boundary shall be Highway 305.
4. Region IV shall have Highway 305 as the Eastern border and on U.S. 158 as the border to the North. The Northampton County/Halifax County line and the Northampton County/Bertie County line shall serve as the Western and Southern borders.

B. Creation

An agricultural district created pursuant to this Ordinance shall:

1. Consist of at least ten (10) contiguous acres of certified qualifying farmland; OR
2. The District shall contain two (2) or more qualified farms within a region established under this ordinance.
 - i. All enrolled land within one (1) of the regions established in A, above, shall be part of a single district.
 - ii. If a farm falls into two (2) or more regions, it shall participate in the district in the region where the majority of acreage falls.

C. Education

The County may take such action, as it deems appropriate, to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of public information programs to reasonably inform landowners of the location of Voluntary Agricultural Districts.

D. Display

The Districts shall be marked on County maps, which shall be displayed for public view in County offices including, but not limited to, the offices of the Planning Department and the Register of Deeds.

E. Addition and Withdrawal

1. Qualifying farmland in a region with an existing district shall be added to the district as herein provided.
2. In the event that one (1) or more participants in the District withdraws or loses eligibility to participate and the District no longer meets the standards of this ordinance, the district will continue to exist so long as there is one qualifying farm.

F. Renewal

Each conservation agreement shall renew automatically for an additional ten (10) year period at its termination date unless either the county or landowner gives written notice at least thirty (30) days prior to the agreement termination date.

ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND

In order for farmland to qualify under this Article, it must be real property that:

- A. Is 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;
- B. Is certified by the Northampton County Soil and Water Conservation District as being a farm on which at least two-thirds (2/3) of the land is composed of soils that:
 - 1. Are best suited for providing food, seed, fiber, forage, timber, horticultural, and oil seed crops;
 - 2. Have good soil qualities;
 - 3. Are favorable for all major crops common to Northampton County;
 - 4. Have a favorable growing season; and
 - 5. Receive the available moisture needed to produce high yields for an average of eight (8) out of ten (10) years; OR
 - 6. 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;
- C. Must be managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service defined erosion-control practices;
- D. Is the subject of a conservation agreement, as defined in G.S. 121-35, between Northampton County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable Northampton County zoning and subdivision regulations. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article VIII.

ARTICLE VIII REVOCATION OF CONSERVATION AGREEMENT

By written notice to the Board, a landowner of qualifying farmland may revoke a conservation agreement; or the Board may recommend to the Board of Commissioners the revocation of a conservation agreement, based on non-compliance with the conservation agreement by the landowner. Revocation shall result in the 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 agreement prior to its expiration.

ARTICLE IX APPLICATION, APPROVAL, AND APPEAL PROCEDURE

- A. Application Procedure

A landowner may apply to participate in the program by making application to the Advisory Board or the Northampton County office of the North Carolina Cooperative Extension Service. The application shall be on forms provided by the Board. For a farmland owner to receive the benefits provided by this ordinance, the farm must be certified as qualifying farmland by the Advisory Board.

B. Approval Process

1. Upon receipt of an application, the Northampton County office of the North Carolina Cooperative Extension Service will review each application for completeness.
2. A checklist shall be attached and the Northampton County Soil and Water Conservation District shall review within fifteen (15) days for certification pursuant to Article VII.
3. The Northampton County Soil and Water Conservation District shall forward the application to the Northampton County Tax Department.
4. The Northampton County Tax Department shall review the application within fifteen (15) days and return application to the Northampton County office of the North Carolina Cooperative Extension Service.
5. The Northampton County office of the North Carolina Cooperative Extension Service shall forward the application to Advisory Board.
6. Within thirty (30) days, the Advisory Board will meet and render approval or disapproval of the application. Applicant shall be notified of the board's decision by letter within fifteen (15) days.
7. Upon approval, Applicant must execute the Conservation Agreement with the Northampton County Register of Deeds.
8. The Advisory Board will forward approved applications to the Northampton County Land Records office for inclusion on maps.

C. Appeal

If an application is denied by the Advisory Board, the petitioner shall have thirty (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.

D. The Agricultural Advisory Board can make exceptions on an individual farm basis for farms that have not met the requirements of present use valuation based on the farms importance in maintaining agriculture production in Northampton County.

ARTICLE XI PUBLIC NOTICE

A. Record Notice of Proximity to Voluntary Agricultural District

1. Maps

Upon establishment, Voluntary Agricultural Districts will be marked on official maps maintained by the Advisory Board and displayed for public view in the following county offices:

- a. Register of Deeds
- b. Planning Department
- c. Any other office deemed necessary by the Advisory Board

2. 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, Planning Department, and any other office or agency the Advisory Board necessary:

“Notice to Real Estate Purchasers in Northampton County”

“Northampton County has established Voluntary 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 operations, livestock operations, sawing, and other common farming activities may occur in this district any time during the day or night. Maps and information on the location and establishment of these districts may be accessed in the offices of the Planning Department and Register of Deeds.”

3. Computerized Land Records

In addition, when Northampton County computerizes its County Land Records System, the following requirements outlined in these sections 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 Northampton 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 (1/2) aerial mile of a Voluntary Agricultural District.

4. Building Permit Registration

Persons applying for a building permit shall be required to sign the following statement, which shall be maintained at the office of the Advisory Board:

“I have reviewed the most current Northampton County Agriculture Districting map found in the Building Inspection office. I understand that activities such as pesticide spraying, manure spreading, machinery operation, livestock operations, logging, and other common farming and forestry activities may occur at any time in these areas.”

These statements shall be on file in the office of the Advisory Board.

5. 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.

6. 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 ordinance.

7. Road Signage

Signs identifying approved Voluntary Agricultural Districts may be placed along the rights-of-way of major roads that pass through or next to those districts.

B. Subdivision Ordinance and Zoning Ordinance Review

Developers of subdivisions or planned unit developments shall enter on the face of the preliminary and final plat a certification attesting to their understanding that the subdivision is located within one-half (1/2) aerial mile radius of the proposed development.

ARTICLE XII
WAIVER OF WATER AND SEWER ASSESSMENTS

A. No Assessment

A landowner belonging to the District shall not be assessed for or be required to connect Northampton County water and/or sewer systems.

B. Abeyance

Water and sewer assessments will be held in abeyance, without interest, for qualifying farms, inside a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.

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

Statute of limitations is 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 the county water and/or sewer systems are constructed this section shall not apply.

ARTICLE XIII 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 that agency or office to which the Board of Commissioners delegates 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 Voluntary 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 ordinance is enacted or when one is formed.

B. 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.

ARTICLE XIV CONSULTATION AUTHORITY

The Advisory Board may consult the North Carolina Cooperative Extension Service, the Natural Resource Conservation Service, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

Article XV NORTH CAROLINA AGENCY NOTIFICATION

An official copy of this ordinance 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, the Northampton County Soil and Water Conservation District, and any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business. At

least once per year, the Advisory Board shall submit a written report to the Commissioner of Agriculture and Consumer Services including:

1. Number of landowners enrolled;
2. Number of acres enrolled;
3. Number acres applied for;
4. Numbers of acres certified during the reporting period;
5. Number of acres denied during the reporting period;
6. Copies of any amendments to the ordinance; and
7. Any other information the Advisory Board deems useful.

ARTICLE XVI LEGAL PROVISIONS

A. Severability

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

B. Conflict with other Ordinances and Statutes

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

C. Amendments

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

ARTICLE XVII ENACTMENT

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

Adopted this the 4th day of December, 2006.

Motion for adoption by James Hester and seconded by Robert Carter.

Northampton County Board of Commissioners

Chairperson

ATTEST:

Clerk to Board of Commissioners

