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*North Carolina Department of
Agriculture and Consumer Services*

Eminent Domain

- **Jon Lanier, General Counsel, NCDA&CS Legal Affairs**
- **Steve Woodson, Associate General Counsel, N.C. Farm Bureau**
- **Mark Pfanstiehl, Paralegal, NCDA&CS Legal Affairs**

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EMINENT DOMAIN AND VOLUNTARY AGRICULTURAL DISTRICTS

Eminent Domain is the power of the government to take private land for public use.

Examples of Public Use

Roads

Schools

Parks

Public Utilities

Water Resources?

Kelo v. City of New London – Eminent Domain for Economic Development

The power of eminent domain can also be exercised by a few private businesses (“private condemners”) that serve a public purpose:

utilities



Usually, a governmental entity or a private condemnor will exercise the power of eminent domain through a Condemnation Proceeding.

Issues in Condemnation Proceeding

- Public purpose

- Just Compensation

- For properties encumbered by a conservation easement, it must be shown that there is “no prudent and feasible alternative to condemnation of the property encumbered by the conservation easement.”

There are other types of legal actions that are essentially the exercise of eminent domain (e.g. Cartway Proceedings)

Original Condemnation language in 106-740

An ordinance adopted under this Article may provide that no State or local public agency may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district until such agency has requested the local agricultural advisory board to hold a hearing on the proposed condemnation.

1. Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.
2. The board designate to hold the hearing shall have 45 days after receiving a request under this section to hold the public hearing and submit its findings and recommendation to the agency.
3. The agency may not initiate a condemnation action while the condemnation is properly before the advisory board within these time limitations.

2025-2026 Amendments to 106-740

An ordinance adopted under **this Part or Part 3 of** this Article **shall** provide that no State or local public agency may formally initiate any action to condemn any interest in qualifying farmland, **or rezone such land**, within a voluntary agricultural district until such agency has requested the local agricultural advisory board to hold a hearing on the proposed condemnation **or rezoning that conforms to the following requirements:**

2025 and 2026 amendments to 106-740 (continued)

1. Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.
2. The board designated to hold the hearing shall have 45 days after receiving a request under this section to hold the public hearing and submit its findings and recommendation to the agency.
3. The agency shall not initiate a condemnation or rezoning action until 120 days after the date the local agricultural advisory board submits its findings and recommendations to the agency.



