

CHATHAM COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An Ordinance of the Board of County Commissioners of CHATHAM 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 North Carolina General Statutes ("NCGS") § 106-735 through 106-744 and Chapter 153A.

ARTICLE III
PURPOSE

The purpose of this Ordinance is to promote agricultural values and the general welfare of Chatham County by increasing the identity of, and pride in, the agricultural community and its way of life, encouraging the economic and financial health of agriculture, horticulture, and forestry through protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE IV
DEFINITIONS

The following are defined for purposes of this Ordinance:

Advisory Board (Board): Chatham County Agricultural Advisory Board.

Chair: Chairperson of the Chatham County Agricultural Advisory Board.

County: Chatham County, North Carolina.

Voluntary Agricultural District (VAD): A Voluntary Agricultural District as established by this Ordinance.

Board of Commissioners: Chatham County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Charge

There is hereby established an Agricultural Advisory Board to implement the provisions of this Ordinance. The Agricultural Advisory Board is charged with implementing the provisions of this Ordinance.

B. Membership

The Advisory Board shall consist of nine (9) members appointed by the Board of Commissioners from names of individuals submitted by any member of a Chatham County Agricultural or Natural Resources Agency, or any other member of the Chatham County agricultural community.

C. Membership Requirements

1. Each member shall be a Chatham County resident.
2. Each member shall be actively engaged in farming (as defined in NCGS §106-581.1), agribusiness, or be a representative of agricultural interests.
3. The Board of Commissioners shall appoint at least one (1) Member from each of the following four (4) quadrants of the County: East of Hwy 87 and north of US 64 (NE Quadrant), east of Hwy 87 and south of US 64 (SE Quadrant), west of Hwy 87 and north of US 64 (NW Quadrant), and west of Hwy 87 and south of US 64 (SW Quadrant). Each Voluntary Agricultural District shall be represented by at least one member of the board who lives in the quadrant in which the VAD is located. A position on the Agricultural Advisory Board may remain vacant for a reasonable period of time until a suitable candidate is willing to serve. If no suitable candidate from a quadrant is willing to serve, upon request of the chair of the Agricultural Advisory Board, the Board of Commissioners may appoint a member from another quadrant.
4. Additional members may be appointed to the Board in an *ex officio* capacity from the Soil and Water Conservation District Board of Supervisors, the Chatham County Office of the North Carolina Cooperative Extension, the U.S. Farm Service Agency, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an *ex officio* capacity shall neither vote nor count toward quorum requirements.

D. Tenure

The initial Board shall consist of 3 appointees for terms of one (1) year; 3 appointees for terms of two (2) years; and 3 appointees for terms of three (3) years. Thereafter all appointments shall be for terms of three (3) years, with reappointments permitted.

E. Vacancies

Any vacancy on the Advisory Board shall be filled by the Board of Commissioners for the remainder of the unexpired term.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners. No cause shall be required for removal.

G. Advisory Board Procedures

1. Chair

The Advisory Board shall elect a Chair and Vice-Chair each year at its first meeting of the fiscal year. The Chair shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the Chair, the Vice-Chair shall exercise all the powers of the Chair. Additional officers may be elected as provided in the rules of procedure.

2. Determination of Procedure

The Advisory Board shall adopt rules of procedure not inconsistent with this Ordinance or State law.

3. Advisory Board Year

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

4. Meetings

Meetings of the Advisory Board shall be held at the call of the chair or vice-chair and at such other times as the Advisory Board may specify in its rules of procedure, or upon the request of at least 3 members of the Board. A meeting shall be held at least annually and notice of all meetings to the members shall be in writing, unless otherwise provided by the rules of procedure. Meeting dates and times shall also be provided to the public as required by the North Carolina Open Meetings Law. All meetings of the Board shall be open to the public as required by law.

5. Majority Vote and Quorum Requirements

All issues shall be decided by a majority vote of the members present and voting at any meeting at which a quorum is present. A quorum is defined as a majority of the members then in office. No issues may be decided without a quorum but those members present with less than a quorum may meet and discuss matters of the Board.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question. The Advisory Board shall keep records of its examinations and other official actions, all of which shall be filed in the office the Advisory Board, or some other designated location. All records of the Board are public records as provided by law.

H. Duties

The Advisory Board shall:

1. Review and approve applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into a VAD for compliance with this Ordinance;
2. Make recommendations concerning the establishment and modification of areas of the county to be represented on the Agricultural Advisory Board.
3. Review, and approve the form of the conservation agreement required by N.C.G.S. § 106-737;
4. Hold public hearings on projects likely to have an impact on agriculture;
5. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities within the County that affect VADs;
6. Review and make recommendations concerning proposed amendments to this Ordinance;
7. Help formulate and update as necessary a Countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners;
8. Study additional methods of protection for farming, horticulture, forestry and the attendant land base, and make recommendations to the Board of Commissioners;
9. Make recommendations concerning the establishment and modification of Voluntary Agricultural Districts;
10. Report as requested to the Board of Commissioners on the status, progress, and activities of the County's farm preservation program including the County's Voluntary Agricultural District program.
11. Perform other agriculturally related tasks or duties assigned by the Board of Commissioners.

I. 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.

ARTICLE VI
REQUIREMENTS FOR QUALIFYING FARMLAND

A. Requirements

To meet the requirements as qualifying farmland to be included in a Voluntary Agricultural District a farm must:

1. Be real property that is engaged in agriculture as defined in N.C.G.S. § 106-581.1 and/or meet the requirements of a bona fide farm as noted in NCGS 153A-340;
2. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land;
3. Be the subject of a Conservation Agreement, as defined in N.C.G.S. § 121-35, between the County and the owner of such land that prohibits non-farm 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 zoning and subdivision regulations; and
4. Be located in the unincorporated area of Chatham County, unless there is an agreement with a municipality through which the County is authorized to exercise the authority of the municipality on its behalf.

ARTICLE VII
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Voluntary Agricultural Districts

Each qualified farm as defined in Article VI and meeting the requirements of this Ordinance shall be a Voluntary Agricultural District.

B. Education

Chatham County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of VADs and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Voluntary Agricultural District program.

ARTICLE VIII
APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. Application Procedure

1. The owner of a farm seeking recognition as a Voluntary Agricultural District shall submit an application to the County. In order to benefit from the programs authorized by this Ordinance, a farm must be recognized as a qualifying farm and a Voluntary Agricultural District by the Advisory Board.
2. At the time of application, a Conservation Agreement, as required by N.C.G.S. § 106-737 and defined in N.C.G.S. § 121-35, to sustain, encourage, and promote agriculture must be executed by the landowner(s) with the Advisory Board.

B. Approval Process

1. Applications for Voluntary Agricultural District designation shall be made to Chatham County on forms approved by the Advisory Board.
2. Once a completed application has been received and reviewed by the County and State agencies designated by the Advisory Board it shall be submitted to the Advisory Board for review. Within 90 days thereafter the Advisory Board shall render a decision regarding recognition as a qualifying farm for inclusion in a Voluntary Agricultural District.

The Voluntary Agricultural District designation shall become effective upon approval by the Agricultural Advisory Board and be reflected on the County's Tax Maps to the extent practicable and shall be reflected on the County GIS.

C. Appeal

If an application is determined to be noncompliant with this Ordinance by the Advisory Board, the landowner may, within fifteen (15) days of notification of noncompliance of the application, request in writing that the Advisory Board reconsider its determination. The request for reconsideration shall state the reason(s) therefore. The Advisory Board shall meet at the next regularly scheduled board meeting for reconsideration of the application and shall notify the applicant by first class mail of its determination, and the reason(s) therefore, within 15 days of the reconsideration of the application. Upon either an initial negative determination, if no request for reconsideration was made, or a negative determination after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the determination to the Board of Commissioners. Such appeal shall be presented in writing and shall state the reason(s) therefore. The decision of the Board of Commissioners shall be final.

ARTICLE IX

REVOCAION, TRANSFER, RENEWAL, AND ENFORCEMENT OF CONSERVATION AGREEMENTS

A. Revocation

By providing 30 days advance written notice to the Advisory Board, a landowner may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner with the provisions of Article VI, subject to the same provisions as contained in Article VIII(C) for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate as a VAD. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration as long as this Ordinance remains in effect. If the Advisory Board revokes a Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C).

B. Transfer

If the ownership of VAD land is transferred, whether due to death of the landowner or by sale, gift, or other means, new landowner(s) shall have sixty (60) days to affirm on a supplemental application, including updated information demonstrating that the enrolled land still qualifies for enrollment as a VAD under Article VI of this Ordinance, and execute a new Conservation Agreement in order for the land to remain a VAD and continue to be subject to the Conservation Agreement. The failure to complete the foregoing within the sixty (60) day grace period shall terminate the VAD designation and the Conservation Agreement.

In the event that there are water and/or sewer assessments held in abeyance under this Ordinance, and VAD designation and/or the Conservation Agreement is terminated for any reason or by any means, the assessments shall no longer be held in abeyance.

C. Renewal

Except as otherwise provided in this Ordinance, a Conservation Agreement for land within a Voluntary Agricultural District that continues to qualify under all provisions of Article VI, shall be automatically renewed for a period of 10 years unless the landowner provides 30 day written notice to the Advisory Board of intent not to renew prior to the end of the expiring 10 year period. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its authorizing legislation has been repealed.

D. Enforcement

Enforcement of the terms of a Conservation Agreement for land enrolled in a VAD shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom. Revocation shall be undertaken pursuant to the provisions of Section A of this Article.

ARTICLE X
PUBLIC HEARINGS

A. Purpose

N.C.G.S. § 106-740 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 Voluntary Agricultural District until such agency or unit has requested that the Advisory Board hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agricultural, forestland, or horticultural land prior to taking action that is not reversible. This provision is not intended to, and does not, prohibit the condemning agency or unit from taking action authorized by law.

B. Procedure

1. Upon receiving a request for a hearing, the Advisory Board shall publish a notice describing the proposed action in an appropriate newspaper with coverage in Chatham

County as soon as practicable after receiving request, and will in the same notice notify the public of a hearing on the proposed condemnation, to be held as soon as practicable after receiving 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 VAD within which the proposed action is to take place.
 - c. The Advisory Board shall consult with the Cooperative Extension Service Office, the Soil and Water Conservation District Office, the Natural Resources Conservation Service, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
 - d. Within five (5) 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.
 - e. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
 - f. After the ten (10) 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 within five (5) days.
 - g. 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 thirty (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.

- h. Pursuant to N.C.G.S. § 106-740, the condemning agency may not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE XI

NOTIFICATION OF PROXIMITY TO A VOLUNTARY AGRICULTURAL DISTRICT

A. Record Notice of Proximity to a Voluntary Agricultural District

1. Procedure

Pursuant to N.C.G.S. § 106-741, the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a VAD, Chatham County shall provide in its computerized land records system some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of any VAD. Recording of a VAD Conservation Agreement may assist with the implementation of this provision where tract data is shared between the Register of Deeds Office and the GIS/Tax Office. However, a VAD Conservation Agreement is not required to be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act.

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 nonfeasance occurring in good faith in connection with the duties or obligations imposed by this Article.

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 VAD as defined in this Ordinance.

B. Geographic Information System

Voluntary agricultural districts and all tracts within one-half mile of a voluntary agricultural district shall be mapped in the County Geographic Information System.

C. Maps

Maps identifying approved Voluntary Agricultural Districts shall be provided to the following agencies or offices upon request to the GIS office:

1. Chatham County Planning Department;
2. Chatham County Tax Office;
3. Natural Resources Conservation Service;
4. Farm Service Agency;
5. Chatham County Cooperative Extension Office;
6. Soil and Water Conservation District Office; and
7. Any other such agency or office the Advisory Board deems appropriate.

D. Posting of Notice

The following notice, of a size and form suitable for posting, shall be posted in the Register of Deeds Office, Tax Office, and any other office or agency the Advisory Board deems necessary:

Chatham County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These VADs have been developed and mapped by the County to inform all purchasers of real property that agricultural, horticultural, and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, burning, and other common agricultural, horticultural, and forestry activities may occur in these VADs any time during the day or night. Maps and information on the location and establishment of these VADs can be obtained from the Chatham County Geographic Information System.

E. Signage

Signs identifying parcels enrolled in a Voluntary Agricultural District may be placed on enrolled parcels at the discretion of the owners. Signs shall not be placed within the right-of-way of any state or County maintained road.

ARTICLE XII

WAIVER OF WATER AND SEWER ASSESSMENTS

A. No Connection Required

A landowner belonging to a Voluntary Agricultural District shall not be required to connect to Chatham County water and/or sewer systems.

B. Abeyance

Water and sewer assessments shall be held in abeyance, without interest, for property located within a Voluntary Agricultural District until the 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

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner shall be required to sign an acknowledgement, which shall be incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

Nothing in this Article is intended to diminish the authority of the County to hold assessments in abeyance under N.C.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 Article conflicts with the terms of federal, state, or other grants under which County utility systems are constructed this Article shall not apply. This Article shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

ARTICLE XIII
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

The Advisory Board shall work with County Planning Department to develop amendments to the County’s Subdivision Regulations to provide that developers of major subdivisions or planned unit developments shall designate on preliminary development plans and recorded plats language indicating the existence of Voluntary Agricultural Districts within one-half mile of the proposed development.

ARTICLE XIV
LAND USE DEVELOPMENT

A. Purpose

In order to prevent conflicts between Voluntary Agricultural Districts, farm owners, and nearby non-farmer landowners, land use decisions shall consider the purposes of this Ordinance and the proximity of Voluntary Agricultural Districts to any proposed development. It shall be the duty of the Agricultural 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 Voluntary Agricultural District program and also to coordinate the formation and maintenance of VADs with the County's land use planning activities and the County's land use plan.

C. Growth Corridors

If at such time as the County designates “growth corridors”, Voluntary Agricultural Districts shall not be permitted to be added in those growth corridors without the approval of the Board of Commissioners. VADs already in the “growth corridors” may remain but shall not be expanded without the approval of the Board of Commissioners.

ARTICLE XV
CONSULTATION AND AGENCY NOTICE

A. Consultation

The Advisory Board may consult with the Chatham County Cooperative Extension Service, the Soil and Water Conservation District, the Natural Resources Conservation Service, the USDA Farm Service Agency, the North Carolina Forest Service, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to the proper conduct of its business.

B. Annual Report to the North Carolina Department of Agriculture and Consumer Services

A 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 North Carolina Cooperative Extension Office, 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 Voluntary Agricultural District program, including the following information:

1. Total number of landowners enrolled in the program;
2. Total number of acres enrolled in the program;
3. Number of acres certified as qualified farmland during the reporting period;
4. Number of acres seeking certification as qualified farmland but not being certified during the reporting period;
5. Number of acres for which applications to be included in the program are pending;
6. Municipalities with which Memorandums of Understanding have been signed;
7. Municipalities with which Memorandums of Understanding are no longer in effect;

8. Municipalities that have adopted this Ordinance for the purpose of the County enforcing this Ordinance within their corporate boundaries;
9. Copies of any amendments to this Ordinance or Memorandums of Understanding signed with municipalities; and
10. Any other information the Advisory Board deems useful.

ARTICLE XVI
LEGAL PROVISIONS

A. Farmland Preservation Program Ordinance

This Ordinance supersedes and replaces the Farmland Preservation Program Ordinance and the same is hereby repealed.

B. 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 portions of this Ordinance.

C. Conflict with Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other Ordinances of Chatham County, the provisions of those other Ordinances shall govern. Whenever the provisions of any federal or state statute conflict with this Ordinance, the provisions of such federal or state statute shall govern. The sole remedy for a land use not complying with this Ordinance shall be revocation of the Conservation Agreement and removal of the non-qualifying land from the Chatham County Voluntary Agricultural District Program. Recreational use of land that does not

interfere with agricultural uses as defined in N.C.G.S. § 106-581.1 shall not be considered non-compliant with this Ordinance.

D. Amendments

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

**ARTICLE XVII
ENACTMENT**

The Chatham County Board of Commissioners hereby adopts and enacts the preceding articles and sections of the Ordinance.

Adopted this the ____ day of _____, 2019.

COUNTY OF CHATHAM

By: _____

Mike Dasher, Chair

ATTEST:

Lindsay K. Ray

Clerk to the Board of Commissioners