

CHAPTER 155: VOLUNTARY FARMLAND PRESERVATION

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§155.01 TITLE

This ordinance shall be known and may be cited as the *Amended and Restated Voluntary Farmland Preservation Chapter of Macon County, North Carolina*.

§155.02 PURPOSE

The purpose of this ordinance is to encourage the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of this County.

§155.03 ENACTMENT

Pursuant to authority conferred by G.S. §§106-735 through-743 and G.S. §160D-903, and for the purpose of promoting the health, safety, morals, and general welfare of the County, the Board of Commissioners of Macon County, North Carolina, does enact this ordinance, which shall be known as the *Amended and Restated Voluntary Farmland Preservation Chapter of Macon County, North Carolina*.

§155.04 DEFINITIONS

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Board. Macon County Agricultural Advisory Board.

Chairman. Chairman of the Agricultural Advisory Board.

District. Voluntary Agricultural District

§155.05 AGRICULTURAL ADVISORY BOARD

A. Creation. The Macon County Agricultural Advisory Board, consisting of five members to be appointed by the Board of County Commissioners, is hereby established.

B. Membership.

1. Requirements

- (a) Each Board member shall be a resident of Macon County.
- (b) Three of the five members shall be actively engaged in agriculture.
- (c) The three members actively engaged in agriculture shall be selected for appointment by the Board of County Commissioners from the names of individuals submitted to the Board of County Commissioners by the Soil and Water Conservation District, the North Carolina Cooperative Extension Service and the Farm Services Agency Committee.

The members of the Board shall be chosen to provide the broadest possible representation of the geographical regions of the County and to represent, to the extent possible, all segments of agricultural production existing in the County.

2. Tenure.

Each member's term of office shall be for three years, except that the initial board is to consist of one appointee for a term of one year; two appointees for terms of two years; and two appointees for terms of three years. Reappointments shall be permitted.

3. Vacancies.

Any vacancy on the Agricultural Advisory Board is to be filled by the Board of County 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 County Commissioners upon written charges and after a public hearing.

C. Funding.

1. The per diem compensation of the members of the Board while on official business outside the county shall be fixed by the Board of County Commissioners.
2. Funds shall be appropriated to the Board to perform its duties.

D. Procedure.

1. Chairman.

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

2. Jurisdiction.

The jurisdiction and procedures of the Board are set out herein, except that as the Board may adopt supplementary rules of procedure not inconsistent with this ordinance, or with other provisions of law.

3. Board Year.

The fiscal year of the Board shall be the county fiscal year.

4. Meetings.

Meetings of the Board, following such notice as required by this ordinance, shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least every two months.

5. Majority Vote.

The concurring vote of a majority of the members of the Board shall be necessary to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this ordinance.

6. Records.

The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if the absent of 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 and shall be a public record.

7. Administrative.

The Macon County Agricultural Advisory Board may contract with the Natural Resources Conservation Services District Office to serve the Board for record keeping correspondence application procedures under this ordinance, and whatever other services the Board needs to complete its duties.

8. Conflict of Interest.

Pursuant to G.S. 160D-109(b), members of the Board shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members of the Board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person whom the member has a close familial, business, or other associational relationship, as defined by G.S. 160D-109(f).

E. Duties.

In accordance with G.S. 106-739, the Agricultural Advisory Board shall:

1. Review and make recommendations or decisions concerning the establishment and modification of agricultural districts.
 - 1a. Execute agreements with landowners necessary for enrollment of land in a voluntary agricultural district.
2. Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under Article 61 of Chapter 106 of the North Carolina General Statutes.
3. Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involved condemnation of all or part of any qualifying farm.
4. Advise the Board of County Commissioners on projects, programs or issues affecting the agricultural economy or way of life within the County.
5. Perform other related tasks or duties assigned by the Board of County Commissioners.

§155.06 APPLICATION FOR CERTIFICATION OF QUALIFYING FARMLAND AND VOLUNTARY AGRICULTURAL DISTRICTS

A. Requirements.

1. In accordance with G.S. § 106-737, to secure certification as qualifying farmland, it must be real property that:
 - a. Is used for bona fide farm purposes, as that term is defined in G.S. 106-743.4(a) and G.S. 160D-903.
 - b. Is managed, in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and

- c. 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 or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable County zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.
- 2. To Form or be included in a voluntary agricultural district, a landowner may apply to the Board. for such inclusion at the same time he or she applies for qualifying farmland certification, or at any time subsequent to receiving qualifying farmland certification.
 - a. Pursuant to G.S. 106-738(b), the purpose of the voluntary agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbor.
 - b. Requirements to participate:
 - (i) Meet the requirements for qualifying farmland as set forth in Section 155.06A. above.
 - (ii). An agricultural district shall consist of at least 30 contiguous acres or more of qualifying farmland; or
 - (iii). Two or more qualifying farms consisting of a total of at least 50 acres and lying within one mile of each other.
 - c. Landowners may apply to participate in existing districts and are encouraged to do so.

B. Application Procedure.

- 1. To secure certification as a qualifying farm, and if so desired by the applicant, as an agricultural district, a landowner for such certification will apply to the Agricultural Advisory Board. Application forms may be obtained from the chairperson.
- 2. Upon receipt of an application, the chairman will forward copies immediately to:
 - a. County Tax Assessor's office.
 - b. Macon County Natural Resources Conservation Service District Offices and the Farm Services Agency. The said offices shall evaluate, complete and return their

comments to the chairperson within 30 days of receipt. The evaluation by the Soil and Water Conservation District and the MCRS may be made jointly.

3. Within 30 days of receipt of the evaluations, the Board shall meet and render a decision regarding the application. The Chairperson shall notify the applicant in accordance with 160D-403 if the real property for which certification is sought satisfies the criteria established in Section 155.06A above, and if the land has been certified as qualifying farmland, and also as a voluntary agricultural district, if application was so sought.
4. If the application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Macon County Board of Commissioners. Such appeal shall be presented in writing. Appeals from the Macon County Board of Commissioner's decision shall be in accordance with G.S. 160D-405(k).

C. District Maps.

Voluntary agricultural districts shall be marked on county maps which shall be available for public inspection in the following county offices:

1. Register of Deeds;
2. Building Inspection Department;
3. Natural Resources Conservation Service;
4. Cooperative Extension Center;
5. Land Records Division of the Tax Assessor's Office;
6. Any other office deemed necessary by the Board.

D. Action to Inform.

The County may take such action as it deems appropriate through the Agricultural Advisory Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including at a minimum a public information program to reasonably inform landowners of the Farmland Preservation Program.

§155.07 REVOCATION OF A CONSERVATION AGREEMENT.

By written notice to the Board, a landowner may revoke the conservation agreement formulated pursuant to §155.06, or the Board may revoke the conservation agreement based on noncompliance by the landowner. Revocation by the Board shall be in accordance with G.S. 160D-403(f). Such revocation shall result in loss of qualifying farm status. The landowner has 30 days to appeal the

revocation decision to the Macon County Board of Commissioners. Such appeal shall be presented in writing. Appeals from the Macon County Board of Commissioner's decision shall be in accordance with G.S. 160D-405(k).

§155.08 PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND.

A. Purpose.

Pursuant to G.S. §106-740, the county in enacting a Farmland Preservation ordinance may provide 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 the local Agricultural Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure.

1. Upon receiving a request, the Agricultural Advisory Board shall publish notice describing the proposed action in the appropriate newspaper of the area in accordance with state law and will in the same notice notify the public of the time, date and place of a public hearing on the proposed condemnation.
2. The Board shall meet to review:
 - a. If 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. Alternatives to the proposed action that are less impactful and disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place.
3. The Board shall consult with the county Agricultural Extension Agent, U.S.D.A Natural Resource Conservation Service District conservationist, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed condemnation.
4. The Board shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.
5. Pursuant to G.S. § 106-740(3), the agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

§155.09 WAIVER OF WATER AND SEWER ASSESSMENT

A. Purpose.

The purpose of this section is to help mitigate the financial impacts on farmers of some local and state capital investments unused by said farmers.

B. Procedure.

Pursuant to G.S. 106-742, the following procedures shall apply:

1. Water and sewer assessments shall be held in abeyance, without interest or penalty, for farms inside a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
3. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest and/or penalty.
4. Assessment procedures followed under Article 9 of Chapter 153A of the General Statutes shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
5. Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under G.S. §153A-201.

§155.10 LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION

A. Purpose.

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

B. Procedure.

1. The Agricultural Advisory Board, in cooperation with the County, shall provide notification to property owners, residents and other interested persons in and adjacent to any designated agricultural district. The purpose of said notification is to inform 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. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities.

2. Provisions of this ordinance do not provide any exemptions to best management practices or to guidelines and the standards for control of point source and non-point source pollution that may otherwise apply to lands and activities on those lands in an agricultural district.

C. Types of Notification.

1. Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
2. Maps identifying approved districts shall be provided to the Register for Deeds, Building Inspections Department, the Natural Resources Conservations Services Office, the Cooperative Extension Office, and the Land Records Office.

3. The following notice shall be available for public inspection in the Register of Deeds office:

“NOTICE TO REAL ESTATE PURCHASERS IN MACON COUNTY OF THE EXISTENCE OF VOLUNTARY AGRICULTURAL DISTRICTS FOR FARMLAND PRESERVATION”

Macon County has established voluntary agricultural districts for farmland preservation 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 operations, livestock operations, sawing and similar activities may take place in these districts any time day or night. Maps and information on the location and establishment of these districts can be obtained from the Macon County Planning Office.

D. Limitations.

Voluntary agricultural districts will not be permitted in designated County growth areas, if such areas are delineated on an official county planning map as of the date this ordinance is adopted.

§155.11 NORTH CAROLINA AGENCY NOTIFICATION

- A. The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Natural Resources and any other entity the Board deems necessary to the proper conduct of its business.
- B. In accordance with G.S. 106-743, a record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture’s office after adoption. At least once a year the County shall submit a written report to the Commissioner of Agriculture, including the status, progress, number of enrolled farms and acres, and activities of the County’s Farmland Preservation Program.

Originally Adopted:

February 4, 1997

Amended and Restated:

November 9, 2021