

CHOWAN COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of Chowan 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 Chowan 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: Chowan County Agricultural Advisory Board.

Chairperson: Chairperson of the Chowan County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Chowan County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners hereby establishes the Chowan 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 Chowan County resident or landowner.
2. At least six (6) of the members shall be actively engaged in farming or own qualifying farmland in Chowan 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 Chowan County Soil and Water Conservation District, the county office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency, Chowan 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.

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.
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.

D. Vacancies

Any vacancy on the Advisory Board is to be filled, from recommendations of the groups referenced in Article V, Section B, 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 for the remainder of the unexpired term.

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 Chowan 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. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

4. 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. Meeting dates and times shall be posted as far in advance as possible on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the Advisory Board Membership. All meetings shall be conducted in accord with the current Roberts Rules of Order.

5. Majority Vote

All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as at least two-thirds of the members in attendance. No business may be conducted by the Advisory Board without a quorum present.

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 its examinations and other official actions, all of which shall be filed in the office of the Advisory Board and shall be public record.

7. Administrative

The Advisory Board shall work through the Chowan 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 of landowners for enrollment of qualified farmland, horticultural land or forestland in voluntary agricultural districts;
2. Make recommendations concerning the establishment and modification of agricultural districts;
3. Conduct public hearings;
4. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities within the county that will affect agricultural districts;
5. Review and make recommendations concerning any ordinance amendment adopted or proposed for adoption under this ordinance;
6. 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;
7. Perform other agricultural, horticultural or forestry-related tasks or duties assigned by the Board of Commissioners or applicable law.
8. Study additional methods of protection for farming, horticulture, forestry and the attendant land base, and make recommendations to the Board of Commissioners; and
9. Develop a draft countywide farmland protection plan as defined in N.C.G.S. 106-744 (e) for presentation to the Board of Commissioners.

ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Districts

Four (4) districts are hereby established based on County townships:

1. Edenton
2. Rocky Hock
3. Wardville
4. Yeopim

B. Creation

An agricultural district created pursuant to this Ordinance may contain qualifying farms:

1. Consisting of at least ten (10) contiguous acres of certified qualifying farmland; OR
2. All enrolled land within one (1) of the districts established in A, above, shall be part of a single district.
3. If a qualifying farm falls into two (2) or more districts, 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 through the Advisory Board or other entities or individuals 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 agricultural district program.

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; and
- B. Must be managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and
- C. Be the subject of a conservation agreement, as defined in G.S. 121-35, between Chowan 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 four (4) lots that meet applicable Chowan 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 IX; and
- D. Be located in the unincorporated area of Chowan County.

ARTICLE VIII
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 Chowan 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 and complete all procedures outlined in Article VIII, Section B.

B. Approval Process

1. Upon receipt of an application, the Chowan County office of the North Carolina Cooperative Extension Service will review each application for completeness.
2. A checklist shall be attached and the Chowan County Soil and Water Conservation District shall review within fifteen (15) days for certification pursuant to Article VII.
3. The Chowan County Soil and Water Conservation District shall return the application to the Extension Office, who will then forward the application to the Chowan County Tax Department.
4. The Chowan County Tax Department shall review the application within fifteen (15) days and return application to the Chowan County office of the North Carolina Cooperative Extension Service.
5. The Chowan County office of the North Carolina Cooperative Extension Service shall forward the application to Advisory Board.
6. Within sixty (60) 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 and record it at the Chowan County Register of Deeds.
8. The Extension Office will forward approved applications to the Chowan County Tax Department/Land Records office for inclusion on maps.

C. Appeal

If an application is denied by the Advisory Board, the landowner may, within ten (10) days of notification of disapproval of the application, request in writing that the Advisory Board reconsider its decision. The request for reconsideration shall state the reason(s) therefore. Upon either an initial denial, if no request for reconsideration was made, or denial after reconsideration, the landowner shall have thirty (30) days from the date of notification 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 may make exceptions on an individual farm basis for a farm that does not meet the requirements of present use valuation, due to ownership being a publicly held corporation, based on the farms importance in maintaining agriculture production in Chowan County.

ARTICLE IX REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENT

A. Revocation and Enforcement

1. By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland within a Voluntary Agricultural District may revoke the Conservation Agreement. The Advisory Board may revoke the same

Conservation Agreement based on noncompliance by the landowner, 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 in a district. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C).

2. Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale or gift shall not revoke the Conservation Agreement unless the land no longer qualifies for the present-use-value taxation program or, in the event that there are water or sewer assessments held in abeyance, the new owner(s) fails to agree in writing to accept liability for those assessments in the event that the land is withdrawn either voluntarily or involuntarily from the district.
3. Enforcement of the terms of a Conservation Agreement for land enrolled in a Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits derived there from.

B. Renewal

1. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed after the ten year Conservation Agreement has expired unless the landowner provides 30 day written notice to the Advisory Board of intent not to renew. 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.

ARTICLE X NOTIFICATION

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/Inspections Department
 - c. Natural Resource Conservation Service/ Soil and Water Conservation
 - d. North Carolina Cooperative Extension
 - e. 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 Chowan County”

“Chowan 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 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 these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from North Carolina Cooperative Extension, the county Planning/Inspections Department, Register of Deeds, or Natural Resource Conservation Service office.”

3. Computerized Land Records

Upon certification of qualifying farmland and designation of real property as a District, the Chowan County Tax Office/Land Records, in cooperation with the Register of Deeds, shall provide some form of notice reasonably calculated to alert a person researching the title (including outstanding taxes and assessments) of a particular tract that such tract is located within one mile of a qualifying farm.

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 Chowan 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, 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 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. 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. There shall also be at least one sign approved by the Advisory Board posted on each qualifying farm. Placement of signs will be coordinated with the North Carolina Department of Transportation.

B. Subdivision Ordinance and Zoning Ordinance Review

Developers of major subdivisions or planned unit developments, as defined by the Chowan County subdivision ordinance, shall enter on the face of the preliminary and final plat a certification attesting to their understanding that the subdivision is located within a Voluntary Agricultural District. If adjoining property is enrolled in the VAD program, it should be designated so in the property description on the plat.

ARTICLE XI WAIVER OF WATER AND SEWER ASSESSMENTS

A. No Connection Required

A landowner of property enrolled in the VAD program as a qualified farm shall not be assessed for or be required to connect Chowan County water and/or sewer systems.

B. Abeyance

Water and sewer assessments will be held in abeyance, without interest, for qualifying farms in 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

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner may be required to sign and acknowledgement 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 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 county water and/or sewer systems are constructed this section

shall not apply. This section 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 XII PUBLIC HEARINGS

A. Purpose

Pursuant to N.C.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 qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure

1. Upon receiving a request from a condemning agency, the Advisory Board shall publish, at the agency's expense, notice describing the proposed action in the appropriate newspapers of Chowan County within seven (7) 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 ten (10) days of receipt of 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 District within which the proposed action is to take place.
3. The Advisory Board shall consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
4. 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.

5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
6. 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.
7. 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.
8. Pursuant to N.C.G.S. §106-740, 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.

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 shall not be permitted in the designated growth corridors, as delineated on the official county zoning 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 Chowan 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 on the county's agricultural district program, including the following information:

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

Adopted this the ___ day of _____, 20__.

Motion for adoption by _____ and seconded by _____.

Chowan County Board of Commissioners

Chairperson

ATTEST:

Clerk to Board of Commissioners