

DAVIE COUNTY
VOLUNTARY AGRICULTURAL DISTRICT &
ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of DAVIE COUNTY, NORTH CAROLINA, entitled, "VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY DISTRICT ORDINANCE."

ARTICLE II
AUTHORITY

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes sections 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 the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture and forestry; and increase 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: Davie County Agricultural Advisory Board.

Chairperson: Chairperson of the Davie County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Enhanced District: Enhanced Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Davie County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

B. Membership

The Advisory Board shall consist of no less than five (5) regular members and two (2) alternate members appointed by the Board of Commissioners.

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2. Determination of Procedure

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

3. Advisory Board Year

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

4. Meetings

Meetings of the Advisory Board shall be held 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. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by all Advisory Board members. 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 open to the public.

5. Majority Vote and Quorum Requirements

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 voting 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, or its designee, and shall be a public record.

7. Administrative

The Advisory Board may contract with the Davie County Cooperative Extension office to serve the Board for record keeping, correspondence, application procedures under this, and whatever services the Board needs to complete its duties.

1. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for enrollment qualified farmland, horticultural land, or forestland in either voluntary agricultural districts or enhanced voluntary agricultural districts;
2. Make recommendations concerning the establishment and modification of agricultural districts;
3. Conduct public hearings;

D Addition and Withdrawal

1. Qualifying farmland in a region with an existing district shall be added to the district as herein provided.

ARTICLE VII
 CERTIFICATION AND QUALIFICATION OF FARMLAND

Requirements

To secure county certification as qualifying farmland in either a Voluntary Agricultural District or Enhanced Voluntary Agricultural District, a farm must:

1. Be participating in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7, five (5) acres for Horticulture, ten (10) acres for agriculture use, twenty (20) acres for Forestry use or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3 ;
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; and
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.
4. Be located in the unincorporated area of Davie County, at the time of application.

ARTICLE VIII
 APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A Application Procedure

1. A landowner may apply to participate in either the Agricultural District or the Enhanced Agricultural District program by making application to the chairperson of the Advisory Board or a designated staff person, and must designate the application as for either Voluntary Agricultural District status or Enhanced District status. The application shall be on forms provided by the Advisory Board. The application to participate in a district may be filed with the application for certification of qualifying farmland.
2. A conservation agreement (required by N.C.G.S. §106-737 and defined in N.C.G.S. §121-35) suited to district type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowner to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Davie County Registrar of Deeds. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation. Conservation agreements for the Enhanced Agricultural District program may, at the election of the parties, include provisions requiring that any disputes between the county and the landowner be resolved through arbitration or mediation, and, in the event of litigation, that the prevailing party be awarded costs, including reasonable attorney fees. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the

District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom.

2. Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 years. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The County may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). The right to terminate program benefits is in addition to any legal rights that the County may have under either this Ordinance or the terms of the applicable Conservation Agreement. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement.

B. Renewal

1. District. A Conservation Agreements for land within a Voluntary Agricultural District shall be automatically renewed 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.
2. Enhanced District. A Conservation Agreement for the Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of 3 years, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of each 3 year term the Conservation Agreement shall automatically renew for an additional 3 year term unless notice of termination is given.

ARTICLE X
WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to the District shall not be required to connect to Davie County water and/or sewer systems.
2. A landowner belonging to an Enhanced District shall not be required to connect to Davie County utility systems.

B. Abeyance

1. Water and sewer assessments shall be held in abeyance, without interest, for farms in a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. Utility assessments shall be held in abeyance, without interest, for farms in an Enhanced District, until improvements on such property are connected to the utility system for which the assessment was made.

D Utility Assessment Waiver

As provided in Article X above, waiver of all county utility assessments in addition to waiver of water and sewer assessments is available to all participants in Enhanced Districts.

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, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of general circulation within Davie County within five (5) 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.

ARTICLE XIV
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within 0.5 aerial mile(s) of the proposed development.

ARTICLE XV
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 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 agricultural district program and to also coordinate the formation and maintenance of 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 is enacted or when one is formed.

B. 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, and any other office or agency the Advisory Board deems necessary:

Davie 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 operation, 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 the North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office, or the Soil and Water Conservation District Office.

C. 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 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 XVI
CONSULTATION AUTHORITY

The Advisory Board may consult with North Carolina Cooperative Extension, the Natural Resources 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.

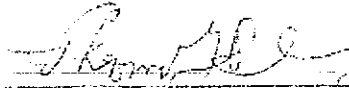
ARTICLE XIX
ENACTMENT

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

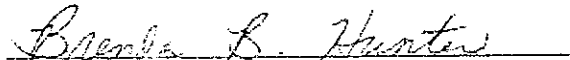
Adopted this the 7th day of January, 2008.

Motion for adoption by Commissioner Frye and seconded by Commissioner Anderson.


DAVIE COUNTY BOARD OF COMMISSIONERS


Thomas G. Fleming, Chairman

ATTEST:


Brenda B. Hunter, Clerk to the Board of Commissioners

Approved as to form:


Sally W. Smith, County Attorney