

**Durham County Voluntary  
Farmland Protection Program Ordinance**

**Section A-1 Purpose**

The purpose of this ordinance is to promote the best use of land in Durham County so that development and growth will be accompanied by protection of our attractive, and ecologically desirable forests and farms. Durham County residents derive many benefits; clean water and air, plant and animal habitat, fresh fruit and vegetables, and visual pleasure from these forests and farms. Farmland protection will enable us to continue producing food and fibre on our best soils near the more densely developed city area.

**Section A-2 Enactment**

Pursuant to the authority conferred by N.C.G.S. 106-735 through 106-743, and for the purpose of promoting health, safety, general welfare, and morals of the county, the Durham County Commissioners do enact the following Ordinance, which shall be known as the "Durham County Voluntary Farmland Protection Program Ordinance."

**Section A-3 Definitions**

- Board** - Farmland Protection Advisory Board
- Chairman** - Chairman of the Farmland Protection Advisory Board
- District** - Voluntary Agricultural District
- Ordinance** - Voluntary Farmland Protection Ordinance

**Section A-4 Farmland Protection Advisory Board**

- A. **Creation:** A Farmland Protection Advisory Board, to consist of members appointed by the Board of County Commissioners, is hereby established.
  
- B. **Membership:** All Board members shall reside in Durham County. The members of the Board shall be: one (1) farmer from each of the five (5) Durham County Townships, and five (5) at large members who are farmers; one (1) Durham Soil and Water Conservation District Supervisor; one (1) member appointed from the Board of Directors of the Durham County Farm Bureau; one (1) member of the Durham Open Space and Trails Commission; one (1) business person; and one (1) County Commissioner. The Board of Commissioners will attempt to insure that female and minority farmers are represented on the Board.

- C. Advisors: Advisors from the Cooperative Extension Service, N.C. Forest Service, Farm Service Agency (FSA), and the Natural Resources Conservation Service (NRCS), and the Durham City/County Planning Department will assist the Board.
- D. Tenure: Appointments to the Board will be made July 1st of the year this ordinance is adopted. The initial appointments will be four (4) for a one (1) year term, four (4) for a two (2) year term, and six (6) for a three (3) year term. Thereafter, all appointments will be for three (3) year terms. Term limits not applicable to the County Commission appointee. Board members may apply for and receive reappointment. No Board member may serve more than two (2) consecutive terms. The initial one (1) year terms and any appointment to fill an unexpired term of less than two (2) years will not be counted as one term.
- E. Vacancies: Any vacancy on the Board is to be filled by the Board of County Commissioners for the remainder of the unexpired term.
- F. Removal: Any member of the Board may be removed for cause by the Board of County Commissioners upon the presentation of written charges and after holding a public hearing and only if the hearing officer determines that there is in fact a justifiable cause to remove the person in question.

Written charges can only be presented for the following: neglect of duty, failure to carry out duties, misfeasance, malfeasance lack of attendance and failure to comply with the Commissioners' Resolution on Appointments to Boards and Commissions.

- G. Funding:
1. The per diem compensation of the members of the Board shall be fixed by the Board of County Commissioners.
  2. Funds will be appropriated to the Board to perform its duties.
- H. Procedure:
1. Chairman - The Board is to elect a chairman and vice-chairman each year at its first meeting following the appointment of new members or reappointment of existing members. 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. Additional officers may be elected as needed.

2. Jurisdiction - The jurisdiction of the Board shall be limited to Durham County, except in the case where farmland lies in Durham and an adjacent county. The part of the farmland in Durham County can be included in this program and the contiguous farmland being contained in another county can only be included with the permission of the Board of Commissioners of the county in question, unless the farm is already taxed entirely by Durham.
3. Board Year - The Board will use the County fiscal year as its year of operation.
4. Meetings - Meetings of the Board, following such notice as required by this Ordinance and by North Carolina law, shall be held as the Board in its rules of procedure may specify and at the call of the Chairman or upon the request of at least a majority of the Board membership. A meeting shall be held at least every two months. 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 papers of general circulation.
5. Quorum - A quorum shall be eight (8) Board Members or fifty percent (50%) of current members.
6. Majority Vote - The concurring vote of a majority of the quorum shall be necessary to take action on any matter.
7. Records - The Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board and shall be public record. *DO 1/12*
8. Administration - The Durham County Attorney's Office will serve the board for record keeping and correspondence.
9. Duties - The Board shall:
  - a. Review and approve or disapprove applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
  - b. Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Article;

- c. Hold public hearings pursuant to Section A-7 of this ordinance;
- d. Advise the Board of County Commissioners on projects, programs, or issues, affecting the agricultural economy and any other activities within the county that will affect agricultural districts;
- e. In so far as possible, a district or districts shall be assigned to a member of the Board who will monitor and represent that district in all business conducted by the Board.

Section A-5 Application and Certification of Qualifying  
and Voluntary Agricultural District

A. Requirements

- 1. To secure county certification as qualifying farmland, a farm must:
  - a. be 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 or its agent to meet all the qualifications of this program set forth in G. S. 105-277.3;
  - b. be certified by the NRCS as being a farm on which at least two-thirds of the land is composed of soils that:
    - i. are best suited for providing food, seed, fiber, forage, timber, and oil seed crops;
    - ii. have good soil qualities;
    - iii. are favorable for all major crops common to the county where the land is located;
    - iv. have a favorable growing season; and
    - v. receive the available moisture needed to produce high yields for an average of eight out of ten years;

or be one on which at least two-thirds of the land has been used in agricultural, horticultural, or forestry operations as defined in G. S. 105-277.2 (1,2,3) during each of the five previous years, measured from

the date on which the determination must be made as to whether the land in question qualifies;

- c. be managed, if highly erodible land exists on the farm in accordance with the NRCS' defined erosion-control practices that are addressed to said highly erodible land;
- d. be 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 ten years, except for the creation of not more than three lots, or 1 lot per 20 acres, that meet applicable County zoning and subdivision regulations.

B. Voluntary Agriculture Districts

To form or be included in a voluntary agricultural district, a landowner may apply to the chairman for such inclusion at the same time he applies for qualifying farmland certification, or at any time subsequent to receiving qualifying farmland certification.

- a. The purpose of voluntary agricultural districts formed by landowners shall be to encourage the economic and financial health of farming areas, to increase protection from nuisance suits, undesired non-farm development and other negative impacts on participating farms and to increase the identity and pride in the agricultural community and its way of life.
- b. Requirements to participate:
  - i. an agricultural district shall consist of:  
at least 20 contiguous acres or more of qualifying farmland, or  
  
at least two qualifying farms, which will create a district of not less than 20 acres and said farms lying within one mile or less of one another.
  - ii. an agreement to sustain, encourage, and promote agriculture must be executed by the landowners in the district with the county and recorded therein.
- c. Landowners may apply to participate in existing districts and are encouraged to do so.

C. 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 shall apply to the Board. Application forms may be obtained from the Board members or the local Soil and Water Conservation District office.
2. Upon receipt of an application, the chairman will forward copies immediately to:
  - a. local tax assessor office
  - b. local office of the NRCS for their evaluation pursuant to section A-5 (1,2). The said offices shall evaluate, complete, and return their copies to the chairman within 30 days of receipt.
3. Within 30 days of receipt of the application from the local tax assessor and NRCS office, the Board will meet and render a decision regarding the application. The chairman will notify the applicant by mail if the real property for which certification is sought satisfies the criteria established in Section A-4 and if the land has been certified as qualifying farmland, and also as a voluntary agricultural district, if application was so sought.
4. The chairman will notify the Tax Supervisor of any voluntary agricultural districts established.

D. Voluntary agricultural districts will be marked on county maps displayed for public view in the following county office:

1. Registrar of Deeds
2. Code Enforcement
3. Tax Supervisor
4. Soil and Water Conservation District
5. Cooperative Extension
6. Any other office deemed necessary by the Board; i.e. FSA, City/County Planning Department, etc.

- E. The county may take such action as it deems appropriate through the 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 Protection Program.

**Section A-6 Revocation of Conservation Agreement**

- A. By written notice to the board, a landowner of qualifying farmland may revoke the conservation agreement formulated pursuant to Section A-5 of this ordinance. Such revocation shall result in the loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and benefits thereof. However, if only a portion of the district is affected by the revocation, and the remainder of the district meets the criteria of Section A-5 the district still exists.

**Section A-7 Public Hearings**

A. **Purpose:**

Pursuant to NCGS 106-740, 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 from an applicant, the Farmland Protection Advisory Board shall publish notices describing the proposed action in the appropriate newspapers of the area within two 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 30 days of receipt of the request.
2. The Board will 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.
  - b. alternatives to the proposed action that are less impactive 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 will consult with the County Cooperative Extension Service Agent, NRCS and Soil and Water District personnel, Director of Planning, 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 action.
4. Within 10 days after the public hearing, the Board will make a report containing its findings and recommendations regarding the proposed action. The report will be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.
5. Pursuant to N.C.G.S. 106-740, the county will not permit any formal initiation of condemnation by local agency action while the proposed condemnation is properly before the Advisory Board within these time limitations.

#### Section A-8 Record Notice of Proximity to Farmlands

##### A. Purpose

The purpose of this section is to help prevent potential conflicts from occurring between qualifying farms and non-farm landowners regarding acceptable and responsible farming operations and practices.

##### B. Procedure

When the county computerizes its land records system; it will include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a voluntary agricultural district.

- C. In no event shall the county or any of its officers, employees, 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 any ordinance adopted under subsection (B).
- D. 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 Article.

A-9 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. Waiver of Water and Sewer Assessments

(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

- (1) Landowner(s) belonging to voluntary agricultural districts shall not be assessed for, or required to connect to water and/or sewer systems.
- (2) Water and sewer assessments will be held in abeyance, without interest, for farms inside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
- (3) When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
- (4) Assessment procedures followed under Article 9 of Chapter 153A 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

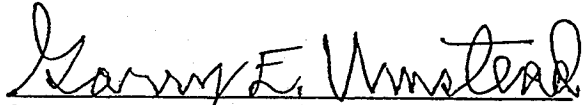
abeyance under G. S. 153A-201.

2. The county shall not spend monies to convert land to non-farm uses in voluntary agricultural districts unless no feasible alternative to said conversion exists.

Section A-10 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 Soil and Water Conservation and any other entity the Board deems necessary to the proper conduct of its business.
- B. 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 and activities of the county's farmland Protection program, including voluntary agricultural districting information regarding:
  1. Number of landowners enrolled
  2. Number of acres applied
  3. Number of acres certified
  4. Number of acres denied
  5. Date of certification
- C. Copies of the reports cited in Section A-10, B. will be sent to:
  - N. C. Department of Transportation;
  - Secretary, N. C. Department of Commerce;
  - Division of Soil & Water Conservation;
  - Durham Planning Department;
  - Durham Planning Commission; and
  - any other entities the board deems appropriate.

Upon motion properly made and seconded, this ordinance adopted by the Board of Commissioners for Durham County on May 13, 1996.

A handwritten signature in cursive script that reads "Garry E. Umstead". The signature is written in black ink and is positioned above a horizontal line.

Garry E. Umstead  
Clerk to the Board

# Durham County Farmland Protection Advisory Board

## APPLICATION FOR CERTIFICATION AS QUALIFYING FARMLAND AND DESIGNATION AS A DURHAM COUNTY VOLUNTARY AGRICULTURAL DISTRICT

**INSTRUCTIONS:** Before completing the application, please review the provisions of the Durham County Voluntary Farmland Protection Ordinance, then fill out the form as accurately and completely as possible. Be sure to sign and date the form, and return it to the Durham County Extension Center, 721 Foster Street, Durham, N.C. 27701.

### APPLICANT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_  
Phone Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

### PROPERTY INFORMATION:

Property Location/Address: \_\_\_\_\_  
Township: \_\_\_\_\_ Tax Map: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
Number of Acres: \_\_\_\_\_

Does this land have a plan on file with the NRCS or N.C. Forest Service?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If "no", please complete back of form.

Is this land listed for present use-value taxation with the Durham County Tax Office?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If "no", please complete back of form.

### OWNER[S] CERTIFICATION:

I [We], the applicant[s], hereby certify that, to the best of my [our] ability, the foregoing application is complete and accurate.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please direct inquiries to:

Cooperative Extension Service - 560-0527  
Durham County Attorney - 560-0705  
Durham Soil & Water Conservation District - 560-0558

**SUPPLEMENTAL INFORMATION:**

**INSTRUCTIONS:** If you are not participating in the farm present use-value taxation program and/or you do not have a plan on file with the NRCS or the N.C. Forest Service, please answer the following questions.

1. How long have you owned your farm? \_\_\_\_\_ years.
2. How long have you lived on your farm? \_\_\_\_\_ years.
3. Has gross farm income exceeded \$1000 for each of the past three (3) years?  
Yes \_\_\_\_\_ No \_\_\_\_\_

4. How many acres on your farm are under cultivation? \_\_\_\_\_ acres.

5. What are the major crops that you plant each year?

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6. How many acres on your farm are used for pasture? \_\_\_\_\_ acres.

7. How many acres on your farm are woodland? \_\_\_\_\_ acres.

ADOPTED

7-29-1999

Durham County, North Carolina  
Farmland/Open Space Protection Program Guidelines

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## I. Introduction

### A. General

The protection of Durham County's best agricultural land in a manner that directs and accommodates growth and development is a high priority to the residents of Durham County. To this end the county establishes the following goals:

- (1) To protect and conserve those soils in Durham County best suited to agricultural uses;
- (2) To identify and harmonize policies of government at all levels which may conflict with the goal of protection of farmland;
- (3) To reduce land use conflicts between agricultural and other land uses; and
- (4) To promote agriculture as an integral part of the Durham County economy. Non-traditional farms will also be promoted.

These program guidelines contain policies and procedures for administering a farmland protection program.

### B. Duties and Responsibilities of the Durham Farmland Protection Advisory Board (hereinafter referred to as the Board).

The Farmland Protection Advisory Board as organized and empowered pursuant to the Durham County Voluntary Farmland Protection Ordinance shall administer this farmland protection program. The Board, with assistance from the County Attorney, shall act on behalf of the county in administering this Farmland Protection Program. The Board shall select properties for purchasing Agricultural Conservation Easements, accepting donations of Agricultural Conservation Easements, developing, purchase and acquisition priorities, work with Durham County Commissioners on funding options, execute any and all documents necessary to administer the program and perform any other such acts necessary for the implementation of this program. The Board shall administer this program within the financial resources provided by the Durham County Board of Commissioners and outside funding resources. The Board will make recommendations to the Board of County Commissioners regarding the purchase of conservation easements, and acceptance of donated conservation easements. The Board of County Commissioners will be the final decision maker regarding the purchase of conservation easements, and accepting the donation of conservation easements.

C. Definition of Conservation Easements

For purposes of this program, conservation easements are defined as:

“All right, title, and interest in the use of land for any and all purposes which are not directly and customarily incidental to agricultural or open space uses.”

D. Definition of Agricultural Uses

For purposes of this program, agricultural uses are defined as:

“Agricultural uses include, but are not limited to, the production of crops, trees, horticultural specialties, livestock, and livestock products. Associated uses allowable are sales and processing necessary and customarily incidental to the agricultural activities on-site which are in keeping with the purpose of the program.”

E. Definition of Open Space

For purposes of this program, open space is defined as:

“Open space is land used for recreation, natural resource protection, amenities, and/or bufferyards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, greenways, and water courses.”

II. **Agricultural Priority Areas (APA)**

A. The designation of Agricultural Priority Areas in Durham County is intended to identify geographic areas containing the most productive agricultural soils. Agricultural Priority Area designation is the first step in directing the expenditure of funds for conservation easements acquisition. Efforts to coordinate with the City/County Planning Department in regards to the Urban Growth Boundary and Priority Growth Area will be made.

B. Criteria for Designation

The following are guidelines for the designation of Agricultural Priority Areas:

1. Areas should contain sufficient contiguous agricultural land to facilitate its permanent agricultural use.

2. Areas should consist primarily of soils identified in Durham County as prime or locally important.
3. Land in the area should be primarily in agricultural use.

C. Procedure for Designation and/or Termination

Agricultural Priority Areas will be established by the Board. In determining areas to include, the Board may confer with any governing body affected by the proposed APA, receive recommendations from the City-County Planning Department, and/or conduct a public meeting to receive public comments. The Board will establish APA's by resolution and adopt an official map showing boundaries of all APA's. Termination of an APA shall be by resolution approved by the Board.

D. Protection from Public Capital Projects

Durham County will promote, to the extent possible, protection of continued agricultural use of land in APA's from incompatible capital projects that are not planned at the time of APA establishment and which would result in extensive, direct and/or indirect conversion of farmland resources. If possible, no project funded directly or indirectly by the Durham County Board of Commissioners will be conducted on land included in an APA if it would lead to the direct conversion of farmland.

### III. Purchase of Conservation Easements

A. General

Durham County may purchase conservation easements in agricultural and/or open space lands. All applications for the purchase of conservation easements will be evaluated based upon the attached Farmland Ranking System. Highest priority will be given to farms located within an APA. There may be instances when purchasing Agricultural Conservation Easements on small farms outside of the APA may serve Durham citizens well. Applications will be ranked based upon various site factors, such as the level of development pressure and agricultural production capability. Conservation easements may be purchased in accordance with the ranking of farm properties and the availability of allocated funds. Compensation for conservation easements will be based on the Board's determination of the difference between fair market value and agricultural or open space value appraisals. The purchase price will be subject to negotiation.

B. Description

The purchase of conservation easements is legally binding, restricting the owner and future owners to agricultural and/or open space use of the land. The conservation easements will be held in public trust by Durham County.

C. Minimum Eligibility Criteria

The agricultural and/or open space land must be at least twenty (20) acres in size or contiguous to at least two (2) qualifiable farms which will create a tract of not less than twenty (20) acres and be in agricultural and/or open space use.

D. Application Procedure

An application must be submitted to the Durham Farmland Protection Board through the Cooperative Extension Service, Durham Soil and Water Conservation District or local USDA FSA Center.

E. Review and Ranking of Applications

The Board will review and rank each of the applications using the Farmland Ranking System.

F. Acquisition

1. The Board at its expense will obtain two appraisals on tracts considered for entry into the program. One appraisal will establish current fair market value of the property at its current highest and best use. The second appraisal will establish the value of the property for agricultural or open space use.
2. Upon receiving the written appraisals, the Board will present the values to the landowner by certified mail. The landowner will have thirty (30) days from receipt of the values to submit an offer to sell his/her conservation easements. Failure to respond in writing within the required time may constitute waiver of the opportunity, in the sole discretion of the Board. Upon receiving an offer to sell, a representative of the Board will meet with the landowners and attempt to negotiate a price with the landowner and recommend a purchase price to the Board of County Commissioners. If an agreement is reached, a contract to convey will be signed promptly by the landowner and the Board of County Commissioners.

3. The County Attorney or his designee will cause any necessary title examinations to be performed and all documentation to be prepared. If the property in question is subject to mortgage(s) or lien(s), a subordination agreement or waiver must be secured from the mortgage or lien holder. Closing will not take place until this requirement is met. The Board of County Commissioners, or their designee will assist in securing this agreement with the mortgage or lien holder, at the request of the landowner.
4. Upon preparation of appropriate legal documents covering titles, deeds, surveys, and subordination agreements, the closing will be scheduled. Prior to closing, all legal documents will be reviewed by the County Attorney for verification and accuracy. At closing, the owner will execute appropriate full warranty documents conveying conservation easements to the county in perpetuity. After proper recordation of necessary instructions, the landowner will be presented with a check. The county will bear all closing and related costs. The Board will securely store all pertinent records, including deeds.
5. The Board may extend any stated time limits as circumstances require. The deviations will be reported to the Chairman of the Board and the landowner.

G. Public Disclosure

During negotiations concerning the purchase of conservation easements, information will be kept confidential, as allowed by law. Following an agreement between the landowner and the Board of Commissioners, information may be made public as provided by law.

Following closing of each purchase, information may be made public as provided by law.

IV. **Donation of Conservation Easements**

A. General

The Board of County Commissioners may accept a voluntary donation or devise of conservation easements.

B. Description

The donation of conservation easements is legally binding, restricting the

owner and future owners to agricultural and/or open space use of the land. The conservation easements will be held in public trust by Durham County in perpetuity.

C. Minimum Eligibility Criteria

The agricultural and/or open space land must be at least twenty (20) acres in size or contiguous to at least two (2) qualifying farms which will create a tract of not less than twenty (20) acres and be in agricultural and/or open space use.

D. Application Procedure

Guidance documents for donating conservation easements are housed at the Cooperative Extension Office. Upon contact by landowner, a meeting will be set with the County Attorney to discuss donation of conservation easements.

E. Review of Applications

The Board will review the documentation to determine whether the minimum eligibility criteria are met or whether to waive any of the criteria.

F. Acquisition

1. The property owner shall be responsible for assessing the value of the conservation easement. If there is a need for an appraisal the county will pay for it.
2. The County Attorney or his designee, will cause any necessary title examinations to be performed and all documentation to be prepared. If the property in questions is subject to mortgage(s) or lien(s), a subordination agreement or waiver must be secured from the mortgage or lien holder. Closing will not take place until this requirement is met.

The Board of County Commissioners will assist in securing this agreement with the mortgage or lien holder, at the request of the landowner.

3. Upon preparation of appropriate legal documents covering titles, deeds, surveys, and subordination agreements, the closing will be scheduled by the Board. Prior to closing, all legal documents will be reviewed by the County Attorney for verification and accuracy. At closing, the owner will execute appropriate full warranty documents conveying conservation easements to the

county in perpetuity . After proper recordation of necessary instruments, the Chairman of the Board of County Commissioners or his designee will sign and present the Donation Verification Statement to the landowner. The county will bear all closing and related costs. The Board will securely store all pertinent records, including deeds.

G. Public Disclosure

During negotiations concerning the donation of conservation easements, information will be kept confidential, as allowed by law.

Following a donation agreement, information may be made public as provided by law.

V. **Repurchase of Conservation Easements**

A. General

The designation of Agricultural Priority Areas and the subsequent purchase of conservation easements is intended to create areas with sufficient amounts of contiguous agricultural and/or open space land to facilitate the permanent agricultural use and/or open space of the land. While program activity will be directed toward that goal, success is dependent on the voluntary participation of landowners.

If a landowner or several owners of small tracts are the only participants in their area, the goal may not be achieved. These landowners could become land locked by development and agricultural activity and/or open space use may become impractical.

In such a situation it may be in the best interest of the landowner and the public to allow repurchase of the conservation easements for the property in question. Other circumstances could also affect a property's suitability for continued agricultural and/or open space use. Repurchase of conservation easements by a landowner is foreseen as an unusual and infrequent occurrence, and would take place with the concurrence of the Board and the Durham County Board of Commissioners.

B. Repurchase Procedure

A landowner requesting a review of his property for possible repurchase of conservation easements should do so by certified letter to the Farmland Protection Board. The letter should state the reason for the request and the date that the property was entered into the program.

Upon approval in principle to the repurchase, the landowner must submit two appraisals of value for the property in question. One appraisal will establish the fair market value of the property at its current highest and best use. The second appraisal will establish the value of the property for agricultural or open space use. Other appraisals will be secured as necessary.

The Board will review the appraised values and decide to either recommend a repurchase price to the Durham County Board of Commissioners or decline to recommend repurchase.

If a repurchase price is approved by the Board of Commissioners, the landowner will be notified. If the price is acceptable to the landowner, he/she will submit a written offer to purchase the conservation easements. If this offer is granted by the County, closing proceedings will begin. The County may accept the bid and advertise for upset bids.

The County Attorney, or his designee will secure all legal documents necessary for the closing and will bear all associated costs.

When legal documents are prepared and adequate financing is available, a date, time, and location for closing will be agreed upon. Payment shall be made directly to the county at closing by a certified check or equivalent payment.

## **VI. Property Use Restrictions**

In addition to restrictions set out elsewhere in these guidelines, the following restrictions will apply to property included in the purchase, acquisition of determinable conservation easements or donation of conservation easements program. A waiver of any restriction may be granted only upon approval by the Board in writing.

- A. Residences permitted on the land from which conservation easements have been conveyed are existing dwellings and the replacement of existing dwellings.

Request for additional dwellings shall be considered on a case by case basis. No more than three (3) dwellings will be permitted on the property included in the purchase, lease or donation of conservation easements.

- B. All permitted non-agricultural structures shall, when feasible, be located in the immediate vicinity of existing structures, described as homestead or curtilage, as reasonable expansions of the homestead or curtilage or on the area(s) of the property of least productive capability. Such permitted structures shall, when feasible, utilize existing or common driveways, lanes or right of ways.

- C. The extraction of minerals by surface mining and extraction and removal of topsoil from the property are prohibited. The extraction of subsurface or deep-mined minerals, including natural gas and oil, and the non-commercial extraction of minerals including limestone, shale and other minerals shall be permitted, as long as the removal activity does not significantly diminish the agricultural potential of the land.
- D. Use of the property for dumping, storage, processing, or landfill of non-agricultural solid waste generated off-site is prohibited. Land application of biosolids is acceptable.
- E. Use of the property for dumping, storage, processing, or landfill of hazardous or nuclear waste is prohibited.
- F. Signs, billboard, and outdoor advertising structures may not be displayed on the property except to state the name of the property, the name and address of the occupant, to advertise an on-site activity and to advertise the property for sale or rent, allowed by the Durham County sign ordinance.
- G. Agricultural land will be managed in accordance with sound soil and water conservation practices in a manner which will not destroy or substantially or irretrievably diminish the productive capability of the property.
- H. County officials shall have the right to enforce these restrictions by injunction and all other appropriate proceedings allowable by law. Representatives of the county may enter upon the property for the purposes of inspection concerning compliance with the Farmland Protection Program.
- I. The county will hold the conservation easements in public trust for farmland protection and/or open space purposes and will not voluntarily assign these rights except to another organization bound to hold such rights for the same purposes
- J. All tracts of land from which conservation easements were purchased with Federal or State funds will be subject to Federal and State regulations concerning farmland protection.
- K. Timbering Operations. Clear cutting of timber is not allowed. A request to waive this restriction will be considered only if a valid management plan prepared by a registered forester or consulting forester, is submitted with the request.

**Durham County Farmland/Open Space Protection Program Guidelines  
Farmland Ranking System**

1. Farm /Open Space Size (Weight - 100 points)

A score of one point per acre is given up to a maximum of 100 points.

2. Percentage of Farm/ Open Space in Agricultural Use (Weight - 100 Points)

A score of one ranking point per percentage point of land in production compared to total farm size is given up to a maximum of 100 points.

3. Proximity To Urban Growth Boundary

|  |    |        |
|--|----|--------|
| Farmland located outside Urban Growth Boundary | 50 | Points |
| Farmland located inside Urban Growth Boundary  | 0  | Points |

4. Proximity to Public Water and Sewer (Weight - 50 points)

|   |    |        |
|---|----|--------|
| No existing or planned service within one mile radius | 50 | Points |
| Existing or planned service within one mile radius    | 35 | Points |
| Existing or planned service within 1/2 mile           | 30 | Points |
| Planned service within 1/4 mile                       | 25 | Points |
| Existing service within 1/4 mile                      | 15 | Points |
| Existing service adjacent                             | 5  | Points |

5. Proximity to Agricultural Priority Area (APA) (Weight 50 - 300 points)

|                               |     |        |
|-------------------------------|-----|--------|
| Included in APA               | 300 | Points |
| Within 1/4 of APA             | 200 | Points |
| Within 1/4 to 1/2 mile of APA | 100 | Points |
| More than 1/2 mile from APA   | 50  | Points |

6. Capital Investment in Farm Operation (Weight- 300 points) (Dwellings are not included in this determination other than employee housing.)

|   |     |        |
|---|-----|--------|
| Substantial capital investment in last 5 years  | 300 | Points |
| Substantial capital investment in last 10 year  | 200 | Points |
| Substantial capital investment in last 15 years | 100 | Points |

7. Conservation Program (weight - 200 points)
- Soil Conservation BMPs in place on 75-100 percent of cropland 200 Points
  - Soil Conservation BMPs in place on 50-75 percent cropland 100 Points
8. Historic, Scenic, Environmental Qualities (Weight - 50 points)
- Exceptional features favorable to protection (National Register of Historic Places, exceptional scenic contribution on major highway corridor, adjacent to site included in the Natural Areas Registry of the N.C. Natural Heritage Program) 50 Points
  - Significant features favorable to protection (Historic Site Survey, scenic contribution on rural roads, adjacent to any sites included in the Durham County Inventory of Natural Areas and Rare Species) 40 Points
  - Features favorable to protection (Significant but undocumented historic features, moderate localized scenic contribution adjacent to publicly owned lands). 30 Points

# Durham County Farmland Protection Advisory Board

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## APPLICATION FOR CERTIFICATION AS QUALIFYING FARMLAND AND DESIGNATION AS A DURHAM COUNTY VOLUNTARY AGRICULTURAL DISTRICT

**INSTRUCTIONS:** Before completing the application, please review the provisions of the Durham County Voluntary Farmland Protection Ordinance, then fill out the form as accurately and completely as possible. Be sure to sign and date the form, and return it to the Durham County Extension Center, 721 Foster Street, Durham, N.C. 27701.

### APPLICANT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP Code: \_\_\_\_\_  
Phone Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

### PROPERTY INFORMATION:

Property Locaton/Address: \_\_\_\_\_  
Township: \_\_\_\_\_ Tax Map: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
Number of Acres: \_\_\_\_\_

Does this land have a plan on file with the NRCS or N.C. Forest Service?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If "no", please complete back of form.

Is this land listed for present use-value taxation with the Durham County Tax Office?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If "no", please complete back of form.

### OWNER[S] CERTIFICATION:

I [We], the applicant[s], hereby certify that, to the best of my [our] ability, the foregoing application is complete and accurate.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please direct inquiries to:**

Cooperative Extension Service - 560-0527  
Durham County Attorney - 560-0705  
Durham Soil & Water Conservation District - 560-0558

**SUPPLEMENTAL INFORMATION:**

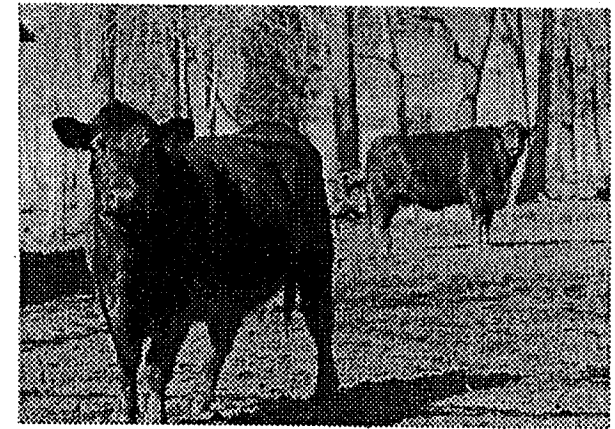
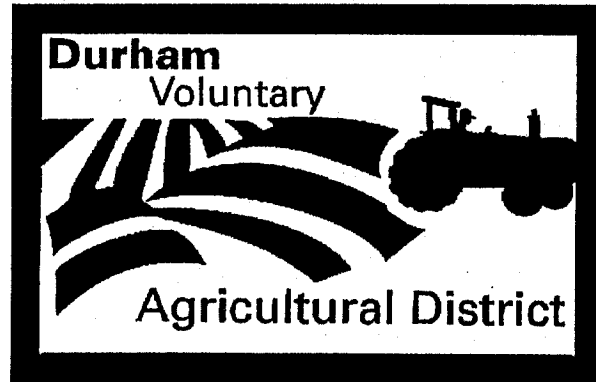
**INSTRUCTIONS:** If you are not participating in the farm present use-value taxation program and/or you do not have a plan on file with the NRCS or the N.C. Forest Service, please answer the following questions.

1. How long have you owned your farm? \_\_\_\_\_ years.
2. How long have you lived on your farm? \_\_\_\_\_ years.
3. Has gross farm income exceeded \$1000 for each of the past three (3) years?  
Yes \_\_\_\_\_ No \_\_\_\_\_
4. How many acres on your farm are under cultivation? \_\_\_\_\_ acres.
5. What are the major crops that you plant each year?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. How many acres on your farm are used for pasture? \_\_\_\_\_ acres.
7. How many acres on your farm are woodland? \_\_\_\_\_ acres.



Durham Farmland Protection Board  
721 Foster Street  
Durham, NC 27701

# Voluntary Agricultural Districts



The landscape of Durham County is varied; it contains a busy urban center and tranquil rural pastures. Each contributes to the fabric that is Durham; without either Durham would not be the same. Farmland, whether crops, livestock or woodlands, provides products for our consumption and adds to Durham's quality of life. But this quality of life comes at a cost; this cost presently is borne by the farmers. Development pressures could cause this serene countryside to disappear.

How can we protect this important aspect of our community? Currently, farmers can participate in the "Present Use" taxation program which saves them money on property taxes, but sometimes that isn't enough. The Durham Farmland Protection Board has begun a Voluntary Agricultural District program that will help keep the land in agricultural uses.

The Districts are voluntary and are designed to help farmers maintain their way of life in this urbanizing county. The program protects farmland from some negative impacts of surrounding developments.

**Durham Farmland  
Protection Board  
721 Foster Street  
Durham, NC 27701**

# Protecting Farmland

The Voluntary Agricultural District program is the most important farmland protection tool available to the Board at this time. The program takes advantage of farmers' strong attachment to their land and stewardship ethic. Farmers sign an agreement with Durham County to voluntarily forego developing their property for 10 years. With Durham County's high land values, Voluntary Ag District members give up very significant incomes to protect farmland.

## Who Qualifies?

Landowners qualify for inclusion as an Voluntary Agricultural District if they meet the following conditions:

- Own 20 acres of farmland (less if horticultural operation);
- Participate in or qualify for the present-use value taxation program, and
- Comply with soil conservation measures.



## Who Benefits?

### *Farmers*

Public hearing held by the Farmland Protection Board if land in an Ag District is considered for a public project that may condemn land.

Waiver of water and sewer assessments on their land if they do not use the service.

Notice on property map signaling Ag District membership warning potential neighbors of noise, odor, dust or slow moving farm vehicles.

### *Public*

Enjoys the visual pleasure of fields and woodlands. This rural character contributes to clean air and water.

Keeps valuable plant and animal habitat. Open spaces also provide wildlife migration routes.

Buys fresh fruits and vegetables. The local economy is diversified.

# Making Progress

You will notice attractive signs all over the county in existing Ag Districts. More farmers continue to join monthly. They have a tremendous pride in their vocation and in their farms.

If you would like to learn more about this program, call Craven Hudson at 560-0527 or write for more information at Durham Farmland Protection Board, 721 Foster Street, Durham, N. C., 27701.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Zipcode: \_\_\_\_\_

Phone: \_\_\_\_\_

