

**STOKES COUNTY
VOLUNTARY FARMLAND PRESERVATION PROGRAM
ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of **STOKES COUNTY, NORTH CAROLINA** entitled “**VOLUNTARY FARMLAND PRESERVATION PROGRAM 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.

**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; and increase protection from non-farm development and other negative impacts on properly managed farms.

This ordinance establishes many benefits for participating farmers and other county residents. These benefits include:

- 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, and smells (this feature may help avoid conflicts between neighbors and potential nuisance claims);
- The program gives the farming community a better voice in Stokes County Commissioners decisions affecting farmland;
- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time;
- The program requests the Stokes County Commissioners to use prime farmland “as a last resort” if they are attempting to condemn county lands;
- The program would provide greenspace 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:** Stokes County Agricultural Advisory Board.
- Chairman:** Chairman of the Stokes County Agricultural Advisory Board.
- District:** Voluntary Agricultural District as established by this ordinance.
- Board of Commissioners:** Stokes County Board of Commissioners.

**ARTICLE V
AGRICULTURAL ADVISORY BOARD**

Creation

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

Appointments and Membership

The Agricultural Advisory Board shall consist of at least seven members appointed by the Stokes County Board of Commissioners.

1. Requirements.

- (a) Each board member shall be a Stokes county resident and legal voting age.
- (b) At least five of the seven members shall be actively engaged in farming.
- (c) The Advisory Board Members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District / Natural Resources Conservation Service, the Cooperative Extension Service, the Farm Service Agency, and the Stokes County Farm Bureau, with an effort to have the broadest geographical representation possible.
- (d) Each district shall have a representative on the Advisory Board.

2. Tenure

The members are to serve for terms of three years, except that the initial board is to consist of two appointee(s) for a term of one year, two appointees for terms of two years, and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years for a maximum of six consecutive years. Thereafter each member must be off the board at least one year before being re-appointed.

3. **Vacancies.**

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the un-expired term from recommendations of above groups.

4. **Removal for Cause.**

Any member of the Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

Funding

The per diem compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners and funds shall be appropriated to the Advisory Board to perform its duties.

Advisory Board Procedure

1. **Officers**

The Advisory 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 Advisory Board. In the absence or disability of the chairman, the vice-chairman shall preside and shall exercise all the powers of the chairman. Additional officers may be elected as needed.

2. **Rules of Procedure**

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

3. **Advisory Board Year**

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

4. **Meetings**

Meetings of the Advisory Board shall be held at the call of the chairman and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least every two months and notice of any meetings to the members shall be in writing unless otherwise agreed to by all Advisory Board members. An official business meeting will consist of a quorum of a majority of the Advisory Board members.

5. **Majority Vote**

The concurring vote of a majority of the members of the Advisory Board shall be necessary to constitute action by the Board.

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 a public record.

Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts.
2. Conduct public hearings in accordance with NCGS 106-740.
3. Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the county that will affect agricultural districts, including but not limited to, the present use value tax program in Stokes County.
4. Review and make recommendations concerning proposed amendments to this ordinance.
5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.
7. Adhere to the “open meetings” law.

ARTICLE VI CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

1. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which meet the following standards:

- (1) The district, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation:

- . . . 5 acres for horticulture use
- . . . 10 acres for ag. use
- . . . 20 acres for forestry use

when considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.

- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with Article VII (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

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.

Procedure for Notification

The Advisory Board, in cooperation with the county, shall provide notification to property owners, residents, and other interested persons within one mile and adjacent to any designated agricultural district. The purpose of such notification is to inform 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, truck, tractor operations, livestock operations, sawing, and similar activities.

(1) Types of Notification

- (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
- (b) Maps identifying approved districts shall be provided to the Register of Deeds office, the Soil Conservation District Office, the Cooperative Extension Office, Farm Service Agency, the Natural Resources Conservation Service, the Inspections Department, the Stokes County Planning Department, and Stokes County GIS department.
- (c) The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds:

NOTICE TO REAL ESTATE PURCHASERS IN STOKES COUNTY STOKES COUNTY AGRICULTURAL DISTRICTS

Stokes 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 activities, including but not limited to pesticide spraying, manure spreading, machinery, tractor, truck operations, livestock operations, sawing, and similar activities may take place in these districts. This map can be obtained from the Register of Deeds office, Soil Conservation District Office, Cooperative Extension Office, Farm Service Agency, the Natural Resource Conservation Service, the Inspections Department and the Stokes County Planning Office, and Stokes County GIS department.

ARTICLE VII
QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

1. The farmland shall be real property.
2. The farm property shall 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 to meet all the qualifications of this program set forth in G.S. 105.277.3.
3. The property is certified by the Stokes Soil and Water Conservation District Office to USDA Natural Resources Conservation Service standards and specifications, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that :
 - (a) are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
 - (b) have good soil qualities;
 - (c) are favorable for all major crops common to the county where the land is located;
 - (d) have a favorable growing season; and
 - (e) receive the available moisture needed to produce high yields for an average of eight out of ten years.

OR

Soils on which at least two-thirds of the land has been actively 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.

4. The property, if highly erodible land exists on the farm, is managed in accordance with the USDA Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land.
5. The property 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 ten years, except for the creation of not more than three lots that meet applicable subdivision regulations, or the regulations of any municipality which apply to the farm property. The property

owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article VIII.

Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program shall submit written evidence that the property conforms with the requirements of Article VII of this ordinance. This written information shall be submitted to the Chairman of the Advisory Board or the designated staff person on forms provided by the board. The certification may be submitted at the time the owner applies for inclusion in a district.

ARTICLE VIII APPLICATION, APPROVAL AND APPEAL PROCEDURE

1. Application Procedure

- (a) A landowner may apply to participate in the program by making application to the chairman of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
- (b) An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

2. Approval Process

- (a) Upon submission of the application to the Advisory Board, the Advisory Board shall meet within 90 days to approve or disapprove the application. The chairman shall notify the applicant by first class mail of approval or disapproval of participation in the district.
- (b) Upon receipt of an application, the chairman will forward copies immediately to:
 - the Stokes County Tax Assessor's Office, and
 - the Stokes County Soil and Water Conservation District Office. The office shall evaluate, complete and return their copies to the chairman within 30 days of receipt.

3. Appeal

If an application is denied by the Advisory Board, the petitioner has 30 days 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.

**ARTICLE IX
REVOCATION OF PRESERVATION AGREEMENT**

By written notice to the Advisory board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation Agreement based on non-compliance by the landowner subject to the same provisions as contained in Article VIII for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

**ARTICLE X
PUBLIC HEARINGS**

1. 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 hold a public hearing on the proposed condemnation, this ordinance provides for such hearing.

2. Procedure

(a). Upon receiving a request from a state, local public agency or governmental unit, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Stokes County within five 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 20 days of receipt of the request.

(b) The Advisory Board shall meet to review:

- 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;
- 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, Soil and Water Conservation District Office and the Stokes County Farm Bureau. The Advisory Board may consult with any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its 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 30 days after receiving the request for public hearing, the Advisory Board shall make a report to the agency containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.

5. No agency shall permit any formal initiation of condemnation action while the proposed condemnation is properly before the Advisory Board with these time limitations.

ARTICLE XI PUBLIC NOTICE

1. **Procedure**

Upon certification of qualifying farmland and designation of real property as a District, the Stokes County GIS Department and the Stokes County Planning Department shall be notified and shall indicate on their records that such real property is within one aerial mile of a voluntary agricultural district. Such records shall also include some form of notice reasonably calculated to alert a person researching a title to a particular tract of land that such a tract is located within one-half mile of a confined animal operation.

2. **Limit of Liability**

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 this ordinance.

3. **No Cause of Action**

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this ordinance.

ARTICLE XII 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 one aerial mile of the proposed development.

ARTICLE XIII WAIVER OF WATER AND SEWER ASSESSMENTS

1. **Abeyance**

Water and sewer assessments will be held in abeyance, without interest for farms whether inside or outside of a District until improvements on such property are connected to the water or sewer system for which the assessment was made.

2. **Termination of Abeyance**

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

3. **Suspension of Statute of Limitations**

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

4. **Other Statutory Abeyance Procedures**

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. 153A-201.

**ARTICLE XIV
COUNTY LAND-USE PLANNING**

1. **Signed Registration**

Stokes County shall request persons applying for a residential building permit to sign the following statement which shall be maintained at the office of the Advisory Board: “I certify that I have reviewed the most current Stokes County Agricultural Districting Map found in the Stokes County Planning Department, GIS Mapping Department, or Register of Deeds Office. I, or my agent have noted the proximity of Agricultural District Boundaries to my property. I understand that activities such as pesticide spraying, manure spreading, machine operation, livestock operations and other common farming activities may occur at any time in these areas.”

2. **Condemnation Proceedings**

Prior to initiating condemnation proceedings which would convert land in a District to non-farm uses, the Advisory Board requests county or any other unit of government to submit to the Advisory Board a statement that the governmental unit has considered alternatives to condemning farmland in the District.

**ARTICLE XV
CONSULTATION AUTHORITY**

The Advisory Board may consult with the Cooperative Extension Office, the Stokes County Soil and Water Conservation District Office, the North Carolina Department of Agriculture, the Stokes County Farm Bureau, the North Carolina Farm Bureau, and any other such agency the Advisory Board deems necessary to properly conduct its business.

**ARTICLE XVI
NORTH CAROLINA AGENCY NOTIFICATION**

1. **Record Annually with the Department of Agriculture**

A record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture and Consumer Service’s office after adoption. At least once a year the Advisory Board shall submit a written report to the Commissioner of Agriculture, and Stokes County Commissioners concerning the status, progress and activities of the county’s Farmland Preservation Program including District information regarding:

- (a) Number of landowners enrolled
- (b) Number of acres applied
- (c) Number of acres certified
- (d) Number of acres denied
- (e) Date certified

**ARTICLE XVII
LEGAL PROVISIONS**

1. **Severability**

If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

2. **Conflict with other Ordinances and Statutes**

Whenever the provisions of this ordinance conflict with other ordinances within Stokes County, other Stokes County ordinances 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.

3. **Amendments**

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

**ARTICLE XVIII
ENACTMENT**

The Stokes County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance. Stokes County shall have all other powers not specifically enumerated herein as more particularly set forth in Article 61 of the North Carolina General Statutes entitled "Preservation of Farmland".

**ARTICLE XIX
REVOCATION OF PRESERVATION AGREEMENT**

By written notice of the Advisory board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revise the same Preservation Agreement based on non-compliance by the landowner subject to the same provisions as contained in Article IX for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

Adopted unanimously this the **14th** day of **April 2003**. Motion of adoption by **Commissioner Leon Inman** and seconded by **Commissioner Howard Mabe**.

STOKES COUNTY BOARD OF COMMISSIONERS

Sandy McHugh, Chairman

ATTEST:

(Clerk to Board of County Commissioners)

Approved as to form:

Tyrone Browder - County Attorney