

**UNION COUNTY
VOLUNTARY FARMLAND PRESERVATION PROGRAM
ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of Union 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 Article 61 of Chapter 106 of the North Carolina General Statutes ("N.C.G.S.") and other applicable law.

**ARTICLE III
PURPOSE**

The purpose of this Ordinance is to promote agricultural values and 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.

**ARTICLE IV
DEFINITIONS**

The following are defined for purpose of this Ordinance:

- Advisory Board:** Union County Agricultural Advisory Board.
- Chairman:** Chairman of the Union County Agricultural Advisory Board.
- District:** Voluntary Agricultural District as established by this Ordinance.
- Board of Commissioners:** Union County Board of Commissioners.

**ARTICLE V
AGRICULTURAL ADVISORY BOARD**

A. Creation

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

B. Membership

The Advisory Board shall consist of 9 members appointed by the Board of Commissioners; provided, however, that the number of members may be increased without amendment to this Ordinance if necessary for the Board of Commissioners to comply with Article V(C)(v) below.

C. Membership Requirements

- i. Each Advisory Board member shall be a Union County resident.
- ii. At least 6 of the 9 members shall be actively engaged in farming.
- iii. One of the members shall be the President of the Union County Farm Bureau or his designee.
- iv. The members actively engaged in farming 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, the Cooperative Extension Service, the Agricultural Stabilization Conservation Service Committee, and the Union County Farm Bureau with an effort to have the broadest geographical representation possible.
- v. Each District shall have a member on the Advisory Board.

D. Tenure

The initial board is to consist of 3 appointees for terms of one year, 3 appointees for terms of two years, and 3 appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted. Members shall serve at the pleasure of the Board of Commissioners.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

F. 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.

G. Advisory Board Procedure

1. Chairman

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. Jurisdiction

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 Union County fiscal year as its meeting 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. All meetings of the Advisory Board shall be announced and conducted in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes, the North Carolina Open Meetings Law.

5. Majority Vote

The concurring vote of a majority of the members of the Advisory Board shall be necessary to pass upon any matter on which it may act under this Ordinance.

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.

H. Duties

The Advisory Board shall:

1. Review and make recommendations concerning the establishment and modification of agricultural districts;
2. Conduct public hearings;
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;
4. Review and make recommendations concerning proposed amendments to this Ordinance;
5. Prepare a draft of the report required by G.S. 106-743, and Article XIII of this Ordinance, giving the status, progress and activities of the County's farmland preservation program;
6. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
7. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

The Advisory Board may consult with the Cooperative Extension Office, the Natural Resource Conservation Service office in Union County, the North Carolina Department of Agriculture, the Union County Farm Bureau, the North Carolina Farm Bureau, and any other such agency the Advisory Board deems necessary to perform the duties imposed pursuant to this Ordinance.

ARTICLE VI CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Implementation

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

1. The District shall contain a minimum of 20 contiguous acres of qualified farmland; OR
2. The District shall contain two or more qualified farms which contain a minimum of 20 acres and are located within a mile of each other.

B. Encourage Reformation

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 a public information program to reasonably inform landowners of the farmland preservation program.

C. Display

The Districts shall be marked on County maps displayed for public view in the following County offices:

1. Planning Department
2. Cooperative Extension
3. Any other office deemed necessary by the Advisory Board and approved by the Board of Commissioners.

D. Withdrawal

In the event that one or more participants in the District withdraws, or loses eligibility to participate, and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being non-contiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

**ARTICLE VII
QUALIFICATION OF FARMLAND**

A. Requirements

1. 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 N.C.G.S. Section 105-277.2 through Section 105-277.7 or is otherwise determined by the County to meet all the qualifications of this program set forth in N.C.G.S. Section 105-277.3;
 - b. Is certified by the Natural Resource Conservation Service of the United States Department of Agriculture 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

on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. Sections 105-277.2(1), (2) and (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. Is 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 highly erodible land; and
- d. Is the subject of a conservation agreement, as defined in N.C.G.S. Section 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.

ARTICLE VIII APPLICATION AND APPROVAL PROCEDURE

A. Application Procedure

- 1. A landowner may apply to establish a District or to add qualifying farmland to an existing District by making application to the Chairman of the Advisory Board or a designated staff person using forms provided by the Advisory Board. The application shall be designed to establish eligibility in accordance with the provisions of this Ordinance.
- 2. The landowner shall execute an agreement to sustain, encourage and promote agriculture in the District. The requirement for an agreement may be satisfied by the conservation agreement required in Article VII(A)(1)(d).

B. Approval Process

- 1. Upon receipt of an application, the Chairman will forward copies to the following agencies for their prompt evaluation and response:
 - a. The Union County Tax Administrator's office; and

- b. The Union County Soil and Water Conservation District and the Natural Resource Conservation Service office.
2. Upon receipt of responses from the offices of the Union County Tax Administrator, the Union County Soil and Water Conservation District, and the Natural Resource Conservation Service, the Advisory Board shall meet within thirty (30) days to consider the application. The Chairman shall endeavor to notify the applicant by first-class mail of the Advisory Board's recommendation within fifteen (15) days.
3. The Advisory Board shall forward its recommendation to the Board of Commissioners for consideration. Action by the Board of Commissioners regarding approval or disapproval of the application shall be final.

ARTICLE IX REVOCATION OF CONSERVATION AGREEMENT

A landowner of qualifying farmland may revoke a conservation agreement upon written notice to the County. The County, upon recommendation by the Advisory Board, may revoke a conservation agreement due to non-compliance by the landowner. Any such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

ARTICLE X PUBLIC HEARINGS

A. Purpose

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 a newspaper of general circulation in Union 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 twenty (20) days of receipt of the request.
2. The Advisory Board shall meet to formulate recommendations regarding:
 - 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 exist alternatives to the proposed action that have less impact on and disruption to the agricultural activities of the District within which the proposed action is to take place.
3. The Advisory Board may consult with the County Cooperative Extension Agent, U.S.D.A. Natural Resource Conservation Service District Conservationist, the Union County Farm Bureau and with any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
4. Not later than thirty (30) days after receiving a request to hold the public hearing, the Advisory Board shall submit a report containing its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing acquisition. To the extent practicable, 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. Pursuant to N.C.G.S. Section 106-740, the agency or unit of government proposing acquisition shall not initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE XI PUBLIC NOTICE

A. Procedure

Upon approval of a District or of modification to a District by the Board of Commissioners, the Advisory Board shall provide to the Union County GIS office such information and materials as may be necessary to enable the GIS office to prepare maps designating the location of the Districts established pursuant to this Ordinance. Within a reasonable time after receipt of such information and materials, the Union County GIS office shall prepare or update appropriate maps so as to allow determination of the proximity of a particular tract to a District by those desiring such information. Maps shall be accessible to the public as indicated in Article VI(C).

B. Signs

To the extent legally permissible, the County Manager may cause signs to be placed along public roadways to notify the public of the presence or proximity of a District.

C. 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.

D. **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
WAIVER OF WATER AND SEWER ASSESSMENTS**

A. **No Assessment**

The Union County Public Works Department shall not require the connection of improvements on qualifying farms within a District to Union County water and/or sewer systems.

B. **Abeyance**

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

E. **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. Section 153A-201.

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.

ARTICLE XIII
NORTH CAROLINA AGENCY NOTIFICATION

Record Annually With the Department of Agriculture

A record of this Ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. The County shall make an annual report to the North Carolina Commissioner of Agriculture as specified in N.C.G.S. Section 106-743.

ARTICLE XIV
LEGAL PROVISIONS

A. 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.

B. Conflict With Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other Ordinances of Union County, this Ordinance shall govern to the extent permitted by law. 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.

D. Jurisdiction

Pursuant to G.S. § 153A-122, the territorial jurisdiction of this Ordinance shall be those parts of Union County not within a municipality.


Adopted this the 7 day of May, 2001.

UNION COUNTY BOARD OF COMMISSIONERS



Chairman

ATTEST:



Clerk to Board of Commissioners



MEG SCOTT PHIPPS
COMMISSIONER

State of North Carolina
Department of Agriculture and Consumer Services
Raleigh

May 29, 2001

Lynn G. West, CMC
Clerk to the Board of Commissioners
Office of the Commissioners and Manager
500 North Main Street, Room 921
Monroe, North Carolina 28112

Dear Ms. West:

Thank you for sending us a copy of the Voluntary Farmland Preservation Program Ordinance adopted by the Board of Commissioners.

Pursuant to the Farmland Preservation Act, it will be filed in our permanent records.

Every year, we are losing more and more productive farmland, and I commend and congratulate Union County on its efforts to promote agriculture by adopting this ordinance.

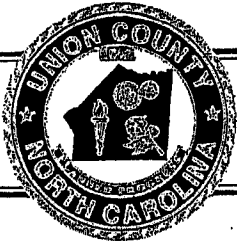
Please feel free to call on me or any member of my staff if we can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Meg Scott Phipps".

Meg Scott Phipps
Commissioner of Agriculture

MSP:jw
comWestL-FarmPresOrdinance
bcc: Mercer Kivett



OFFICE OF THE COMMISSIONERS AND MANAGER

500 N. Main St., Room 921 • Monroe, NC 28112 • Phone (704) 283-3810 • Fax (704) 282-0121

May 15, 2001

MAY 24 2001

COMMISSIONER
NCDA

Commissioner Meg Scott Phipps
North Carolina Department of Agriculture
P.O. Box 27647
Raleigh, NC 27611

Dear Commissioner Phipps:

Please record the Voluntary Farmland Preservation Program Ordinance as adopted by the Board of Commissioners at the May 7, 2001, meeting.

Sincerely,

Lynn G. West, CMC
Clerk to the Board of Commissioners

/trh

Enclosures