

NORTH CAROLINA
TOWN OF WENTWORTH

COPY

AN ORDINANCE OF THE TOWN OF WENTWORTH, STATE OF NORTH CAROLINA, ADOPTING CHAPTER SIX: VOLUNTARY AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION ORDINANCE AND ADDING IT TO THE TOWN OF WENTWORTH PLANNING AND ZONING ORDINANCES.

BE IT ORDAINED BY THE TOWN OF WENTWORTH TOWN COUNCIL THAT:

SECTION 1

The Wentworth, North Carolina, Planning and Zoning Ordinances are hereby amended to add "Chapter Six: Voluntary Agricultural Development and Farmland Preservation Ordinance".

SECTION 2

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3

This ordinance shall become effective upon adoption.

At the July 18, 2006 regular session of the Wentworth Town Council, upon motion of Council member ~~Dennis Paschal~~ ^{Dennis} seconded by Council member ~~Robert Aswell~~ ^{Robert} the foregoing ordinance passed by the following vote:

Ayes: 5

Noes: 0

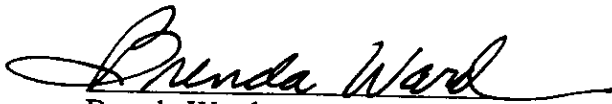
This the 18th day of July, 2006.

Town of Wentworth Town Council

By: 

Dennis Paschal, Mayor


ATTEST:



Brenda Ward
Town Administrator

I, Brenda Ward, Town Administrator for the Town of Wentworth, do hereby certify that the foregoing ordinance was duly adopted by the governing body of the Town of Wentworth after lawful public notice and at a regular meeting thereof, a quorum being present.

This the 18th day of July, 2006.



Brenda Ward, Town Administrator

This Ordinance was introduced at the April 4, 2006 meeting of the Town of Wentworth Town Council.

CHAPTER SIX

**VOLUNTARY
AGRICULTURAL
DEVELOPMENT AND
FARMLAND
PRESERVATION
ORDINANCE**

ARTICLE I TITLE

An ordinance of the Town of Wentworth Town Council, North Carolina, entitled, "**VOLUNTARY AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION ORDINANCE**".

ARTICLE II AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by the NCGS Sections §106-735 through 106-744 and Chapter 160A. In the event that any part of this ordinance conflicts with NCGS Sections §106-735 through 106-744 and Chapter 160A, then the General Statutes will control.

ARTICLE III PURPOSE

The purpose of this ordinance is to promote agricultural values, the general welfare of the Town, and, more specifically, to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and to provide a wider range of options to protect farmland from non-farm development and other negative impacts on properly managed farms by providing programs that promote the growth, sustainability, and profitability of farming operations.

ARTICLE IV EFFECTIVE RANGE

This ordinance is effective for farm acreage within the town limits of the Town of Wentworth.

ARTICLE V DEFINITIONS

1. Agriculture, agricultural, and farming:

1. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
2. The planting and production of trees and timber.
3. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing.
4. Aquaculture as defined in NCGS §106-758.
5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
6. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items

produced on the farm, and similar activities incident to the operation of a farm.

2. Bona fide farm purposes:

1. The production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.
2. The production of any non-farm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a Conservation Agreement.
3. Bona fide farms are exempt from the zoning regulations of the Town of Wentworth.

3. Classes of property (NCGS §105-277.3):

1. Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.
2. Horticultural land. – Individually owned horticultural land consisting of one or more tracts, one of which consists of at least five acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have met the applicable minimum gross income requirement. Land in actual production includes land under improvements used in the commercial production or growing of fruits or vegetables or nursery or floral products. Land that has been used to produce evergreens intended for use as Christmas trees must have met the minimum gross income requirements established by the Department of Revenue for the land. All other horticultural land must have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the horticultural products produced from the land and any payments received under a governmental soil conservation or land retirement program.
3. Forestland. – Individually owned forestland consisting of one or more tracts, one of which consists of at least 20 acres that are in actual production and are not included in a farm unit.

3. Conservation Agreement:

A right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all:

- (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground,
- (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials,
- (iii) removal or destruction of trees, shrubs or other vegetation,
- (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface,
- (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition,
- (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or
- (vii) other acts or uses detrimental to such retention of land or water areas.

ARTICLE VI AGRICULTURAL ADVISORY BOARD

A. Creation and Membership. The Town Council is authorized to establish a Town of Wentworth Agricultural Advisory Board consisting of three to seven members appointed by the Town Council to implement the provisions of this ordinance.

B. Membership Requirements.

1. Each Advisory Board member shall be a Wentworth resident, at least eighteen years of age, and an owner of qualifying farmland in the town.
2. At least fifty-one percent of the Advisory Board members shall be actively engaged in farming.
3. The Advisory Board members shall be selected for appointment by the Town Council from the names of individuals submitted to the Town Council by the Rockingham County Farm Bureau, Soil and Water Conservation District/Natural Resources Conservation Service, or the Cooperative Extension Service.

C. Tenure. Members shall serve terms of three years, except that initial board members may serve staggered terms of one, two or three years and members appointed to fill vacancies shall be appointed for the remainder of the unexpired term. After the initial appointment, members may serve a maximum of two consecutive terms after which the member must be off the board for at least one year before being eligible for re-appointment.

D. Removal. Members of the Advisory Board serve at the pleasure of the Town Council.

E. Funding. The Town Council may fix the per diem compensation, if any, of the members of the Advisory Board and may appropriate funds to the Advisory Board to perform its duties.

F. Advisory Board Procedure:

1. Chairperson. The Advisory Board shall elect a chairperson at its first meeting each fiscal year to preside over all regular or special meetings of the Advisory Board and may elect additional officers 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 law.
3. Advisory Board Year. The Advisory Board shall use the Town of Wentworth fiscal year (which is currently July 1 through June 30) 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. 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 the affected Advisory Board members.
5. Majority Vote. The concurring vote of a majority of the members of the Advisory Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this ordinance.
6. Records. The Advisory Board shall keep minutes of the proceedings showing the vote of each member and shall keep records of its examinations and other official actions which shall be filed in the Office of the Advisory Board.
7. Administrative. The Advisory Board may contract with the Soil and Water Conservation District Office or other appropriate Town of Wentworth or County agency for record keeping, correspondence, application procedures, or for other services the Board needs to complete its duties.

G. Duties. The Advisory Board shall:

1. Review and approve applications for qualified farmland and make recommendations concerning the establishment and modification of voluntary agricultural districts, and enhanced voluntary agricultural districts;
2. Conduct public hearings specifically permitted or required under this ordinance;
3. Advise the Town Council (at least annually) 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 for presentation to the Town Council;
5. Study additional methods of farmland preservation and make recommendations to the Town Council; and
6. Perform other agricultural related tasks or duties assigned by the Town Council.

ARTICLE VII QUALIFICATION OF FARMLAND

In order for farmland in the Town of Wentworth to qualify for participation under the terms of this program, for either Voluntary Agricultural Districts or Enhanced Voluntary Agricultural Districts, it shall meet the following requirements:

1. The farm property is participating in the farm present-use-value taxation program or is otherwise determined by the Town to meet all the qualifications of this program as set forth in NCGS §105-277.3 (Classes of Property);
2. The property is managed in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to highly-erodible land; and
3. The property is the subject of a Conservation Agreement between the Town 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 town zoning, subdivision, and development regulations.

ARTICLE VIII CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

A. Creation of Voluntary Agricultural Districts.

1. Implementation. In order to implement the purposes stated in Article III, voluntary agricultural districts may be created that meet the following standards:
 - a. Each 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 agriculture use, or 20 acres for forestry use. When considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.
 - b. The landowner(s) requesting inclusion in the district shall execute an agreement with the Town to sustain agriculture in the district in accordance with the requirements of this ordinance in a form approved by the Advisory Board.
 - c. Once a qualifying tract is registered and accepted into the program it shall be designated as an agricultural district.
2. Education. The Town 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 voluntary agricultural district program.
3. Withdrawal of farmland from existing voluntary agricultural district. In the event one or more participants in a district withdraws and the acreage in the district becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm in that district.

B. Creation of Enhanced Voluntary Agricultural Districts.

1. **Implementation.** In order to implement the purposes stated in Article III, enhanced voluntary agricultural districts may be created that meet the following standards:
 - a. Each 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 agriculture use, or 20 acres for forestry use. When considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.
 - b. The landowner(s) requesting inclusion in the district shall execute a Conservation Agreement with the Town to sustain agriculture in the enhanced voluntary agricultural district in accordance with the requirements of this ordinance in a form approved by the Advisory Board.
 - c. Once a qualifying tract is registered and accepted into the program it shall be designated as an enhanced agricultural district.
2. **Limitation.** A Conservation Agreement shall be irrevocable for a period of at least 10 years from the date the agreement is executed. At the end of its term, a Conservation Agreement shall automatically renew for terms of three years, unless three (3) months written notice of termination is given by either party. The landowner must provide the written notice to the Advisory Board. The benefits set forth in Article VII, Section B(4) shall be available to the farmland that is the subject of the Conservation Agreement for the duration of the Conservation Agreement.
3. **Entitlement.** Enhanced voluntary agricultural districts are entitled to all the benefits of voluntary agricultural districts.
4. **Additional Benefits.**
 - a. Property that is subject to a Conservation Agreement as shown in Article VII, Section B (2) that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of non-farm products and still qualify as a bona fide farm rather than a retail establishment. The non-farm products must be produced on the farm and recognized as a "Goodness Grows in North Carolina" product from the Department of Agriculture and Consumer Services. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of non-farm products did not exceed twenty-five percent (25%) of its gross sales.
 - b. A person who farms land that is subject to a Conservation Agreement that remains in effect is eligible to receive ninety percent (90%) of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to NCGS §143-215.74(b)(9).
 - c. State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to any person who farms land that is subject to a Conservation Agreement that remains in effect.

ARTICLE IX PUBLIC NOTICE

Upon approval of a district, appropriate maps shall be updated so that a person wishing to ascertain the proximity of a particular tract to a district may do so. Such maps shall contain a notice as follows: "The Town of Wentworth has established agricultural districts to protect and preserve agricultural, silvicultural, horticultural, and livestock lands and activities. These districts have been developed and mapped by the town 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." Agricultural district maps shall be maintained in the offices of the Rockingham County Planning Department with copies or access being available for the convenience of the public in the Town of Wentworth's Town Hall and Rockingham County offices such as the Register of Deeds Office, Soil Conservation District Office, and Cooperative Extension Office as recommended by the Agricultural Advisory Board and approved by the Town of Wentworth.

ARTICLE X APPLICATION, APPROVAL AND APPEAL PROCEDURE

A. Application Procedure:

1. A landowner may apply to participate in the program by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board and accompanied by documentation to establish eligibility as required by the Advisory Board. The application to participate in a district may be filed with the certification for qualifying farmland.
2. A Conservation Agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within ninety days to approve or disapprove the application. The chairperson or designated staff person shall notify the applicant by first class mail of approval or disapproval of participation in the district within two weeks of the Advisory Board's determination.
2. Upon receipt of an application, the chairperson or designated staff person will forward copies immediately to the following offices which shall have a period of twenty days to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. The Rockingham County tax assessor; and
 - b. The Rockingham County Soil and Water Conservation District office; and,
 - c. The Natural Resources Conservation Service.

- C. Appeal. If the Advisory Board denies an application, the petitioner shall have thirty days to appeal the decision to the Town Council. Such appeal shall be presented in writing. The decision of the Town Council is final.

ARTICLE XI REVOCATION OF PRESERVATION AGREEMENT IN A VOLUNTARY AGRICULTURAL DISTRICT

- A. By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke a Preservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article X for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a voluntary agricultural district.

- B. A Conservation Agreement entered into for the formation of an Enhanced Voluntary Agricultural District may not be revoked for a period of ten (10) years from the date the Conservation Agreement is executed. At the end of its term, a Conservation Agreement shall automatically renew for terms of three years, unless three (3) months written notice of termination is given by either party. The landowner must provide the written notice to the Advisory Board.

ARTICLE XII PUBLIC HEARING FOR CONDEMNATION

- A. Purpose. To implement NCGS §106-740, which provides that no state or local public agency 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. Within thirty days of receipt of a request to hold a public hearing on a proposed condemnation, the Advisory Board shall hold a public hearing and submit its findings and recommendations to the condemning agency.
 - 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 may consult with the Rockingham County Farm Bureau, 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. Pursuant to NCGS §106-740, the condemning agency may not formally initiate a condemnation action during the period of time, not to exceed thirty days, while the proposed condemnation is properly before the Advisory Board.

ARTICLE XIII NOTIFICATION

- A. Public Notice. Upon approval of a district, appropriate maps shall be updated within a reasonable time so that a person wishing to ascertain the proximity of a particular tract to a district may do so.
- B. Signs. The Advisory Board 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 Town 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 or enhanced voluntary agricultural district as defined in this ordinance.

ARTICLE XIV DESIGNATION OF DISTRICTS ON DEVELOPMENT PLANS

Developers of major subdivisions or planned unit developments shall designate on preliminary and final development plans and plats, the existence of farmland preservation districts within one aerial mile of the boundaries of the proposed development.

ARTICLE XV WAIVER OF WATER AND SEWER ASSESSMENTS

- A. No Assessment. A landowner belonging to a Voluntary Agricultural District or to an Enhanced Voluntary Agricultural District shall not be assessed for or be required to connect to Town of Wentworth or Rockingham County water and/or sewer systems.
- B. Abeyance. Water and sewer assessments shall 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 Town to hold assessments in abeyance under NCGS §160A-237, or other applicable law.
- F. Conflict with Water and/or Sewer System Construction and Improvements Grants. To the extent that this section conflicts with the terms of federal, state, or other grants under which Town water and/or sewer systems are constructed, this section shall not apply.

ARTICLE XVI CONSULTATION AUTHORITY

The Advisory Board may consult with the Rockingham County Farm Bureau, North Carolina Cooperative Extension Service, the Soil and Water Conservation office, the Natural Resources Conservation Service office, 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 XVII NC AGENCY NOTIFICATION AND ANNUAL REPORT

A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services after adoption. At least annually, the Advisory Board shall submit a written report to the Town Council for forwarding to the North Carolina Commissioner of Agriculture on the town's agricultural district program, including the following information: number of landowners enrolled; number of acres enrolled; number of acres certified during the reporting period; number of acres denied during the reporting period; number of acres for which applications are pending; copies of any amendments to the ordinance; and any other information the Advisory Board deems useful.