

**ALAMANCE COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

Section 1. AUTHORITY

Pursuant to Chapters 106 and 153A of the North Carolina General Statutes, Alamance County hereby establishes this Ordinance to promote agricultural values and the general welfare of the County and, more specifically, to increase identity and pride in the agricultural community and its way of life; and encourage the economic and financial health of agriculture, horticulture, and forestry.

Section 2. PURPOSE

This Chapter establishes a Voluntary Agricultural District (“VAD”) Program, which provides the benefits enumerated in N.C.G.S. § 106-738, including:

- A. To increase identity and pride in the agricultural community and its way of life;
- B. To decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors; and
- C. To decrease other negative impacts on properly managed farms.

Section 3. DEFINITIONS

The following definitions apply in the interpretation and enforcement of this Ordinance:

- A. **Advisory Board**: The Alamance County Agricultural Advisory Board.
- B. **Board of Commissioners**: The Alamance County Board of Commissioners.
- C. **Chairperson**: The Chairperson of the Alamance County Agricultural Advisory Board.
- D. **District**: Voluntary Agricultural District as established by this Ordinance.
- E. **Nonfarm Use**: Any use of land that does not qualify as bona fide farm use, other than single-family residential uses as allowed under N.C.G.S. § 106-737(4).

- F. **Conservation Agreement**: A ten (10) year revocable agreement signed by the landowner committing to keep land for agricultural or forest use, as described in N.C.G.S. § 121-35.

Section 4. AGRICULTURAL ADVISORY BOARD

A. Creation

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

B. Membership

1. The Advisory Board shall consist of (7) members representing the Voluntary Agricultural Districts approved under this Ordinance.
2. Each Advisory Board member, except those serving in an ex officio capacity, shall be an Alamance County resident or landowner.
3. At least (5) of the members shall be actively engaged in agriculture as defined in N.C.G.S. § 106-581.1. This determination shall be made without reference to ex officio members.
4. The members actively engaged in agriculture as defined in N.C.G.S. § 106-581.1, as well as other 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, the Cooperative Extension Service, the Natural Resource Conservation Services, the Farm Service Agency, and the Alamance County Farm Bureau. The members of the Advisory Board shall be chosen to provide the broadest possible representation of the geographical regions of the County and to represent, to the extent possible, all segments of agricultural production existing within the County.
5. Additional members may be appointed to the Advisory Board in an ex officio capacity.

C. Tenure

The initial Advisory Board is to consist of two appointees for terms of two years; two appointees for terms of three years; and three appointees for terms of four years. Thereafter, all appointments are to be for three year terms, and members may serve a maximum of two consecutive terms, or six consecutive years. Thereafter each member of

the Advisory Board must have one year of not holding a position with the Advisory Board before being reappointed.

D. Vacancies

Any vacancy of a member appointed by the Board of Commissioners on the Advisory Board is to be filled by the Board of Commissioners from the recommendations of the abovementioned groups from Section 4.B(4) for the remainder of the unexpired term.

E. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners. No cause for removal shall be required.

F. Funding

The per diem compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners.

G. Advisory Board Procedure

1. Chair and Vice Chair: The Advisory Board shall elect a chairperson and vice-chairperson from those members appointed by the commissioners each year at the Advisory Board's first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

2. Determination of Procedure: The Advisory Board may adopt rules of procedure consistent with this Ordinance or other provisions of State law.

3. Advisory Board Year: The Advisory Board shall use the Alamance County fiscal year, July 1 - 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 or upon the request of at least a majority of the Advisory Board membership. A meeting shall be held at least annually. Meeting dates and times shall be posted as far in advance as possible by all means of public dissemination required by N.C.G.S. § 143-318.12 All meetings shall be open to the public and follow the Open Meetings Laws.

5. Meeting Location: Meetings shall be held at the Alamance County Agricultural Building. If this facility is unavailable or if the business of the Advisory Board makes it necessary or more convenient to meet at a different location, the chairperson shall determine this location and provide timely notification to all Advisory Board members and the public.

6. Majority Vote and Quorum Requirements: All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as a majority of the members. No business may be conducted by the Advisory Board without a quorum present.

7. Records: The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board, or its designee, and shall be a public record.

8. Administration: The Administrator of the Alamance County Soil and Water Conservation District shall serve as Secretary. The Administrator may delegate all or part of these duties to another Alamance County employee, or employee of Alamance County Cooperative Extension, but shall retain responsibility for the satisfactory accomplishment of the secretarial duties.

H. Duties

The Advisory Board shall:

1. Review and make recommendations or decisions concerning the establishment and modification of Districts.
2. Execute agreements with landowners necessary for enrollment of land in a Voluntary Agriculture District.
3. Review and make recommendations concerning proposed amendments to this Ordinance.
4. Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farmland.

5. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or way of life within the County.
6. Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners.
7. Perform other related tasks or duties assigned by the Board of Commissioners.

Section 5. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Implementation

To implement the purposes stated in Section 2, this program provides for the creation of Voluntary Agricultural Districts which shall 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 agricultural 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 Section 6(3) of this Ordinance. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

B. Education

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 Voluntary Agricultural District Program.

Section 6. CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

For farmland to qualify for inclusion in a Voluntary Agricultural District property, it must be a real property that meets the following requirements:

1. Be used for bona fide farm purposes, as that term is defined in N.C.G.S. § 106-743.4(a) and N.C.G.S. § 160D-903.
2. Be managed, if highly erodible land exists on the farm, following the Alamance County Soil and Water Conservation District defined erosion-control practices that are designed to address highly erodible land.
3. The property is the subject of a conservation agreement as defined in N.C.G.S. § 121-35 between the county and the owner of such land that prohibits non-farm use or development of such land for at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable municipal and county zoning and subdivision regulations. The form of the conservation agreement shall be approved by the Advisory Board.

Section 7. APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. Application Procedure

A landowner may apply to participate in the Voluntary Agricultural District Program by applying to Alamance County Soil and Water Conservation District Office. The application shall be on forms provided by Alamance County Soil and Water Conservation District and approved by the Advisory Board.

B. Approval Process

Upon receipt of an application, the Alamance County Soil and Water Conservation District Administrator will forward copies to the members of the Advisory Board and all ex officio members for their evaluation.

Advisory Board shall meet at the next regularly scheduled meeting to determine if the application meets the minimum requirements established by this Ordinance; provided that, however, the Administrator of the Alamance County Soil and Water Conservation District has the ability to push consideration back to, but no later than, the second regularly scheduled meeting following receipt of application. The chairperson shall notify the applicant by first class mail of approval or disapproval within fifteen (15) days of the decision.

C. Appeal

If the Advisory Board determines an application does not meet the requirements of this Ordinance, the applicant shall have sixty (60) days to appeal the decision to the Board of Commissioners. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final.

Section 8. NOTIFICATION

A. Public Awareness

Upon approval of a Voluntary Agricultural District the County (Soil and Water Conservation District Administrator) shall provide notification of said District to the following:

1. Notification shall be mailed to the property owner/applicant by first class mail.
2. The Alamance County Tax Department/GIS Mapping shall maintain maps of approved Districts within the Alamance County Geographic Information Mapping System Database as well as an overlay for all tracts located within one-half (1/2) mile of the property line of any tract of land enrolled in a Voluntary Agricultural District.
3. The mapping information shall provide 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. This mapping information may be viewed by accessing the Alamance County GIS website.
4. Notice of these methods of District notification and identification shall be included in all Alamance County Voluntary Agricultural District Program information brochures made available to the public by Alamance County Soil and Water Conservation District, Alamance County Planning and Zoning Department, and others.
5. In no event shall the County or any of its officers, employees, members of the Advisory Board, 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.
6. 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.

7. In no event shall any cause of action arise out of the failure of a person licensed under Chapters 93A or 93E of the North Carolina General Statutes for the failure to report to any person the proximity of a tract to a qualifying farm or Voluntary Agriculture District.

B. Signage

Alamance County may place signs identifying approved Voluntary Agricultural Districts along major roads that pass through or next to those Districts. Members of the Voluntary Agricultural Districts have the privilege of posting signs on their farms denoting their Voluntary Agricultural District membership. Signs must be placed on the landowner's property outside of any rights-of-way or easements and shall conform to applicable Alamance County Ordinances.

Section 9. REVOCATION AND ENFORCEMENT, TRANSFER OF LAND, AND RENEWAL OF CONSERVATION AGREEMENTS

A. Revocation and Enforcement

By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland may revoke his/her participation in the Voluntary Agricultural District Program formulated according to Section 5 of this Ordinance, or the Advisory Board may revoke the same participation based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District.

B. Transfer of Land

Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless the land no longer meets the requirements contained in Section 6. Enforcement of the terms of a Conservation Agreement for land enrolled in a Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom.

C. Renewal of Conservation Agreements

Conservation agreements shall automatically renew for subsequent ten (10) year terms unless either the landowner or the county provides written notice to the contrary at least 30 days before the expiration of the Conservation Agreement.

Section 10. PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

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 to hold a hearing on the proposed condemnation, the Advisory Board shall publish notice describing the proposed action in the appropriate newspaper of Alamance County within ten (10) 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 thirty (30) days of receipt of the request.
2. The Advisory Board shall meet to review:
 - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved.
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Advisory Board shall consult with the Alamance Soil and Water Conservation District, Cooperative Extension Agricultural Agent(s), Natural Resources Conservation Service District Conservationist, the Alamance County Farm Bureau, and 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 five (5) days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment before its being conveyed to the decision-making body of the agency proposing the acquisition by condemnation.

5. There will be ten (10) days allowed for public comment on the report of the Advisory Board.

6. After the ten (10) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing the acquisition by condemnation.

7. The total period, from the day, that a request for a hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition shall not exceed thirty (30) days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be outlined in writing and made available to the public.

C. The State, local government agency, or governmental unit proposing to acquire property by condemnation may not formally initiate condemnation action while the proposed condemnation is properly before the Advisory Board.

D. The Board of Commissioners shall condemn farmland within an Agriculture District only as a "last resort" if it is considering condemnation for County purposes.

Section 11. SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions, apartment complexes, or planned unit developments shall designate on preliminary development plans, the existence of any Agricultural Districts within ½ aerial mile of the proposed development. Such previously mentioned developments have a duty to comply with State law, the Alamance County Unified Development Ordinance, and all other applicable ordinances.

Section 12. COUNTY LAND-USE PLANNING

A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners or the agency or office to which the Board of Commissioners has delegated the authority to oversee county land-use planning, on the status, progress, and activities of the County's Voluntary Agricultural District Program and to also coordinate the formation and maintenance of Agricultural Districts with the County's land-use planning activities and

the County's land-use plan if one currently exists at the time this is enacted or when one is formed.

B. Posting of Notice

The following notice of a size and form suitable for posting shall be posted in the Soil and Water Conservation District office and any other office or agency the Advisory Board deems necessary:

Alamance County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These Districts have been developed and mapped by the County to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, prescribed burning, and other common farming activities may occur in these Districts any time during the day or night. Maps and information on the location and establishment of these Districts can be obtained from Alamance County Soil and Water Conservation District, Alamance County Planning Department, and Alamance County Tax Department/GIS Mapping.

Section 13. WAIVER OF WATER AND SEWER ASSESSMENTS.

A. No Assessment

A landowner belonging to the district shall not be assessed for or required to connect to Alamance County water and/or sewer systems.

B. 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.

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 the 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. § 153A-201.

Section 14. CONSULTATION AUTHORITY

The Advisory Board may consult with Alamance County Soil and Water Conservation District, North Carolina Cooperative Extension, the Natural Resources Conservation Service, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

Section 15. NORTH CAROLINA AGENCY NOTIFICATION

At least annually, Alamance County Soil and Water Conservation District shall submit a written report to the Office of the Commissioner of Agriculture and Consumer Services on the County's agricultural district program, including the following information:

- A. Number of landowners enrolled
- B. Number of acres enrolled
- C. Number of acres certified during the reporting period
- D. Number of acres denied during the reporting period
- E. Number of acres for which applications are pending
- F. Copies of any amendments to this Ordinance
- G. Any other information the Advisory Board deems useful

A copy of this report shall also be provided to the Board of Commissioners, Alamance County Soil and Water Conservation District, Alamance County Tax Department/GIS Mapping, Alamance County Planning Department, and Alamance County Forest Service.

Section 16. LEGAL PROVISIONS

A. Severability

If any section, subsection, clause, phrase, or portion of this Ordinance is, for any reason, found invalid or unconstitutional 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 Alamance County, this Ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this Ordinance, the provisions of a such statute shall govern.

C. Amendments

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

D. Notice

A copy of this Ordinance, once adopted, shall be recorded with the Commissioner of the N.C. Department of Agriculture and Consumer Services.

Section 17. REPLACEMENT OF EXISTING ORDINANCE.

This ordinance, upon adoption, shall replace and rescind the existing Alamance County Voluntary Farmland Preservation Program Ordinance, adopted April 2, 2001.

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Section 18. EFFECTIVE DATE.

This Ordinance shall take effect and be in force upon adoption.

Adopted this the _____ day of _____, 2023.

Chairperson

ATTEST:

Clerk to Board of Commissioners