

CHAPTER 156: FARMLAND PRESERVATION

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GENERAL PROVISIONS

§ 156.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVISORY BOARD. The County Agricultural Advisory Board.

BOARD OF COMMISSIONERS. The Board of Commissioners of the County.

CHAIRMAN. Chairman of the County Agricultural Advisory Board.

DISTRICT. A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.
(Ord. passed 8-11-94)

§ 156.002 TITLE.

This chapter, adopted by the Board of Commissioners of the county shall be known as the Haywood County Farmland Preservation Program Ordinance.
(Ord. passed 8-11-94)

§ 156.003 AUTHORITY.

The subchapters and sections of this chapter are adopted pursuant to authority conferred by G.S. §§ 106 735 through 106-744.
(Ord. passed 8-11-94)

§ 156.004 PURPOSE.

The purpose of this chapter is to promote the health, safety, rural 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 farming; increase protection from undesirable, non-farm development and increase the protection of farms from nuisance suits and other negative impacts on properly managed farms.

(Ord. passed 8-11-94)

Agriculture, agricultural and farming practices are defined by the G.A. 106-581.1 as the:

- (1) 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 G.S. 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 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. (1991, c. 81, s. 1; 2005-390, s. 18; 2006-255, s. 6.)

(Amendment passed 3-19-07)

§ 156.005 JURISDICTION.

The jurisdiction of the County Farmland Preservation Program chapter shall be the unincorporated areas of the county.

(Ord. passed 8-11-94)

QUALIFICATIONS AND CERTIFICATION OF FARMLAND

§ 156.020 REQUIREMENTS.

Haywood County – Land Usage

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

(A) The farmland shall be real property.

(B) 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.

(C) The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Services defined erosion control practices that are addressed to the highly erodible land.

(D) The property is the subject of a conservation agreement, as defined in G.S. § 121-35, between the county and the owner of the land that prohibits non-farm use or development of the land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the board in accordance with § 156.039.

(Ord. passed 8-11-94)

(Amended 3-19-07)

§ 156.021 CERTIFICATION.

The owner of the farm seeking to qualify his or her property for participation in the farmland preservation program shall submit written evidence that the property conforms with the requirements of § 156.020 of this program. 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 same time the owner applies for inclusion in a district.

(Ord. passed 8-11-94)

VOLUNTARY AGRICULTURAL DISTRICTS

§ 156.035 CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS.

In order to implement the purposes stated in § 156.004, this program provides for the creation of voluntary agricultural districts which meet the following standards:

(A) The district, when initially established, shall contain a minimum of 25 contiguous acres of qualified farmland, or, two or more qualified farms which contain a minimum of 25 acres and are located within a mile of each other.

(B) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with § 156.020(E) of this program. The agreement shall be in a form which is reviewed and approved by the Advisory Board.

(C) For each district created under the terms of this program, one of the existing Advisory Board members shall be assigned to represent the district.
(Ord. passed 8-11-94)

§ 156.035A CREATION OF ENHANCED VOLUNTARY AGRICULTURE DISTRICTS.

In addition to meeting requirements set forth by Chapter 156.035, 'Creation of Voluntary Agriculture Districts', landowners who are interested in pursuing a stronger option of Farmland Preservation must also meet the following:

- (1) Would develop an irrevocable agricultural term easement between the Haywood County Agriculture Advisory Board, held by the Haywood County Soil and Water Conservation District and agriculture producer that cannot be revoked for ten years.
- (2) Automatically renewed every three years unless written notice is given from landowner to the Haywood Soil and Water Conservation District within 30 days before term expires.
(Amended 3-19-07)

§ 156.036 APPLICATION TO PARTICIPATE.

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.
(Ord. passed 8-11-94)

§ 156.037 APPROVAL PROCESS.

Upon review by the staff of the written certification and application submitted by the property owner, the Board shall meet within 30 days to approve or disapprove the application. The chairman shall notify the applicants by first class mail of the approval or disapproval of participation in the district.
(Ord. passed 8-11-94)

§ 156.038 APPEAL.

If an application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the County Board of Commissioners. The appeal shall be presented in writing. The decision of the Board of Commissioners is final.
(Ord. passed 8-11-94)

§ 156.039 REVOCATION OF CONSERVATION AGREEMENTS.

By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to § 156.020(E) of this program, or the Board may revoke same preservation agreement based on noncompliance by the landowner. The revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the programs provided they meet all other requirements except the minimum area requirements of § 156.035(A).
(Ord. passed 8-11-94)

AGRICULTURAL ADVISORY BOARD**§ 156.050 CREATION.**

In accordance with G.S. §106-739, the Board of Commissioners establishes an Agricultural Advisory Board to implement the provision of this program.
(Ord. passed 8-11-94)

§ 156.051 APPOINTMENTS AND MEMBERSHIP.

(A) *Membership.* The Agricultural Advisory Board shall consist of seven members appointed by the County Board of Commissioners.

(B) *Requirements.*

(1) Each Agricultural Advisory Board member shall be a county resident and registered to vote in the county.

(2) Five of the seven members shall be actively engaged in farming.

(3) The five 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

Farm Services Agency, and the County Farm Bureau, with an effort to have the broadest geographical representation possible.

(C) *Tenure.* The members are to serve for terms of three years, except that the initial board is to consist of two appointees 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, with reappointments permitted.

(D) *Vacancies.* Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

(E) *Removal for cause.* Any member of the Agricultural Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.
(Ord. passed 8-11-94)

§ 156.052 PROCEDURES.

The Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.
(Ord. passed 8-11-94)

§ 156.053 DUTIES.

The Agricultural Advisory Board shall:

(A) Review and approve applications for qualified farmland and voluntary agricultural districts.

(B) Hold public hearings pursuant to §§ 156.070 and 156.071.

(C) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts.

(D) Perform other related tasks or duties assigned by the Board of Commissioners.
(Ord. passed 8-11-94)

PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

§ 156.070 PURPOSE.

The purpose of this section is to provide the procedures for hearings pursuant to 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 farmlands within a voluntary agricultural district until the agency or unit has requested the Advisory Board hold a public hearing on the proposed condemnation.

(Ord. passed 8-11-94)

§ 156.071 PROCEDURES.

(A) *Establish public hearing.* Upon receipt of a request for a public hearing, the Agricultural Advisory Board shall have 30 days to set a date for a public hearing on the proposed condemnation pursuant to G.S. § 106-740. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the Board within the time limitations set forth in this section.

(B) *Notice of public hearing.* The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in the county at least ten days prior to the date established for the hearing. The notice shall contain the date, time, and place of the hearing and shall provide the name of the agency requesting the hearing and the purpose of the condemnation.

(C) *Public hearing.*

(1) The Advisory Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of the county. Additionally, the Advisory Board shall address the following questions:

(a) Has the need for the project requiring the condemnation been satisfactorily established by the agency requesting the action?

(b) Has a financial impact analysis been conducted by the agency seeking the action?

(c) Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place?

(2) The Advisory Board shall consult with the county Cooperative Extension agent, USDA Natural Resources Conservation Services District Conservationist, the Farm Services Agency, and may consult with any other individuals, agencies, or organizations, public or private, necessary to the Advisory Board's review of the proposed action.

(D) *Findings and notification.* Within ten days after the public hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be conveyed to the decision-making body of the agency proposing acquisition and made available to the public for comment.

(Ord. passed 8-11-94)

LAND USE INCENTIVES

§ 156.085 PURPOSE.

The purpose of this subchapter 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.

(Ord. passed 8-11-94)

§ 156.086 PROCEDURE FOR NOTIFICATION AND LANDOWNER BENEFITS.

(A) *Generally.* The Advisory Board, in cooperation with the county, shall provide notification of property owners, residents, and other interested persons in, and adjacent to, any designated agricultural district. The purpose of such notification is to inform all 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 and truck operations, livestock operations, sawing, and similar activities.

(B) *Types of notification.*

(1) Signs identifying approved agricultural districts may be placed along the rights-of-way of major roads.

(2) Maps identifying approved districts shall be provided to the Register of Deeds Office, the Soil and Water Conservation District, the Cooperative Extension Office, the Farm Services Agency, the Inspections Department, the County Land Records Office, and the County Planning Department.

(3) The following notice shall be posted in the Office of the Register of Deeds and in the Land Records Office of the County Courthouse:

**"Notice to Real Estate Purchasers in Haywood County
Haywood County Agricultural Districts**

Haywood 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 and truck operations, livestock operations, sawing, and similar activities, may take place 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 the Cooperative Extension Office, Register of Deeds Office, County Planning

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Office, Natural Resources Conservation Services, and the Farm Services Agency
(Farm Services Agency) Office. "

(4) Upon the recordation of maps in the County Land Records Office and the Register of Deeds Office pursuant to § 156.086(B)(2), the County Tax Assessor's Office shall set forth in the general remarks' section of the parcel detailed appraisal inquiry, real estate inquiry functions, within the County Land Records computer program, a notation that subject property is located in a farmland preservation district, and such notation will also be placed upon the maps of property maintained in the County Land Records Office.

(Ord. passed 8-11-94)

(C) Other Landowner benefits for the VOLUNTARY AGRICULTURE DISTRICT include:

- (1) Recognition and public education about agriculture,
- (2) Increased protection from nuisance suits by signs on property,
- (3) and waiver of water and sewer assessments.
 - a. A county that has adopted an ordinance under this Part may provide by ordinance that its water and sewer assessments be held in abeyance, with or without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
 - b. The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
 - c. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
 - d. If an ordinance is adopted under this section, then the assessment procedures followed under Article 9 of Chapter 153A of the General Statutes or Article 10 of Chapter 160A of the General Statutes, whichever applies, shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
 - e. Nothing in this section is intended to diminish the authority of counties to hold assessments in abeyance under G.S. 153A-201 or G.S. 160A-237. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005-390, ss. 3, 15.)

(Amended 3-19-07)

156.086A ENHANCED VOLUNTARY AGRICULTURE DISTRICT INCENTIVES.

A. In addition to receiving incentives from the Voluntary Agriculture District as defined in Chapter 156.086, landowners will also receive the following:

- (1) up to 25% of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under the G.S. 153A-340(b),
- (2) And waiver of utility assessments during the ten year conservation agreement.

- a. In the ordinance establishing an enhanced voluntary agricultural district under this Part, a county may provide that all assessments for utilities provided by that county are held in abeyance, with or without interest, for farmland subject to a conservation agreement under G.S. 106-743.2 that remains in effect until improvements on the farmland property are connected to the utility for which the assessment was made.
- b. The ordinance may provide that, when the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
- c. Statutes of limitations are suspended during the time that any assessment is held in abeyance under this section without interest.
- d. If an ordinance is adopted by a county under this section, then the assessment procedures followed under Article 9 of Chapter 153A or Article 10 of Chapter 160A of the General Statutes, respectively, shall conform to the terms of this ordinance with respect to qualifying farms that entered into conservation agreements while such ordinance was in effect.
- e. Nothing in this section is intended to diminish the authority of counties to hold assessments in abeyance under G.S. 153A-201 and G.S. 160A-237. (2005-390, s. 5.)

Whereas, in addition to the above mentioned incentives, the landowner may also receive the following:

- (1) a higher percentage of cost share funds under the NC State Agriculture Cost Share Program, NC Division of Soil and Water Conservation, pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes,
 - (2) priority consideration for grants from state departments, institutions or agencies
- (Amended 3-19-07)

§ 156.087 EXPENDITURE OF COUNTY FUNDS FOR NON-FARM USES.

Prior to initiating condemnation proceedings which would convert land in a voluntary agricultural district to non-farm uses, the county or any other local unit of government shall submit to the Advisory Board that the governmental unit has considered alternatives. Such consideration shall include the criteria listed in § 156.071(C)(l)(a) through (c).

(Ord. passed 8-11-94)

§ 156.088 NO DISTRICTS IN DESIGNATED GROWTH CORRIDORS.

At such time as the county might establish designated growth corridors, agricultural districts will not be permitted in designated growth corridors, as delineated on the official county planning map without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may expand to include adjoining property purchased by a landowner presently participating in the County Voluntary Farmland Preservation Program. The approval of the Board of Commissioners will be on a case-by-case basis.

(Ord. passed 8-11-94) Penalty, see §10.99

AGENCY NOTIFICATION

§ 156.100 CONSULTATION WITH STATE DEPARTMENT OF AGRICULTURE AND OTHER AGENCIES.

The Board shall consult with the Cooperative Extension office, the County Natural Resources Conservation Services office, the Farm Services Agency, the State Department of Agriculture, and any other such agency the Board deems necessary to properly conduct its business.

(Ord. passed 8-11-94)

§ 156.101 RECORDING THE PROGRAM.

(A) An official copy of this chapter shall be recorded with the State Commissioner of Agriculture's office after adoption.

(B) At least once a year, the county shall submit a written report to the Commissioners of Agriculture, including the status, progress, and activities of the county's farmland preservation program, and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled.
- (2) Number of acres applied.
- (3) Number of acres certified.
- (4) Number of acres denied.
- (5) Date certified.

(Ord. passed 8-11-94)