



**RESOLUTION OF THE MOORE COUNTY BOARD OF COMMISSIONERS  
PERTAINING TO THE ADOPTION OF THE PLAN CONSISTENCY  
REVIEW STATEMENT FOR A PROPOSED AMENDMENT TO THE  
COUNTY CODE OF ORDINANCES (RE2006-0821-FARMLAND  
PRESERVATION PROGRAM ORDINANCE)**

**WHEREAS**, in 2005, the Moore County Planning and Community Development Department made a presentation to the Board of County Commissioners on an ongoing project entitled the Voluntary Agricultural District program;

**WHEREAS**, North Carolina General Statute 153A-341 directs the Moore County Planning Board to "provide a written recommendation to the Board of County Commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board;"

**WHEREAS**, voluntary agricultural districts are established by the Farmland Preservation Enabling Act of 1985 and at the state level with NCGS 106-735 through 106-743;

**WHEREAS**, this request was duly advertised and subject to Public Meeting before the Moore County Planning Board on July 13, 2006 and a Public Hearing on August 21, 2006;

**WHEREAS**, the Moore County Planning Board and the Board of Commissioners has made the following findings and conclusions that the proposed request is consistent with the Moore County Land Use Plan based on the following:

**Vision Statement:**

- Preserve the agricultural, rural and small town environment of Moore County by encouraging growth inside areas that wish to host it and encouraging continued farm, forest, and recreational uses outside the boundaries of these areas.
- Preserve our rich history of agriculture, tourism and family-owned business

**Goal 1:** Preserve and protect the Rural Agricultural nature of the County

**Objective 1:** Keep farmland for farming, forestland for forestry.

**Goal 5: Information and Citizen Participation**

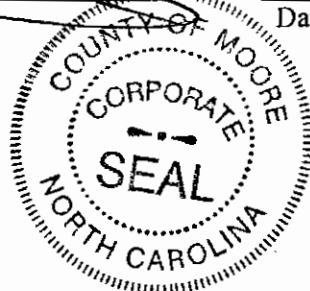
**Objective 1:** The Land Use Plan encourages public participation in land use and development decisions.

- a) The ordinance was taken under advisement in a Public Hearing conducted August 21, 2006.
- b) The Public Meeting was advertised in *The Pilot*.
- c) Public comment was accepted during the Public Meeting.

**NOW, THEREFORE, BE IT RESOLVED**, on the basis of the foregoing findings and conclusions, that the Moore County Board of Commissioners does hereby adopt the Voluntary Farmland Preservation Program Ordinance and that it be **APPROVED and effective October 1, 2006**.

  
Chair

8/21/06  
Date



MOORE COUNTY  
VOLUNTARY FARMLAND PROTECTION PROGRAM  
ORDINANCE

ARTICLE I  
TITLE

An ordinance of the Board of County Commissioners of MOORE COUNTY, NORTH CAROLINA entitled "VOLUNTARY FORESTRY, OPEN LAND, AND FARMLAND PROTECTION PROGRAM ORDINANCE."

ARTICLE II  
AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. 106-735 through 106-743.

ARTICLE III  
PURPOSE

The purpose of this ordinance is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farm and properties.

This ordinance establishes a Voluntary Agricultural District Program that has the following benefits for participating farmers and other county residents:

- The program preserves and maintains agriculture, horticulture, silviculture, or open land areas within the county;
- The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells (this feature may help avoid conflicts between neighbors and potential nuisance claims);
- The program gives the farming community a better voice in Moore County Commissioners' decisions affecting farmland;
- Landowner participation in the program is voluntary and the farmer may terminate his/her participation at any time;
- The program requires the Moore County Commissioners to use agriculture, horticulture, silviculture or open land areas "as a last resort" if they are attempting to condemn county lands;
- The program would protect greenspace and natural resources as the county's population and development expands.
- The program maintains opportunities to produce locally grown food and fiber.

ARTICLE IV  
DEFINITIONS

The following are defined for purposes of this ordinance:

- Advisory Board: Moore County Agricultural Advisory Board.
- Chairman: Chairman of the Moore County Agricultural Advisory Board.
- District: Voluntary Agricultural District as established by this ordinance.
- Board of Commissioners: Moore County Board of Commissioners.
- Farmland: Agriculture, Horticulture, Silviculture, or Open Land

ARTICLE V  
AGRICULTURAL ADVISORY BOARD

Creation

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

Appointments and Membership

The Agricultural Advisory Board shall consist of seven (7) members appointed by the Moore County Board of Commissioners, six (6) geographically representative of the county and one (1) member at large. The Board of Commissioners shall also appoint seven (7) alternate Agricultural Advisory Board members, six (6) geographically representative of the county and (1) member at large. The Board of Commissioners may expand the Agricultural Advisory Board if and when the need arises.

1) Requirements

- (a) Each board member shall be a county resident and registered to vote in Moore County.
- (b) The seven Board Members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the following: (1) Soil and Water Conservation District; (2) the Cooperative Extension Service; (3) the Natural Resources Conservation Services; (4) the Farm Service Agency; (5) the Forest Service; and (6) the Moore County Farm Bureau, with favorable consideration given towards someone who is actively engaged from the following classes:
  - Agriculture
  - Horticulture
  - Forestry

Swine  
Poultry  
Livestock  
Urban

- 2) Tenure. The members are to serve for terms of three years, except that the initial board is to consist of three members for a term of one year, two members for terms of two years, and two members for terms of three years. Thereafter, all members are to be for the terms of three years with a maximum of six consecutive years. Thereafter, each member must be off of the board at least one year before being reappointed.
- 3) Vacancies. Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term from recommendations of above groups.
- 4) 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.

#### Advisory Board Procedures

##### 1) Chairman

The Advisory Board shall elect a Chairman and Vice-Chairman each year as 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 consistent with this ordinance or with other provisions of State law.

##### 3) Advisory Board Year

The Advisory Board shall use the Moore 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. Meetings shall follow Open Meetings Law. Agenda item preparation and public notice shall be the responsibility of the staff of the Soil and Water Conservation District who performs those duties at the pleasure of the Chairman of the Advisory Board.

5) Majority Vote

All issues shall be decided by majority vote of the members of the Advisory Board.

6) Records

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

Duties

The Advisory Board shall:

- 1) Review and approve or disapprove applications for qualified farmland and for membership in a voluntary agricultural district and make recommendations concerning the establishment and modification of voluntary 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) Study additional methods of farmland protection and make recommendations to the Board of Commissioners; and
- 6) Perform other agricultural related tasks or duties assigned by the Board of Commissioners.
- 7) At the request of the Board of Commissioners, the Advisory Board shall produce a written report to the Board of Commissioners that shall include the status, progress and activities of the county's voluntary agricultural districts program.
- 8) Advisory Board members hold their positions for the benefit of the general public and Moore County. Conflicts can arise in situations in which an Advisory Board member's duty to act in the public interest conflicts with a potential desire to advance his or her own interest. These conflicts of interest can include financial, associative, and personal bias. Refrain from taking part in actions that might reasonably call into question the impartiality and fairness in those decisions.

ARTICLE VI  
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

1) Implementation

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

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

- ... 5 acres for horticultural 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 Article VII (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

Procedure for Notification

The Advisory Board, in cooperation with the county, shall provide notification to property owners, residents, and other interested persons within one mile and adjacent to any designated agricultural district. The purpose of such notification is to inform current and potential residents and property owners in and adjacent to an agricultural district, that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery, truck, tractor operations, livestock operations, sawing, and similar activities.

(1) Types of Notification

- (a) Signs of identifying approved agricultural districts shall be placed along the right-of-way of major roads adjoining the District in a manner so that current and potential residents and property owners might be aware that farming and agricultural activities may take place at any time. Specific location of the signs, including number of signs necessary to provide adequate notice of the specific District, shall be approved by the County Planning Director.

- (b) Maps identifying approved districts shall be provided to the Register of Deeds office, the Soil & Water Conservation District Office, the Cooperative Extension Office, Farm Service Agency, the Natural Resources Conservation Service, and the Moore County Planning Department.
- (c) The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds:

**NOTICE TO REAL ESTATE PURCHASERS IN MOORE COUNTY  
MOORE COUNTY AGRICULTURAL DISTRICTS**

Moore County has established Agricultural Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural activities, including but not limited to pesticide spraying, manure spreading, machinery, tractor, truck operations, livestock operations, sawing, and similar activities may take place in these districts. This map can be obtained from the Register of Deeds office, Soil & Water Conservation District Office, Cooperative Extension Office, Farm Service Agency, the Natural Resources Conservation Service, and the Moore County Planning Department.

**ARTICLE VII  
QUALIFICATIONS AND CERTIFICATION OF FARMLAND**

**Requirements**

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

- 1) The farmland shall be real property.
- 2) The farm property shall be participating in the farm present-use-value taxation program established by G. S. 105-277.2 through 105.277.7, or is otherwise determined by the County to meet all the qualifications of this program set forth in G. S. 105-277.3
- 3) The property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Service and the Farm Service Agency, as being a farm on which at least two-thirds of land is composed of soils that:
  - a. are best suited for providing food, seed, fiber, forage, timber, and horticultural crops, including Christmas trees and ornamentals;
  - b. have good soil qualities;
  - c. are favorable for all major crops common to the county where the land is located;
  - d. have a favorable growing season; and
  - e. receive the available moisture needed to produce high yields for an average of eight out of ten years.

OR

Soils on which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined in G. S. 105-277.2 (1), (2), 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.

- 4) The property, if highly erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land.
- 5) The property is the subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county watershed, zoning, and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article IX.

## ARTICLE VIII APPLICATION, APPROVAL AND APPEAL PROCEDURE

### 1. Application Procedure

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

### 2) Approval Process

- a) Upon submission of the application to the Advisory Board, the Advisory Board shall meet within 90 days to approve or disapprove the application. The Chairman shall notify the applicant by first class mail of approval or disapproval of participation in the district.
- b) Upon receipt of an application, the chairman will forward copies immediately to:
  - i. the Moore County tax assessor's office. The office shall review, complete and return their copies to the Chairman within 30 days of receipt; and

- ii. the Moore County Soil and Water Conservation District and the Natural Resources Conservation Service Office. The offices shall review, complete and return their copies to the Chairman within 30 days of receipt.
- c) The Advisory Board shall notify the applicant of its decision within 15 days by first-class mail.

### 3) Appeal

If an application is denied by the Advisory Board, the petitioner has 30 days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

## ARTICLE IX REVOCATION OF CONSERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on non-compliance by the landowner subject to the same provisions as contained in Article VIII for appeal for denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District. The process will be completed within 30 days of receipt of written notification.

## ARTICLE X PUBLIC HEARINGS

### 1. Purpose

Pursuant to N.C.G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation. This ordinance provides for such hearing.

### 2. Procedure

- a) Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in a newspaper of general circulation in Moore 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 30 days of receipt of the request.
- (b) The Advisory Board shall meet to review:

- i. 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;
  - ii. 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 Cooperative Extension Agent, Moore County Forest Service, USDA-NRCS District Conservationist, the Moore County Farm Bureau and may consult with any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. Within 10 business days after the public hearings, 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 prior to its being conveyed to the decision-making body of the agency proposed acquisition.
5. Pursuant to N.C.G. S. 106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board within these time limitations.

## ARTICLE XI PUBLIC NOTICE

### 1. Procedure

Pursuant to N.C.G.S. 106-741(a), upon certification of qualifying farmland and designation of real property as a District, the Moore County Land Records System shall be charged to include a notice reasonably calculated to alert a person researching the title of a particular tract that such a tract is located within one aerial mile of a voluntary agricultural district.

### 2. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

### 3. No Cause of Action

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

ARTICLE XII  
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary and final site development plans, the existence of the Districts within one aerial mile of the proposed development.

ARTICLE XIII

Reserved for future codification purposes

ARTICLE XIV  
COUNTY LAND-USE PLANNING

1. Signed Registration

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

2. Condemnation Proceeding

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

ARTICLE XV  
CONSULTATION AUTHORITY

The Advisory Board may consult with the Cooperative Extension Office, the Moore County Soil & Water Conservation Office, the Natural Resources Conservation Service, the Forestry Service, the Moore County Farm Bureau, the North Carolina Farm Bureau, and any other such agency the Advisory Board deems necessary to properly conduct its business.

ARTICLE XVI  
NORTH CAROLINA AGENCY NOTIFICATION

1. Record Annually with the Department of Agriculture

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

- a. Number of landowners enrolled
- b. Number of acres applied
- c. Date and Number of acres certified or de-certified
- d. Number of acres denied

ARTICLE XVII  
LEGAL PROVISIONS

1. Severability

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

2. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Moore 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 such statute shall govern.

3. Amendments

This ordinance may be amended from time to time upon recommendation by the Advisory Board to the Board of Commissioners. Upon receipt from the Advisory Board of a recommended amendment, the Board of Commissioners shall conduct a public hearing to consider the amendment. Any amendment(s) shall be filed with the Commissioner of Agriculture upon adoption pursuant to General Statutes Section 106-743.

ARTICLE XVIII  
ENACTMENT

The Moore County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 21<sup>st</sup> day of August 2006.

Motion of adoption by Robert T. Lea and

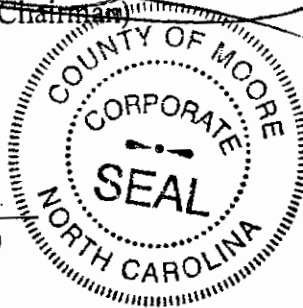
Seconded by Colin W. McKenzie, Jr.

MOORE COUNTY BOARD OF COMMISSIONERS

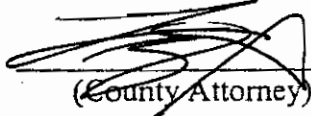
  
(Chairman)

ATTEST:

  
(Clerk to Board of Commissioners)



Approved as to form:

  
(County Attorney)