

(To be inserted in the Town of Pleasant Garden ordinances under Title VIII: LAND USE as Chapter 82 following Chapter 80. Building Regulations and Chapter 81. Zoning and Land Use)

81. VOLUNTARY AGRICULTURAL DISTRICT AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICT

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§81.01 Authority.

This chapter is adopted pursuant to authority conferred by G.S. 106-735 through 106-743 and other applicable law.

Guilford County is authorized by the adopted Memorandum of Understanding to act as the Town's agent in administering its powers for the limited purpose of the Voluntary Agricultural District program.

§81.02 Purpose.

The purpose of this article is to promote the preservation of farmland in the Town of Pleasant Garden so that development and growth will be accompanied by protection of farms from non-

farm development and other negative impacts on properly managed farms, recognizing the importance of agriculture to the economic and cultural life of the town.

§81.03 Definitions.

The following are defined for purposes of this chapter:

Board means the Guilford County Agricultural District Advisory Board.

Board of Commissioners means the Guilford County Board of Commissioners

Chair means the Chairman or Chairwoman of the Guilford County Agricultural District Advisory Board.

County means Guilford County

District means a voluntary agricultural district.

Enhanced district means an enhanced voluntary agricultural district.

Memorandum of Understanding means the *Memorandum of Understanding Between the County of Guilford and Town of Pleasant Garden Regarding Voluntary Agricultural Districts* signed and executed on November 1, 2010.

Town Council means the Town Council of the Town of Pleasant Garden

§81.04 Agricultural District Advisory Board.

(A) The Guilford County Agricultural District Advisory Board as established in Chapter 15. Article III, Sections 15.61 of the Guilford County Code of Ordinances is designated to implement the provisions of this chapter per the adopted Memorandum of Understanding.

(B) Powers and duties inside the Town of Pleasant Garden.

The board shall:

- (1) Review and make recommendations to the Town Council concerning the establishment and modification of districts and enhanced districts.
- (2) Review and make recommendations to the Town Council concerning any ordinance or amendment adopted or proposed for adoption under this chapter.
- (3) Advise the Town Council on projects, programs, or issues affecting the agricultural economy or way of life within the county, especially those affecting districts and enhanced districts.

§81.05 Creation of voluntary agricultural districts and enhanced voluntary agricultural districts.

(A) Implementation. In order to implement the purpose stated in section 81.02, this program provides for the creation of districts and enhanced districts that meet one of the following standards:

- (1) The district or enhanced district shall contain a minimum of 20 contiguous acres of qualified forestland, or
- (2) The district or enhanced district shall contain a minimum of ten contiguous acres of qualified farmland, or
- (3) The district or enhanced district shall contain a minimum of five contiguous acres of qualified horticultural land.

(B) Encourage formation. The town may take such action, as it deems appropriate, to encourage the formation of the districts and enhanced districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the location of districts and enhanced districts.

(C) Display. Signs identifying approved agricultural districts and enhanced districts shall be placed along the rights-of-way of major roads and other prominent places with permission of the landowner.

(D) Records notification. Upon certification of qualifying farmland and designation of real property with the Guilford County Register of Deeds as a district or enhanced district, the above notice shall be posted as a property record on the Guilford County website for every parcel of land within one mile of the district or enhanced district.

(E) Withdrawal. In the event that one or more participants in the district withdraws or loses eligibility to participate and the district no longer meets the standards of this article, the district will continue to exist so long as there is one qualifying farm.

§81.06 Certification and qualification of farmland.

In order for farmland to qualify under this article, it must be real property that:

(A) Is managed in accordance with the Natural Resources Conservation Service's defined erosion control practices that are addressed to highly erodible land; and

(B) 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 nonfarm 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 and subdivision regulations.

§81.07 Public recording of conservation agreements.

(A) Conservation agreement. Except as provided in subsection (C) of this section, conservation agreements shall be recorded in the office of the register of deeds in the same manner as deeds are now recorded.

(B) Releases or terminations of such agreements shall be recorded in the same waiver. Releases or terminations, or the recording entry, shall appropriately identify by date, parties and book and pages of recording, the agreement which is the subject of the release or termination.

(C) A conservation agreement entered into for the purpose of enrolling real property in a voluntary agricultural district pursuant to G.S. 106-737(4) is not required to be recorded unless such conservation agreement is irrevocable as provided pursuant to G.S. 106-743.2.

§81.08 Revocation and renewal of conservation agreement.

(A) Renewal of conservation agreement.

(1) Districts. Any conservation agreement, valid in the Town of Pleasant Garden and Guilford County as of December 31, 2010, for land within a district shall be automatically renewed unless the landowner provides 30 days written notice to the board of intent not to renew. Absent noncompliance by the landowner, neither the board nor the board of commissioners shall fail to renew any conservation agreement unless this chapter or its authorizing legislation has been repealed.

Any conservation agreement which expired by its terms prior to the enactment of this provision shall be replaced by the new consent agreement filed in the register of deeds.

(2) Enhanced districts. A conservation agreement for the enhanced district shall be deemed automatically renewed for an additional term of three years, unless either the advisory board or the landowner gives written notice to the contrary prior to the termination date of the conservation agreement. At the end of each three year term, the conservation agreement shall automatically renew for an additional three-year term unless notice of termination is given. The staff serving the board shall send a notification letter to any landowner enrolled in an enhanced district 30 days prior to the day his agreement is terminating. The letter shall describe the renewal provisions as well as the necessary steps to negate the renewal at the landowner's discretion.

(B) Revocation of conservation agreement.

(1) Districts. By written notice to the town or county, a landowner of qualifying farmland may revoke a conservation agreement; or the board may recommend the revocation of a conservation agreement, based on non-compliance by the landowner, to the board of commissioners for their action. Revocation shall result in the loss of eligibility to participate in a district.

(2) Enhanced districts. The conservation agreement for the enhanced district shall be binding upon all successors in interest to the landowner, except for successors in

interest resulting from the exercise of rights under a security interest or lien that preceded the conservation agreement, or by condemnation.

§81.09 Application and approval procedure.

(A) Application procedure. A landowner may apply to participate in either a district or enhanced district by making application to the chair of the advisory board or a designated staff person. The application shall be on forms provided by the board.

(B) Approval process.

- (1) Upon receipt of an application, the chair will forward copies to the Guilford County Soil and Water District Office in Guilford County for their prompt evaluation and response.
- (2) Upon receipt of the response from the Guilford County Soil and Water District, the board shall meet within 30 days to consider the application. The chair shall endeavor to notify the applicant by first-class mail of its recommendation within 15 days.
- (3) The recommendation shall then be acted upon at a meeting of the board of commissioners whose decision shall be final.

§81.10 Public notice.

(A) Procedure. Upon approval of a new district or enhanced district, appropriate maps shall be updated so that a person wishing to ascertain the proximity of a particular tract to a district or enhanced district may do so. The board, in cooperation with Guilford County, shall provide notification to property owners, residents, and other interested persons within one mile and adjacent to any designated agricultural district, as set out in chapter 81.05. 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.

(B) Limit of liability. In no event shall the town, 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 article.

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

§81.11 Public hearings for condemnation of districts and enhanced districts.

No state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within an enhanced district until such agency or unit

has requested the advisory board to hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agriculture, forestry, and/or horticultural prior to taking action that is not reversible. This provision is not intended to, and does not prohibit the condemning agency or unit from taking action that is authorized by law.

(A) Upon receiving a request, the board shall publish notice, through sufficiently adequate mediums, within five 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 ten days of receipt of the request.

(B) The 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; and (ii) 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 board shall consult with designees from Cooperative Extension, Natural Resources Conservation Service, Soil and Water District, and any other individuals, agencies, or organizations deemed by the board to be necessary for its review of the proposed action.

(4) Within five days after the hearing, the board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.

(5) There will be a period of ten days allowed for public comment on the report of the board.

(6) After the ten-day period for public comment has expired, the 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.

(7) The total time 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 30 days. If the agency agrees to an extension, the agency and the board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

§81.12 Waiver of water and sewer assessments and other enrollment benefits.

(A) No requirement to connect. No requirement to connect to water and/or sewer systems shall be imposed upon qualifying farms inside a district.

(B) Abeyance. Water and sewer assessments will be held in abeyance, without interest, for qualifying farms, inside a district and enhanced 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 or county to hold assessments in abeyance under G.S. 153A-201 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 public utility systems are constructed, this section shall not apply. This section shall not apply to utilities that are not owned by the town or county unless the town or county has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this article shall apply.

(G) Additional benefits for enhanced districts.

- (1) Sale of non-farm products. Landowners participating in enhanced districts may receive up to 25 percent of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from county zoning regulations under G.S. 153A-340(B). A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed 25 percent of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.
- (2) Agricultural cost share program. Landowners participating in enhanced districts are eligible under G.S. 143-215.74(B) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes to benefit that farmland.
- (3) Priority consideration. State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in enhanced districts.
- (4) No requirement to connect. A landowner enrolled in an enhanced district shall not be required to connect to any other Town of Pleasant Garden or Guilford County government operated utility systems.

§81.13 North Carolina agency notification.

(A) Adoption. Upon adoption of this article and any subsequent amendment, the county shall record this article with the North Carolina Commissioner of Agriculture.

(B) Annual report. The board of county commissioners shall make an annual report including VADs within the Town of Pleasant Garden to the North Carolina Commissioner of Agriculture as specified in G.S. 106-743.

§81.13 Legal provisions.

(A) Severability. If any article, section, subsection, clause, phrase or portion of this article 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 article.

(B) Conflict with other ordinances and statutes. Whenever the provisions of this article conflict with other ordinances of Guilford County, this article shall govern to the extent allowed by law. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this article, the provisions of such statute shall govern.

(C) Amendments. This chapter may be amended from time to time by the Town Council in consultation with the advisory board.