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YADKIN COUNTY, NC
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KAREN H. WAGONER
~~MARY L. MADISON~~
REGISTER OF DEEDS

Yadkin County Farm Preservation Ordinance

RB579 P0911

YADKIN COUNTY FARM PRESERVATION ORDINANCE

ARTICLE I
TITLE

This program, adopted by the Board of Commissioners of Yadkin County, North Carolina, shall be known as the Yadkin County Voluntary Farmland Preservation Program

ARTICLE II
AUTHORITY

The articles and sections of this program are adopted pursuant to authority conferred by NC General Statute 106-735 through 106-743.

ARTICLE III
PURPOSE

Recognizing the importance of agriculture to the economic and cultural life of the county, the purpose of this ordinance is to encourage the voluntary preservation and protection of farmland from non-farm development.

ARTICLE IV
JURISDICTION

The jurisdiction of the Yadkin County Farmland Preservation Program shall be those unincorporated areas of Yadkin County.

ARTICLE V
DEFINITIONS

Advisory Board: The Yadkin County Agricultural Advisory Board

Board of Commissioners: The Board of Commissioners of Yadkin County.

Chairman: The Chairman of the Yadkin County Agricultural Advisory Board

District: A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI
QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600. 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 established by GS 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all qualifications of this program as set forth in GS 105-277.3;

3. The property shall be certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension office, and the Farm Service Agency, as being a farm on which at least two thirds of the land is composed of soils that:

   a. are best suited for providing food, seed, fiber, forage, timber, oilseed crops, tobacco, or horticultural crops
   b. have good soil qualities;
   c. are favorable for all major crops common to the county
   d. have a favorable growing season
   e. receive 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 GS 105-277.2 (1,2,3) 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, and

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. There will be an exemption for the creation of not more that three lots that meet applicable county watershed and subdivision regulations or the regulations of any municipality which applies to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the board in accordance with Article VIII.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program shall submit written evidence that the property conforms with the requirements of Section 600 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.

ARTICLE VII
APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

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

1. 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;

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 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board; and

3. For each district created under the terms of this program, one of the existing Advisory Board members shall be assigned to represent the district.

Section 701. Application to Participate

A landowner may apply to participate in the program by making application to the chairman of the Advisory Board or to 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 of qualifying farmland.

Section 702. Approval Process

Upon review of the written certification and application submitted by the property owner, the board shall meet within 30 days if possible to approve or disapprove the application. The chairman shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Section 703. Appeal

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

ARTICLE VIII
REVOCATION OF AGRICULTURAL DISTRICT AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the agreement formulated pursuant to Section 600 (5) of this program, or the board may revoke same agreement based on noncompliance by the landowner. Such 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. Revocation by the landowner of an agreement and the resulting loss of qualifying farmland status for the purpose of participation in a voluntary agricultural district shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.6. 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 program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

ARTICLE IX
AGRICULTURAL ADVISORY BOARD

Section 900. Creation

In accordance with N.C.G.S. 106-739, the Board of Commissioners hereby establishes an Agricultural Advisory Board to implement the provisions of this program.

Section 901. Appointments and Membership

The Agricultural Advisory Board shall consist of 7 members appointed by the Yadkin County Board of Commissioners, and 4 ex officio members.

1. Requirements

   a. Each Advisory Board member shall be a county resident and registered to vote in Yadkin County.

   b. Five of the 7 members shall be actively engaged in farming.

c. The 5 members actively engaged in farming shall meet the eligibility criteria for the Preservation Program and be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Yadkin Soil ad Water Conservation District, the North Carolina Cooperation Extension, the Farm Service Agency Committee, and the Yadkin County Farm Bureau, with an effort to have the broadest geographical representation possible. The 2 members shall have special interest, experience, or education in agriculture and/or rural land preservation.

d. Ex officio members shall be the President of the County Farm Bureau or his/her designate, the County Cooperative Extension Director or his/her designate, the director of the County FSA Office, and the Chairman of the County Soil and Water Board. Each of these individuals shall be full and participating members of the Advisory Board.

2. Tenure

The members are to serve for terms of three years, except that the initial board is to consist of two appointee(s) for a term of one year, two appointees for terms of two years, and three appointees for a term of three years.

Thereafter, all appointments are to be for terms of three years, with reappointments permitted but shall not exceed two consecutive three year terms. The term for the initial board members will be determined by lottery.

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 following the same procedure as for the initial appointment.

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. An Advisory Board member shall forfeit membership if three consecutive unexcused board meetings are missed.

5. Funding

a. Compensation. The per meeting compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners.

b. Appropriations for performance of duties. Funds shall be appropriated by the Board of Commissioners to the Agricultural Advisory Board to perform its duties. The Advisory Board shall request a budget to be presented to the County Commissioners annually.

Section 902. Procedures

The Advisory Board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statues.

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.

2. Jurisdiction and Procedures. Supplementary Rules

The jurisdiction and procedures of the Advisory Board are set out in this articles, except that the Advisory Board may adopt supplementary rules of procedure not inconsistent with this article or with other provision of law.

3. Advisory Board Year

The Advisory Board shall use the county fiscal year as its meeting year.

4. Meetings

Meetings of the Advisory Board, following such notice as required by this article, shall be held at the call of the chairperson and at such other times as the board in its rules of procedure may specify. A called meeting shall be held at least quarterly. A quorum shall consist of a majority of the members of the Advisory Board.

5. Voting

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 article.

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 immediately filed in the office of the Advisory Board and shall be a public record.

7. Administrative Services

The North Carolina Cooperative Extension office shall serve the agricultural Advisory Board for record keeping, correspondence, application procedures under this article together with such other services the Advisory Board needs to complete its duties.

Section 903. Duties

The Agricultural Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts.

2. Hold public hearings pursuant to Article X of this program.

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

4. Perform other related tasks or duties assigned by the Board of Commissioners.

ARTICLE X
PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

Section 1000. Purpose

Pursuant to N.C.G.S. 106-740, no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within an Agricultural District until such agency or unit has requested the Agricultural Advisory Board to hold a public hearing on the proposed condemnation. The procedures for such hearings shall be as set forth below.

Section 1001. Procedures

1. 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 N.C.G.S. 106-740. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the Advisory Board within the time limitations set forth in this section.

2. Notice of Public Hearing

The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in Yadkin County at least 10 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 the purpose of the condemnation.

3. Public Hearing

The Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of Yadkin County. Additionally, the Board shall review the following:

a. Has the need for the project requiring the condemnation been satisfactorily shown 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?

The Board shall invite and allow input by the County Cooperative Extension Agent, U.S.D.A. Natural Resources Conservationist, the Farm Service Agency, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed action.

4. Findings and Notification

Within 30 days after the public hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action to the Board of County Commissioners. The report shall be conveyed to the decision-making body of the agency proposing acquisition and make available to the public for comment.

5. Pursuant to N.C.G.S. Section 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 limitation.

ARTICLE XI
LAND USE INCENTIVES TO AGRICULTURAL DISTRICT FORMATION

Section 1100. Purpose

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

Section 1101. Public Notification

1. The Advisory board, in cooperation with the county, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to a designated Agricultural District with a goal of informing all current and potential residents and property owners in and adjacent to an Agricultural District, that farming and other agricultural activities may occur within the district any time during the day or night:

   a. signs identifying approved Agricultural Districts may be placed along the rights- of-way of major roads.

   b. information identifying approved Districts shall be provided to the office of Register of Deeds, Soil and Water Conservation District, Cooperative Extension Office, Farm Service Agency, Yadkin County Planning and Inspections Department, and the Land Records Department

   c. The following notice shall be prominently displayed in the public access areas of the County Planning and Inspections office, Register of Deeds office and the Yadkin County Tax Office; such notice shall also be attached to and be a part of all building permits issued for tracts of land outside incorporated areas:

NOTICE TO REAL ESTATE PURCHASERS IN YADKIN COUNTY
YADKIN COUNTY AGRICULTURAL DISTRICTS

Yadkin County has established Agricultural Districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped to inform all purchasers of real property included within said districts that there may be expected certain agricultural and horticultural activities, including, but not limited to, applications of pesticides, field applications of animal manures, industrial or agricultural sludge, large machinery, truck or tractor operations, livestock and poultry movement, timber harvests, and other similar activities that may produce noise, dust, and objectionable odors and that

these activities may occur during all hours of the day or night. Maps and /or information as to the location and establishment of these districts can be obtained from the Yadkin County Planning and Inspections Department, Cooperative Extension Office, and the County Tax Office.

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 program, nor shall the establishment or non-establishment of any Agricultural district preclude such agricultural activities as listed above in and about agricultural enterprises throughout the county.

Section 1102. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which convert land in an Agricultural District to non-farm uses, the County or any other local unit of government shall submit to the Advisory Board detailed information showing that said governmental unit has considered alternatives. Such consideration shall include the criteria listed in Article X, Section 1001 (3), (a) through (c).

Section 1103. Waiver of Water and Sewer Assessments

1. Purpose of Section. The purpose of this section is to help mitigate the financial impacts on farmers by some local and state capital investments unused by such farmers:

2. Procedure: The waiver procedure shall be as follows:

   a. Landowners belonging to Agricultural Districts shall not be assessed for, or required to connect to, water and/or sewer systems,

   EXCEPT

   b. Water and sewer assessments shall be held in abeyance, without interest, for farms inside an Agricultural district, until improvements on such property are connected to the water and sewer system for which the assessment was made.

   c. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

   d. Statutes of limitations are suspended during the time that any assessment is held in abeyance. without interest.

   e. Assessment procedures followed under GS 153A- 185 et. seq. shall conform to the terms of this article with respect to qualifying farms that entered into preservation agreements while such article was in effect.

f. Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under GS 153A-201.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200, Consultation with NC Department of Agriculture & Consumer Services, other agencies.

The Board may consult with the Cooperative Extension office, the Natural Resources Conservation Service, Farm Service Agency, the NC Department of Agriculture and Consumer Services, and any other agency the Board deems necessary to properly conduct its business.

Section 1201, Recording the Program Documents

An official copy of this program document shall be recorded with the office of the North Carolina Department of Agriculture after adoption. At least once a year, the county shall submit a written report to the Commissioner of Agriculture, including the status, progress, and activities of the county's farmland preservation program, and voluntary Agricultural districting information to include:

(1) Number of landowners enrolled
(2) Number of acres applied
(3) Number of acres certified
(4) Number of acres denied, and
(5) Dates of certification.

ARTICLE XIII

In addition to its other duties, the Board shall have authority and encouragement to pursue any and all opportunities to purchase, lease, or otherwise obtain Agricultural Conservation Easements, development rights, or other restricting land use covenants as set out by GS 106-744. This authority shall include application for grants, gifts, donations or other revenue sources. necessary to carry out said duties. Furthermore, the Board shall have the authority and duty to propose the criteria by which such funds obtained may be expended and the conditions upon which such covenants are accepted.

ARTICLE XIV
LEGAL PROVISIONS

Section 1300. Severability, Conflict with other Ordinances, and Statutes, Amendments

1. Severability. If any article, section, subsection, clause, phrase, or portion of this program 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 program.

2. Amendments. This program document may be amended after a public hearing, notice of which shall be sent to program participants by first class mail thirty days prior to the hearing, and in consultation with the Agricultural Advisory Board to the Board of County Commissioners. The Board of Commissioners will make the final decision.

ARTICLE XV
ENACTMENT

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

Adopted this 18 day of November, 2002

Effective date: 01 January 2003

ATTEST:

Cecil E Wood
Clerk to the Board

Thomas Y. Stratton
Chairman, Yadkin County Board of Commissioners