

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.

FSA. The Farm Service Agency, a unit of the United States Department of Agriculture.

NRCS. The Natural Resources Conservation Service, a unit of the United States Department of Agriculture.

(Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

§ 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.

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Farmland Preservation

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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 decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors, and other negative impacts on properly managed farms.

(Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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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)

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QUALIFICATIONS AND CERTIFICATION OF FARMLAND

§ 156.020 REQUIREMENTS.

In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district, it must be real property that meets at least one of these criteria:

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Ordinance Revised 10-2-23

Haywood County – Land Usage

(A) ~~Is used for bona fide farm purposes, as that term is defined in G.S. 106-743.4(a) and G.S. 160D-903.~~

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(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.

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(C) The property, if highly erodible land exists on the farm, is managed in accordance with ~~the highly erodible land practices defined by NRCS, or~~

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(D) The property is the subject of a conservation agreement, as defined in G.S. § 121-35, between the ~~local government administering the agricultural district program~~, 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. ~~The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.~~
(Ord. passed 8-11-94; ~~Am. Ord. passed 3-19-07; Am. Ord. passed 10-2-23~~)

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§ 156.021 CERTIFICATION.

The owner of the farm seeking to qualify ~~their~~ 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; ~~Am. Ord. passed 10-2-23~~)

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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 ~~any of~~ the following standards:

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(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 ½ mile of each other.~~

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(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.

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(C) For the establishment of voluntary agricultural district, upon execution of that conservation agreement as provided in G.S. 106-737(4)
(Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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(D)

§ 156.035A CREATION OF ENHANCED VOLUNTARY AGRICULTURE DISTRICTS

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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 both of the following criteria:

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(Ord. passed 8-11-94)¶
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- (1) 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, and
- (2) Which easement would automatically renew 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; Am. Ord. passed 10-2-23)

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§ 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)

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§ 156.037 APPROVAL PROCESS.

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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. The Board shall be governed by the conflict-of-interest provisions of G.S. 160D-109. The Board shall consider the matter pursuant to the provisions of G.S. 160D-405 and -406.
(Ord. passed 8-11-94; Am. Ord. passed 7-19-21)

§ 156.038 APPEAL.

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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 Board of Commissioners shall consider the appeal in accordance with the provisions of G.S. 160D-406 as a quasi-judicial matter. The Board shall be governed by the conflict-of-interest provisions of G.S. 160D-109. The decision of the Board of Commissioners shall be subject to judicial review in accordance with the provisions of G.S. 160D-406(k).
(Ord. passed 8-11-94; Am. Ord. passed 7-19-21)

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§ 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 provisions 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) The members of the agricultural advisory board shall be chosen to provide the broadest possible representation of the geographical regions of the local government and to represent, to the extent possible, all segments of agricultural production existing within the local government. A majority of the members of the agricultural advisory board shall be actively engaged in agriculture.

(3) The majority members actively engaged in agriculture 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 Agricultural Stabilization Conservation Service Committee, and the Haywood County Farm Bureau. The members shall take oath prior to undertaking their duties as provided in G.S. 160D-309.

(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.

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(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.

~~(F) The agricultural advisory board may, at the discretion of the Board of County Commissioners, utilize an existing local government agency for the purpose of administration, record keeping, and other related tasks or duties.~~

~~(Ord. passed 8-11-94; Am. Ord. passed 7-19-21; Am. Ord. passed 10-2-23)~~

§ 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 the modification and establishment of qualified farmland and voluntary agricultural districts.

~~(B) Execute agreements with landowners necessary for enrollment of land in a voluntary agricultural district or conservation easement.~~

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

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

(E) Perform other related tasks or duties assigned by the Board of Commissioners.
(Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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

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agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.
(Ord. passed 8-11-94)

§ 156.071 PROCEDURES.

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(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.

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(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 NRCS, District Conservationist, FSA, and may consult with any other individuals, agencies, or organizations, public or private, necessary to the Advisory Board's review of the proposed action.

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(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)

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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 NRCS, the Cooperative Extension Office, FSA, the Inspections Department, the County Land Records Office, and the County Planning Department.

(3) A notice, substantially similar to the following, 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 Development Services Office, Soil Conservation Service, and the ASCS (Agricultural Stabilization and Conservation Service) Office."

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Haywood County – Land Usage

(4) The County’s Land Records/GIS mapping system shall include a “layer” which will identify any tract of land enrolled in a voluntary agricultural district when information about the location of that district is furnished to the Land Records/GIS office or to the Register of Deeds office in a document.

(Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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

- (1) Recognition and public education about agriculture,
- (2) Decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors, and
- (3) Potential waiver of water and sewer assessments, if established.
 - a. If the county establishes water or sewer assessments, then they may 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. 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 the county establishes water or sewer assessments, then the assessment procedures followed under Article 9 of Chapter 153A of the General Statutes 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; Am. Ord. passed 10-2-23)

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 in an Enhanced Voluntary Agriculture District will also receive the following:

Ordinance Revised 10-2-23

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Deleted: 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.

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(1) Allowance of 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) Waiver of county utility assessments, if established, during the ten year conservation agreement.

a. All assessments for utilities provided by the county, if established, 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 in accordance with the resolution establishing the assessments for utilities.

b. 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. The assessment procedures followed under Article 9 of Chapter 153A of the General Statutes, 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.)

In addition to the above-mentioned incentives, the landowner in an enhanced voluntary agricultural district 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, and

(2) priority consideration for grants from state departments, institutions or agencies (Amended 3-19-07; Am. Ord. passed 10-2-23)

§ 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 a statement that the governmental unit has considered alternatives. Such consideration shall include the criteria listed in § 156.071(C)(1)(a) through (c). (Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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§ 156.088 NO DISTRICTS IN DESIGNATED GROWTH CORRIDORS.

If the county establishes designated growth corridors, agricultural districts will not be permitted in those corridors (as delineated on the official county planning map, if one is adopted) 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; Am. Ord. passed 10-2-23) Penalty, see §10.99

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AGENCY NOTIFICATION

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

The Board shall consult with the Cooperative Extension office, the County NRCS office, the County FSA office, the State Department of Agriculture, and any other such agency the Board deems necessary to properly conduct its business. (Ord. passed 8-11-94; Am. Ord. passed 10-2-23)

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§ 156.101 RECORDING THE PROGRAM.

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(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.

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§ 156.102 EFFECTIVE DATE AND REVISION OF ORIGINAL ORDINANCE

This revised ordinance revises and supplants the ordinance in Chapter 156 originally adopted August 11, 1994, and all subsequent amendments, and shall be effective on and after October 2, 2023.

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