

**PERSON COUNTY
FARMLAND PRESERVATION ORDINANCE**

**ARTICLE I
TITLE**

An Ordinance of the Board of County Commissioners of PERSON COUNTY, NORTH CAROLINA, entitled, "FARMLAND PRESERVATION ORDINANCE."

**ARTICLE II
AUTHORITY**

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes sections §106-735 through 106-744 and Chapter 153A.

**ARTICLE III
PURPOSE**

The purpose of this Ordinance is to reduce the loss of productive and existing farmland by promoting agricultural values and the general welfare of the county; increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture, and forestry; decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors; and encourage participation in said voluntary programs.

**ARTICLE IV
DEFINITIONS**

The following are defined for purposes of this Ordinance:

Advisory Board:	Person County Agricultural Advisory Board.
Board of Commissioners:	Person County Board of Commissioners.
Chairperson:	Chairperson of the Person County Agricultural Advisory Board.
District:	Voluntary Agricultural District as established by this Ordinance.
Enhanced District:	Enhanced Voluntary Agricultural District as established by this Ordinance.

Conservation Agreement An agreement signed by the landowner committing to keep land in agricultural or forest use, as described in N.C.G.S. 121-35

ARTICLE V AGRICULTURAL ADVISORY BOARD

A. Creation

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

B. Membership

1. The Advisory Board shall consist of seven (7) members.
2. Each Advisory Board member, except those serving in an ex officio capacity, shall be a Person County resident or landowner.
3. At least a majority of the members shall be actively engaged in agriculture as defined in N.C.G.S. § 106-581.1. This determination shall be made without reference to ex officio members.
4. The members actively engaged in agriculture as defined in N.C.G.S. § 106-581.1, as well as other members, 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 Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and the public at large.
5. Additional members may be appointed to the Board in an ex officio capacity from the Soil and Water Conservation District Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency, Economic Development Commission, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an ex officio capacity shall neither vote nor count toward quorum requirements.
6. The members shall be chosen to provide the broadest possible representation of the geographical regions of Person County and to represent, to the extent possible, all segments of agricultural production existing within the county.

D. Tenure

The initial board is to consist of two (2) appointees for terms of two (2) years; two (2) appointees for terms of three (3) years; and three (3) appointees for terms of four (4) years.

Thereafter, all appointments are to be for terms of four (4) years, when reappointment permitted.

E. Vacancies

Any vacancy of a member appointed by the Board of Commissioners on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners. No cause for removal shall be required. The Board may recommend that members not meeting attendance standards be removed by the Board of Commissioners. If an appointee, in any calendar year has absences which constitute more than twenty-five percent (25%) of the regularly scheduled Board meetings or three (3) consecutive meetings, whichever comes first, which he or she is required to attend, he or she is obligated to resign. The Board of Commissioners may consider extenuating circumstances. If the individual refuses to resign, he or she may be removed by action of the Board of County Commissioners, by a majority vote, subject to state or local law. A leave of absence may be granted for extraordinary circumstances, such as illness or personal circumstances, upon request to the Board of Commissioners.

G. Advisory Board Procedure

1. Chair and Vice Chair: The Advisory Board shall elect a chairperson and vice-chairperson from those members appointed by the commissioners each year at the Advisory Board's first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.
2. Determination of Procedure: The Advisory Board may adopt rules of procedure consistent with this Ordinance or other provisions of State law.
3. Advisory Board Year: The Advisory Board shall use the Person County fiscal year, July 1 - June 30, as its meeting year.
4. Meetings: Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure or upon the request of at least a majority of the Advisory Board membership. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing unless otherwise agreed to by all Advisory Board members. Meeting dates and times shall be posted as far in advance as possible by all means of public dissemination required by N.C.G.S. § 143-318.12. All meetings shall be open to the public and follow the Open Meetings Laws.

5. Meeting Location: Meetings shall be held at the Person County Office Building. If this facility is unavailable or if the business of the Advisory Board makes it necessary or more convenient to meet at a different location, the chairperson shall determine this location and provide timely notification to all board members and to the public.
6. Majority Vote and Quorum Requirements: All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as a majority of the members. No business may be conducted by the Advisory Board without a quorum present.
7. 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, or its designee, and shall be a public record.
8. Administration: The Person County Soil and Water Conservation District office will serve the Advisory Board for record keeping, correspondence, and whatever services the Board needs in order to complete its duties.

H. Duties

The Advisory Board shall:

- Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into the Voluntary/Enhanced Agricultural Districts. By approval of this Ordinance the County Board of Commissioners has delegated authority pursuant to N.C.G.S. §106-739(1) to enroll qualifying farms into agricultural districts.
- Review and approve the form of the conservation agreement to sustain agriculture required of this Ordinance.
- Make recommendations concerning the establishment and modification of Agricultural Districts.
- Conduct public hearings related to public condemnation of qualifying farmland and other agricultural issues.
- Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities within the county that may affect Agricultural Districts.
- Review and make recommendations concerning proposed amendments to this ordinance.

- Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners.
- Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners.
- Provide recommendations and input on modification to the Person County Farmland Preservation Plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners.

ARTICLE VI CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

A. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts (Districts) which shall meet the following standards:

- Districts shall contain a minimum of twenty (20) contiguous acres of qualified forest land; ten (10) contiguous acres of qualified farm land; or five (5) contiguous acres of qualified horticultural land, OR, two or more qualified farms that, together, contain a minimum of twenty (20) acres and are located within the county.
- Landowner(s) requesting inclusion in Districts shall execute a conservation agreement with the county to sustain agriculture in Districts in accordance with Article VII of this ordinance. Said agreement shall be in a form that is reviewed and approved by the Advisory Board.

B. Education

The county may take such action, as it deems appropriate, through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

In order for farmland to qualify for inclusion in a Voluntary or Enhanced Voluntary Agricultural District property, it must be real property that meets the following requirements:

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

2. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly erodible land.
3. 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 nonfarm use or development of such land for a period of at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable municipal and county zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.

ARTICLE VIII

APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. Application Procedure

1. A landowner may apply to participate in the Voluntary Agricultural District and/or Enhanced Voluntary Agricultural District Program by submitting an application to the Person County Soil and Water Conservation District office. The application shall be on forms provided by the Person County Soil and Water Conservation District office and approved by the Advisory Board.
2. A Conservation Agreement, required by G.S. 106-737 and G.S. 106-743.3, and defined in G.S. 121-35, suited to district type, Voluntary Agricultural District or Enhanced Voluntary Agricultural District, as designated by the landowner(s) to sustain, encourage, and promote agriculture must be executed by the landowner(s) with the Advisory Board. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be recorded with the Person County Register of Deeds Office as required under G.S. 121-41 (c).

B. Approval Process

Upon receipt of an application, the Person County Soil and Water Conservation District office will forward applications and any supporting documentation to the members of the Advisory Board and all ex officio members for their evaluation.

Advisory Board shall meet within ninety (90) days of receipt of a completed application to determine if the application meets the minimum requirements established by this ordinance. The chairperson shall notify the applicant by first class mail of approval or disapproval within fifteen (15) days.

C. Appeal

If the Advisory Board determines an application does not meet the requirements of this ordinance, the applicant shall have sixty (60) days to appeal the decision to the Board of

Commissioners. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final.

ARTICLE IX NOTIFICATION

A. Public Awareness

Upon approval of a Voluntary Agricultural District and/or Enhanced Voluntary Agricultural District (Districts), the Person County Soil and Water Conservation District office shall provide notification of said District to the following:

- Notification shall be mailed to the property owner/applicant by first class mail.
- The Person County GIS Department shall maintain maps of approved Districts within the Person County Geographic Information Mapping System Database as well as an overlay for all tracts located within one-half (1/2) mile of the property line of any tract of land enrolled in a voluntary agricultural district.
- The mapping information shall provide notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one half mile of an agricultural district. This mapping information may be viewed by accessing the Person County GIS website.
- Notice of these methods of District notification and identification shall be included in all Person County Voluntary Agricultural District Program information brochures made available to the public by Person Soil and Water Conservation District, Person County Cooperative Extension, Person County Planning and Zoning Department, and others.

B. Signage

Person County may place signs identifying approved Agricultural Districts along major roads that pass through or next to those districts. Members of the Agricultural Districts have the privilege of posting signs on their individual farms denoting their Agricultural District membership. Signs must be placed on the landowner's property outside of any right-of-ways or easements and shall conform to Chapter XII, Sign Regulations, of the Person County Zoning Ordinance.

C. Maps

Maps identifying approved agricultural districts shall be updated at least twice each year and shall be made available through the Person County GIS Department.

D. Exclusion of Liability

1. In no event shall the County or any of its officers, employees, members of the Advisory Board, 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.

2. 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 or Enhanced Voluntary District as defined in this Ordinance.

ARTICLE X

REVOCATION AND ENFORCEMENT, TRANSFER OF LAND, AND RENEWAL OF CONSERVATION AGREEMENTS

A. Revocation and Enforcement

1. By providing written notice to the Advisory Board, a landowner of qualifying farmland may revoke his/her participation in the Voluntary Agricultural District Program formulated pursuant to Article VIII of this ordinance, or the Advisory Board may revoke the same participation based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. The county will remove the tract from the public record of the program within sixty (60) days.
2. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 years. At the end of the term, a notice of revocation shall be recorded in the Register of Deeds Office sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program if the agreement is not automatically renewed, or renewed voluntarily by the landowner(s).

B. Transfer of Land

1. Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless the land no longer meets the requirements contained in Article VII. Enforcement of the terms of a Conservation Agreement for land enrolled in a Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom.
2. Transfers of land in an Enhanced Voluntary District due to death of the landowner(s), sale, or gift shall not revoke the Conservation Agreement. The Conservation Agreement for the Enhanced Voluntary Agricultural 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.

C. Renewal of Conservation Agreements

1. A Conservation Agreement for land within a Voluntary Agricultural District shall automatically renew for subsequent ten (10) year terms unless either the landowner or the Advisory Board provides written notice prior to the expiration of the conservation agreement.
2. A Conservation Agreement for land within an Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of three (3) years, unless either the Advisory Board or the landowner provides written notice prior to the expiration of the Conservation Agreement. At the end of the three (3) year term, the Conservation Agreement for land within an Enhanced Voluntary Agricultural District will expire and the county will remove the tract from the public record of the program within sixty (60) days. At such time, landowners wishing to continue in the program will need to re-apply.

ARTICLE XI

WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to a District shall not be required to connect to Person County water and/or sewer systems.
2. A landowner belonging to an Enhanced District shall not be required to connect to Person County utility systems.

B. Abeyance

1. Water and sewer assessments shall be held in abeyance, without interest, for farms in a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.
2. Utility assessments shall be held in abeyance, without interest, for farms in an Enhanced District, until improvements on such property are connected to the utility 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. The landowner shall be required to sign an acknowledgement, which shall be

incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the 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 county utility systems are constructed this section shall not apply. This section shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

ARTICLE XII

ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program, and to the following additional benefits under this Article:

A. Sale of Non-farm Products

Landowners participating in Enhanced Districts may receive up to twenty-five 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). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a Conservation Agreement under G.S. 106-743.2 is a bona fide farm purpose. 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 twenty-five 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.

B. Agricultural Cost Share Program

Landowners participating in Enhanced Districts are eligible under G.S. 106-850 (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 Chapter 106, Article 72, of the North Carolina General Statutes.

C. Priority Consideration

State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.

D. Utility Assessment Waiver

As provided in Article XI, waiver of all county utility assessments, in addition to waiver of water and sewer assessments, is available to all participants in Enhanced Districts.

ARTICLE XIII PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

A. Purpose

Pursuant to 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 a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure

Upon receiving a request to hold a hearing on the proposed condemnation, the Advisory Board shall have thirty (30) days after receiving a request under this section to hold the public hearing and submit its written findings and recommendations to the agency.

The Advisory Board shall meet to review:

1. 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.
2. 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 Advisory Board shall consult with the Soil and Water Conservation District Office, Cooperative Extension Agricultural Agent(s), Natural Resources Conservation Service District Conservationist, and 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. 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 proposing the acquisition by condemnation.
5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
6. After the ten (10) day period for public comment has expired, the Advisory 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 by condemnation.

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

The State, local government agency or governmental unit proposing to acquire property by condemnation may not formally initiate condemnation action while the proposed condemnation is properly before the Advisory Board.

The Board of Commissioners shall condemn farmland within an Agriculture District only as a "last resort" if it is considering condemnation for County purposes.

ARTICLE XIV

SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions, apartment complexes or planned unit developments shall designate on preliminary development plans, the existence of any and all Agricultural Districts within ½ aerial mile of the proposed development.

ARTICLE XV

COUNTY LAND-USE PLANNING

A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners or the agency or office to which the Board of Commissioners has delegated the authority to oversee county land-use planning, on the status, progress, and activities of the county's agricultural district program and to also coordinate the formation and maintenance of agricultural districts with the county's land-use planning activities and the county's land-use plan if one currently exists at the time this is enacted or when one is formed.

B. Posting of Notice

The following notice of a size and form suitable for posting shall be posted in the Soil and Water Conservation District office and any other office or agency the Advisory Board deems necessary:

Person 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 and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, prescribed burning, and other common farming activities may occur in these districts any time during the day or night. Maps and information on the location

and establishment of these districts can be viewed from Person County GIS Department Mapping.

C. Growth Corridors

At such time as the county might establish designated growth corridors, agricultural districts shall not be permitted in the designated growth corridors as delineated on the official county planning map without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners.

ARTICLE XVI CONSULTATION AUTHORITY

The Advisory Board may consult with the Person Soil and Water Conservation District, the North Carolina Cooperative Extension, the Natural Resources Conservation Service, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

ARTICLE XVII NORTH CAROLINA AGENCY NOTIFICATION

At least annually, the Person County Soil and Water Conservation District office shall submit a written report to the Office of the Commissioner of Agriculture and Consumer Services on the county's agricultural district programs, including the following information:

- Number of landowners enrolled
- Number of acres enrolled
- Number of acres certified during the reporting period
- Number of acres denied during the reporting period
- Number of acres for which applications are pending
- Copies of any amendments to this Ordinance
- Any other information the Advisory Board deems useful

A copy of this report shall also be provided to the Board of Commissioners.

ARTICLE XVIII LEGAL PROVISIONS

A. Severability

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

B. Conflict with other ordinances and statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Person 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.

C. Amendments

This Ordinance may be amended from time to time by the Board of Commissioners.

D. Notice

A copy of this ordinance, once adopted, shall be recorded with the N.C. Department of Agriculture and Consumer Services.

**ARTICLE XIX
ENACTMENT**

The Person County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance. By adoption of this ordinance, the PERSON COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE adopted on February 7, 2011 is hereby repealed in its entirety.


Adopted this, the 17th day of October 2022.

PERSON COUNTY BOARD OF COMMISSIONERS




Gordon Powell, Chairman

ATTEST:


Brenda B. Reaves
Clerk to the Board of Commissioners