

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: 4 September 2012

SUBJECT: Modifications in Voluntary Agriculture District ordinance

PRESENTER: Charles Russell Burrell

ATTACHMENT(S): Draft modified ordinance
Document detailing ordinance changes

SUMMARY OF REQUEST:

Changes in state law have made provisions in the County's Voluntary Agriculture District Ordinance (Part One of Article VIII of Chapter 92 of the County Code) inappropriate. Inclusion in a Voluntary Agriculture District can no longer be conditioned on participation in the "present-use-value" program for *ad valorem* property taxation. However, this Board can set other reasonable conditions on participation in this program.

Your Agriculture Advisory Committee has met with your Assessor and County Attorney to discuss this matter, and recommends to you the changes shown in the draft attached. The proposal:

- Lowers the acreage requirements for new districts from 100 acres to 50, and
- Adds an additional qualification route for properties not participating in the present-use-value program, namely being engaged in "agriculture" as defined in N.C. Gen. Stat. §106-581.1, and provides gross revenue from agriculture of at least \$2,000 per year (either the year prior to application or on average over the five years prior to application).

N.C. Gen. Stat. §106-581.1 defines "agriculture" as all of the following:

- (1) The 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, 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, "agriculture", "agricultural", and "farming" also include 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.

Your Advisory Committee feels that these changes open the door to real "farms" that are in need of the protections offered from inclusion in Voluntary Agriculture Districts without so diluting that designation as to make it meaningless and valueless to those already included.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

Approval of the draft ordinance modifications.

If the Board is so inclined, the following motion is suggested:

I move that the Board approve the modifications to the Voluntary Agriculture District Ordinance shown in the attachments to this agenda item.

Modifications to:

CHAPTER 92. FARMLAND PRESERVATION

§ 92-26. Application procedure.

- A. An agricultural district shall initially consist of one or more qualifying farms which collectively consist (or, in the case of one farm only, individually consists) of at least 50 acres of qualifying farmland lying (if more than one farm) within one mile of each other. An agricultural district may be enlarged by adding qualifying farms subsequent to initial formation so long as such qualifying farms are within one mile of any farm in such district.
- B. An agreement to sustain, encourage and promote agriculture must be executed by each applicant in the district and submitted to the Agricultural Advisory Board for approval.
- C. Landowners may apply to participate in existing districts and are encouraged to do so.
- D. To secure County certification as an agricultural district, a landowner, for such designation, will apply to the Chairman of the Agricultural Advisory Board. Application forms may be obtained from the Chairman at the Soil and Water Conservation District office or at the office of the Henderson County Planning Department.
- E. Upon receipt of an application, the Chairman will forward copies immediately to the Henderson County Assessor's office and the Henderson County Soil and Water Conservation District office for evaluation pursuant to Article IV. Said offices shall evaluate, complete and return their copies to the Chairman within 30 days of receipt.
- F. Within 30 days of receipt of respective reports from the County Assessor and the Soil and Water Conservation District office, the Board will meet and render a decision regarding the application. The Chairman will notify the applicant by mail of the Board's decision.
- G. If the application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Henderson County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

§ 92-30 Qualifying Farmland

As used in this Article, "qualifying farmland" must:

- A. 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; and
- B. Be located in the unincorporated area of Henderson County; and
- C. Either
 - 1. Be participating in the farm present-use-value taxation program established by N.C. Gen. Stat. §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 N.C. Gen. Stat. §105-277.3 ; or
 - 2. Both
 - a. Be engaged in "agriculture" as that term is defined in N.C. Gen. Stat. §106-581.1; and,
 - b. Provide to its owner gross revenue from its use in "agriculture" of at least \$2,000.00 per acre in the year prior to application (or, as an alternative, an average of at least \$2,000.00 per acre for the five years prior to application).

The Henderson County Board of Commissioners hereby adopts and enacts the preceding this the _____ day of September, 2012.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
THOMAS H. THOMPSON, Chairman

ATTEST:

Teresa L. Wilson, Clerk to Board of Commissioners

Approved as to form:

Russell Burrell, County Attorney

Modifications to:

CHAPTER 92. FARMLAND PRESERVATION

§ 92-26. Application procedure.

- A. An agricultural district shall initially consist of one at least 100 or more contiguous acres of qualifying farmland or at least three qualifying farms, which collectively consist (or, in the case of one will create a district with each said farm only, individually consists) of at least 50 acres of qualifying farmland lying (if more than one farm) within one mile of each any other such farm. An agricultural district may be enlarged by adding qualifying farms subsequent to initial formation so long as such qualifying farms are within one mile of any farm in such district.
- B. An agreement to sustain, encourage and promote agriculture must be executed by each applicant in the district and submitted to the Agricultural Advisory Board for approval.
- C. Landowners may apply to participate in existing districts and are encouraged to do so.
- D. To secure County certification as an agricultural district, a landowner, for such designation, will apply to the Chairman of the Agricultural Advisory Board. Application forms may be obtained from the Chairman at the Soil and Water Conservation District office or at the office of the Henderson County Planning Department.
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