

ARTICLE 2 – ADMINISTRATION

DRAFT #2 – 4.23.2019



ARTICLE 2 - ADMINISTRATION

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2.1 PURPOSE AND INTENT

This article outlines the review authorities of Guilford County's Unified Development Ordinance. The following Directors are appointed as the administrators of the UDO. The responsibilities of administration or enforcement of this Ordinance are described within this article.

2.2 ADMINISTRATOR (NEW)

A. COUNTY PLANNING AND DEVELOPMENT DIRECTOR (NEW)

This County Planning and Development Director (Planning Director) or their designee has the primary responsibility for administering and enforcing this Ordinance unless expressly stated otherwise. Other county staff members or contractual employees may be appointed by the Planning Director to assist in these duties.

B. POWERS AND DUTIES

1. The Planning Director shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:
 - a. Make all final decisions as to the interpretation and definitions of this UDO;
 - b. Determine the amount and applicability of administrative and consulting fees;
 - c. Monitor and determine the adequacy of security investments and escrow deposits and issuance of administrative development approvals;
 - d. Serve as staff for the Board of Commissioners, Planning Board, Board of Adjustment and other Boards and Commissions;
 - e. Review and render interpretations of this UDO and any official zoning maps;
 - f. Make a final decision regarding certain procedures, namely:
 - (1) Certificates of Appropriateness, minor (Section 3.5.3)
 - (2) Temporary Event Permits (Section 3.18)
 - (3) Major and Minor Site Plans (Section 3.22)
 - (4) Sign Permits (Section 3.5.11)
 - (5) Subdivision, Major Final Plat (Section 3.5.19)
 - (6) Subdivision, Minor Plat (Section 3.5.20)
 - (7) Subdivision Waiver (3.5.21)
 - g. Review and prepare staff reports recommending approval, approval with conditions, or denial of applications to the Board of Commissioners, Planning Board, and Board of Adjustment for the following procedures:
 - (1) Appeals (Section 3.5.2)
 - (2) Certificates of Appropriateness (Section 3.5.3)
 - (3) Rezoning (Section 3.5.7)

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- (4) Subdivision, Major Preliminary Plat (Section 3.5.18)
- (5) Text Amendments (Section 3.22)
- h. Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations;
- i. Review development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, and local governmental units, public and private utilities, and other public agencies.
- j. Administer and enforce the "Airport Zoning Regulations of the Greensboro-High Point Airport" adopted by the Greensboro-High Point Airport Authority on April 15, 1958, as the same may from time to time be amended, in connection with the enforcement of this Ordinance; provided, however, that this Ordinance shall not limit the effectiveness or scope of such airport zoning regulations. The Planning Director shall not issue a building permit or certificate of occupancy for any building not in conformity with the provisions of the "Airport Zoning Regulations of the Greensboro-High Point Airport," except upon written order of the Board of Airport Zoning Appeals.
- k. Subject to a Certificate of Appropriateness, the Planning Director may issue permits for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places of the State Inventory of Historic Places under the conditions set forth in this Ordinance.

C. RULEMAKING

1. The Planning Director may have authority to enact such rules as may be necessary to facilitate the administration of this article provided that such rules shall not be contrary to the expressed provisions of the UDO and shall be in harmony with its purposes of promoting the health, safety, and welfare of the County.

2.3 BOARD OF COMMISSIONERS (NEW)

A. POWERS AND DUTIES

1. The Guilford County Board of Commissioners shall have the following responsibilities in relation to the administration of this Ordinance:
 - a. Hear and decide applications for amendments to the text, schedules, and map portions of this Ordinance, which shall be processed in accordance with the provisions detailed herein, namely:
 - (1) Rezonings (Section 3.5.7)
 - (2) Text Amendments (Section 3.5.22)
 - b. Hear and decide appeals from a decision of the Planning Board, namely:
 - (1) Rezonings
 - (2) Subdivision, Major Preliminary Plat
 - c. To hold and decide de novo hearings, namely:
 - (1) Special Use Permits (Section 3.5.15)



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- d. In exercising this power, the Board of Commissioners is bound by NCGS 153A-323, Session Law 2017-210 Senate Bill 181, applicable special legislation, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.
- e. Make necessary appointments to the Planning Board, Board of Adjustment, Historic Preservation Commission and other boards set forth in this Ordinance.
- f. Provide, by appropriation, funds for the administration of this Ordinance.

B. CREATION OF BOARD AND COMMISSIONS

- 1. The Board of Commissioners, pursuant to NCGS 153A-321, created the Boards and Commissions delineated in subsequent sections of this Article to perform the following duties:
 - a. Make studies of the county and surrounding areas.
 - b. Determine objectives to be sought in the development of a study area.
 - c. Prepare and adopt plans for achieving these objectives.
 - d. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
 - e. Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans.
 - f. Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct.
 - g. Perform any other related duties that the Board of Commissioners may direct.

C. RULES OF CONDUCT

Each Board shall maintain records and adopt rules necessary to conduct its affairs and to establish Board organization, committees, procedures, meeting notice and meeting conduct, as governed by Resolution <> which established policies and procedures as modified on April 5, 2018.

D. CONFORMANCE OF RULES

Such rules adopted by the Board shall be in accordance with state law and the provisions of this Ordinance.

2.4 THE PLANNING BOARD (9-2)

A. AUTHORITY

There is hereby created a planning agency, pursuant to NCGS 160A-361 or 153A-321 to be known as the Planning Board.

B. MEMBERSHIP

The Planning Board shall consist of members appointed by the Guilford County Board of Commissioners.

C. POWERS AND DUTIES

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The Planning Board shall have the following powers and duties:

1. To hear and decide matters in accordance with the terms of this Ordinance and Session Law 2017-210 Senate Bill 181, namely (See Article 3 -Development Review Procedures for details of processes listed below):
 - a. Rezoning
 - b. Special Use Permits
 - c. Text Amendments
 - d. Vested Rights
 - e. Road Name Changes
 - f. Road Closings
 - g. Right-of-Way Vacations
 - h. Easement Removals and Right-of-Way Encroachments
2. To hear and decide matters on appeal from the Technical Review Committee (TRC), namely:
 - a. Site Plans, Minor
 - b. Subdivision, Major Preliminary Plat
3. To hear and decide matters of appeal from the Planning Director, namely:
 - a. Erosion control plans
 - b. Watershed development plans
 - c. Minor subdivisions
 - d. Small-scale site plans and major subdivisions
4. To provide recommendations to the Board of Commissioners with regard to any of the above matters which may be appealed; as well as:
 - a. Rezoning
 - b. Text Amendments
5. To develop a comprehensive plan, small area plans, and other land use plans that develop and enhance land use policy for the areas in Guilford County under its jurisdiction, as directed by the Board of Commissioners.
6. To make such other studies and plans and review such other related matters as directed by the Board of Commissioners.
7. To exercise other powers and authority provided to it by the Board of Commissioners, this Ordinance, or State Law.

2.5 TECHNICAL REVIEW COMMITTEE (9-3)

A. AUTHORITY

There is hereby created a planning agency, pursuant to NCGS 160A-361 or 153A-321 known as the Technical Review Committee (TRC).

B. MEMBERSHIP

The TRC shall be composed of department or division heads, or their designated representatives appointed by resolution of the Board of Commissioners. Each representative shall have an alternate.



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C. OFFICERS

The Planning & Development Director or their designated representative shall serve as Chair of the TRC.

D. POWERS AND DUTIES

The TRC shall have the following powers and duties:

1. To provide for a continuing, coordinated, and comprehensive review of the technical aspects of this Ordinance, and for the approval of certain technical aspects of development proposals.
2. To review technical aspects of all development occurring within the jurisdictional area of the local government when required by this Ordinance.
3. To review and approve new or altered plans including: subdivisions, clustered or attached residential development, planned unit developments, office, commercial, and industrial developments, street and utility improvements, and any other proposals for development specified by this Ordinance and waivers authorized in Article 3 of this ordinance.
4. To recommend to the Planning Board the closing of streets, alleys, easements, and other rights-of-way.
5. To review submitted watershed variance requests for mapping standards and content prior to forwarding to the Planning Board and the Board of Commissioners on all major watershed variance requests.
6. To exercise any other power and authority provided to it by the Board of Commissioners, this Ordinance and State law.

2.6 HISTORIC PRESERVATION COMMISSION (9-4)

A. AUTHORITY

There is hereby created, pursuant to NCGS 160A-400 a Historic Preservation Commission. Pursuant to Section 4 NCGS 160A-400.14, nothing in this Ordinance shall affect the status of any historic district or historic property established or designated under the authority of Part 3 of Article 19 of Chapter 160A of the General Statutes; such establishment or designation being prior to the effective date of this Ordinance. Nothing in this Ordinance shall affect the validity of the Guilford County Joint Historic Properties Commission created by ordinance dated June 16, 1980.

B. MEMBERSHIP

The Historic Preservation Commission shall be composed of members appointed by the Guilford County Board of Commissioners.

C. DISTRICT REPRESENTATION

Each existing historic district shall be represented by not more than one (1) person on the Historic Preservation Commission, and the remaining membership shall be composed of persons

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who have demonstrated an interest in the preservation of historic structures, architectural history or archaeology.

D. DESIGNATION

The Guilford County Joint Historic Properties Commission is designated to perform the duties of a Historic Preservation Commission.

E. POWERS AND DUTIES

The Historic Preservation Commission shall have the following powers and duties:

1. To review, analyze, and recommend to the Planning Board, items which pertain to existing and potential historic districts and individual structures, buildings, sites or objects to be designated by ordinance as "landmarks".
2. To undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance.
3. To recommend designation or removal of the designation of "Historic District" for any area within the jurisdiction of the Board of Commissioners. Such designation or removal shall follow an investigation and a report describing the significance of the structures, site features, or surroundings in the district.
4. To grant or deny the issuance of a Certificate of Appropriateness in accordance with this Ordinance. The Commission may hold public hearings on the issuance or revocation of such Certificates (Section 3.5.3, Certificate of Appropriateness, major).
5. To recommend appropriate changes to this Ordinance which relate to a historic district or which relate to the preservation of historic structures, landmarks, or areas within the jurisdiction of the Board of Commissioners.
6. To acquire by lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks; to hold, manage, preserve, restore and improve the same; and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.
7. To restore, preserve, and operate historic properties.
8. To recommend to the Board of Commissioners that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
9. To conduct an educational program with respect to historic properties and districts within its jurisdiction.
10. To prepare and recommend for adoption a preservation element as a part of the County's comprehensive plan.
11. To negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate.
12. To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent



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or the Historic Preservation Commission may enter any private building or structure without the express consent of the owner or occupant thereof.

13. To review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alterations or demolition of designated landmarks, pursuant to this Section; and
14. To exercise such other powers as may be given it by law or assigned to it by the Board of Commissioners.

2.7 BOARD OF ADJUSTMENT (9-5)

A. AUTHORITY

The Board of Adjustment is hereby established pursuant to NCGS 160A-338 or 153A-345.1.

B. MEMBERSHIP

1. The Board of Adjustment shall consist of members appointed by the Guilford County Board of Commissioners and may have alternates as appointed by the Board of Commissioners.
2. The Planning Board may serve as the Board of Adjustment for Special Use Permits and Minor Subdivision Variances.
3. Board of Commissioners Serving as Board of Adjustment. If the Board of Commissioners chooses not to appoint members to the Board of Adjustment, it shall sit as the Board of Adjustment subject to the provisions of this Ordinance.

C. POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties (See Article 3 - Development Review Procedures for details of processes listed below):

1. Decide development procedures, namely:
 - a. Variances
2. To hear and decide appeals from and review any order, requirement, decision, determination, or interpretation made by an administrative official charged with enforcing this Ordinance, namely:
 - a. Interpretation of zoning provisions of this Ordinance
 - b. Floodplain boundary, zoning boundary, or other delineated boundaries
 - c. Address assignments
 - d. Decisions of the HPC (major COAs), limited to certiorari
3. To hear and decide any exceptions which are specifically delegated to it by this Ordinance.
4. To determine and vary application of zoning regulations in harmony with their general purpose and intent and in accordance with general and specific rules contained therein.
5. To hear and decide appeals for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation and enforcement of the zoning provisions of this Ordinance result in a loss of privileges shared by other properties within the same zoning district.

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6. To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions that may occur in the administration of the Ordinance;
7. To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.
8. To determine upon application of an owner or upon referral from the Planning & Development Director whether a proposed nonconforming use is equal or less intensive than an existing, legal nonconforming use, in accordance with Article 11 – Nonconformities.
9. To hear and decide upon appeals concerning violations of the Guilford County Solid Waste Ordinance.

D. VOTING

1. Required votes for approval are dependent on the hearing and may require:
 - a. A four-fifths (4/5) vote of its members to grant a Variance.
 - b. A simple majority to:
 - (1) Affirm, modify, or reverse any order, requirement, decision, or interpretation.
 - (2) Decide in favor on any other matter upon which the BOA is required to pass.
 - (3) Grant special exceptions for Historic Districts and other purposes as assigned.
2. See the Board of Adjustments Rules of Procedures document on file with the Planning and Development Department for additional details.
 - a. A four-fifths (4/5) vote of its members shall be required for a Board of five (5) members to grant a variance from the provisions of the Ordinance.
3. A simple majority of its members shall be required to:
 - a. Affirm or reverse any order, wholly or partly; modify a requirement, decision, determination or interpretation; of an administrative officer charged with enforcing this Ordinance.
 - b. Decide in favor of the applicant on a matter upon which the Board is required to pass under this Ordinance.
 - c. Grant special exceptions for Historic Districts and other purposes as assigned.
4. Vote of the Chairman
 - a. The Board chairman shall vote as any other Board member.
5. Delay of Decision
 - a. The Board may, in its discretion, direct that its decision be delayed to a date or time subsequent to the Board's vote on an appeal.

E. APPEAL

1. Appeal to Superior Court. Each decision of the Board shall be subject to Superior Court review by proceedings in the nature of certiorari.
2. Timing of Appeal.
 - a. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the Planning or Building Inspections Department; or



- ## F. NOTICE OF DECISION

G. OATHS

2.8 FLOODPLAIN ADMINISTRATOR

- 1.** The Planning Director or their designees shall serve as the Floodplain Administrator and shall administer and implement the provisions of this Ordinance. The Floodplain Administrator shall perform, but not be limited to, the following duties:
 - a.** Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Ordinance have been satisfied.
 - b.** Advise permittee that additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
 - c.** Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
 - d.** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - e.** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 9 – Environmental Regulations are met.
 - f.** Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 9 – Environmental Regulations.
 - g.** Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Article 9 – Environmental Regulations.

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- h.** Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with Article 9 – Environmental Regulations.
- i.** When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 9 – Environmental Regulations.
- j.** Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- k.** When Base Flood Elevation (BFE) data has not been provided in accordance with Article 9 – Environmental Regulations, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 9 – Environmental Regulations in order to administer the provisions of this Ordinance.
- l.** When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 9 – Environmental Regulations, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this Ordinance.
- m.** When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the Floodplain Development Permit file.
- n.** Permanently maintain all records that pertain to the administration of this Ordinance and make these records available for public inspection.
- o.** Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- p.** Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- q.** Revoke Floodplain Development Permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the



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permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- r. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- s. Follow through with corrective procedures of Article 10 – Enforcement.
- t. Review, provide input, and make recommendations for variance requests.
- u. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Article 9 – Environmental Regulations of this Ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- v. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).
- w. Maintain and administer the County's Community Rating System (CRS) program.

2.9 AGRICULTURAL ADVISORY BOARD

A. ESTABLISHMENT, MEMBERSHIP AND RULES OF PROCEDURE

1. Establishment

In accordance with N.C.G.S. 106—739, the Board of County Commissioners hereby establishes an Agricultural District Advisory Board. This Advisory Board also may be known as the Advisory Board.

2. Membership

a. Appointment

Initially, the Agricultural Advisory Board shall consist of seven (7) members approved by the Board of Commissioners.

b. Membership Requirements

- 1) Each Advisory Board member shall be a resident of Guilford County.
- 2) At least five (5) of the seven (7) members shall be actively engaged in farming or own qualifying farmland in Guilford County.
- 3) The members actively engaged in farming shall be selected for appointment from the names of individuals submitted by the Soil and Water Conservation District, the Natural Resources Conservation Service, the Cooperative Extension Service, the

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Farm Service Agency, and the Guilford County Farm Bureau with an effort to have the broadest geographical representation possible.

- 4) One member shall be a non-farm member, and one member shall also be a Guilford County Commissioner who shall serve as a voting Ex-officio member.

c. Tenure

- 1) Members are to serve for terms of three (3) years, except that the initial Advisory Board is to consist of three (3) appointees for a term of one (1) year, two (2) appointees for terms of two (2) years each, and two (2) appointees for a term of three (3) years each. Notice of all meetings shall be made to the members in writing, unless otherwise agreed to by all Advisory Board members.
- 2) Reappointment to the Advisory Board shall be permitted in accordance with the Board of Commissioners' Resolution Establishing Policy and Procedures for Appointments.

d. Vacancies

Any vacancy on the Agricultural Advisory Board shall be filled by the Board of Commissioners for the remainder of the unexpired term.

e. Board Year

The Advisory Board shall use the Guilford County Fiscal Year as its meeting year.

f. Funding

- 1) The compensation of the members of the Advisory Board shall be fixed and amended by the Board of Commissioners and funds shall be appropriated to the Board to perform its duties.
- 2) Appropriations for Performance of Duties. Funds shall be appropriated by the Board of Commissioners to the Advisory Board to perform its duties.

3. Procedures

The Agricultural Advisory Board shall adopt rules of procedure which are consistent with the enabling legislation, Board of Commissioners' Resolution Establishing Policy and Procedures for Appointments, and other applicable statutes.

a. Chair

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

b. Jurisdiction and Procedures – Supplementary Rules

The Advisory Board may supplement the rules and procedures established in this Section by adoption of additional rules of procedure provided no additional rule shall be inconsistent with this Section or any other applicable laws or regulations.

c. Meetings

- 1) Scheduling



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- i. Meetings of the Advisory Board shall be held at least annually and otherwise at the call of the Chair and at such other times as the Advisory Board may specify in its rules of procedure.
- ii. Notice of all meetings shall be made to the members in writing, unless otherwise agreed to by all Advisory Board members.

2) Quorum

A quorum shall consist of a majority of the members of the Advisory Board.

d. Voting

The concurring vote of a majority of the members of the Advisory Board shall be necessary to pass upon any matter on which it is required to act.

e. 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 immediately following each meeting. All minutes and other records shall be public record.

f. Administrative Services

The North Carolina Cooperative Extension Service shall serve the Advisory Board for record keeping, correspondence, and application procedures of this Section together with such other services the Advisory Board needs to complete its duties.

B. POWERS AND DUTIES

The Advisory Board shall have the following powers and duties:

1. Review and make recommendations concerning the establishment and modification of Districts and Enhanced Districts;
2. Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this ordinance;
3. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or way of life within the county, especially those affecting Districts and Enhanced Districts;
4. Prepare a draft of the report required by N.C.G.S. 106-743 giving the status, progress and activities of the county's farmland preservation program;
5. Develop and maintain, if approved, a countywide farmland protection plan as defined in N.C.G.S. 106-744 for presentation to the Board of Commissioners;
6. Assign a member to represent each District as required by N.C.G.S. 106-738(4); and
7. Perform other related tasks or duties assigned by the Board of Commissioners or applicable law.

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2.10 VOLUNTARY AGRICULTURAL DISTRICT PROGRAM

A. AUTHORITY

The standards and provisions of this Voluntary Agricultural District Program are established pursuant to the authority conferred by N.C.G.S. 106-735 through 106-743 and Chapter 153A.

B. PURPOSE

The purpose of this Program 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, its way of life, and its importance in preserving the agrarian heritage of the county; encourage the economic and financial health of farming; increase protection from undesirable, non-farm development; and, increase the protection of farms from nuisance suits and other negative impacts on properly managed farms.

C. INITIAL PARTICIPATION IS VOLUNTARY

Nothing contained within this Section shall require a landowner to initiate participation in the Program. Upon participation in the Program, compliance with the requirements of this Section shall be required to maintain status.

D. ENCOURAGE FORMATION

The county may take such action, as it deems appropriate, to encourage the formation of the VAD 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.

E. IMPLEMENTATION OF PROGRAM

In order to implement the purposes stated above, this Program provides for the creation of Voluntary and Enhanced Voluntary Agricultural Districts (VADs and EVADs, respectively) as follows:

1. Criteria for Qualification

A VAD, when initially established, shall contain, at minimum:

- a. Twenty (20) contiguous acres of qualified forest; or
- b. Ten (10) contiguous acres of qualified farmland; or
- c. Five (5) contiguous acres of qualified horticultural land.

2. Application

- a. A landowner may apply to participate in the Program by making application to the Chair 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 VAD or EVAD may be filed concurrently with the certification for qualifying farmland.
- b. The Advisory Board shall meet within ninety (90) days of receipt of a complete application to render a decision on the application.

3. Approval Process



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Upon receipt of an application, the Chair shall forward copies immediately to the following offices for review and comment. Comments, if any, shall be returned to the Advisory Board at least one week prior to the date set for the Advisory Board action on the application.

- a. Upon receipt of an application, the Chair will forward copies to the following agencies for their prompt evaluation and response:
 - i. The Guilford County Soil & Water District office in Guilford County
- b. Upon receipt of the response from the Guilford County Soil & Water District, the Advisory Board shall meet within thirty (30) days to consider the application. The Chair shall endeavor to notify the applicant by first-class mail of its recommendation within fifteen (15) days.
- c. The recommendation shall then be acted upon at a meeting of the Board of Commissioners, whose decision shall be final.

F. EXPANSION OF PROGRAM

The Agricultural Advisory Board may decrease or increase the number of Voluntary Agricultural Districts as set forth in "Implementation" above.

G. WITHDRAWAL EFFECT ON LANDS NO LONGER INCLUDED IN A VAD

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.

H. CERTIFICATION AND QUALIFICATION OF FARMLAND

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

1. Is managed in accordance with the Natural Resources Conservation Service's defined erosion control practices that are addressed to highly erodible land;
2. Is the subject of a conservation agreement, as defined in N.C.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 county zoning and subdivision regulations.
3. Property is not eligible to enroll in a District or Enhanced District if it is within a municipal government boundary, unless that property is located within a municipality's jurisdiction that either (i) has authorized its own District or Enhanced District program via municipal ordinance, or (ii) that municipality has a memorandum of understanding with the existing Advisory Board which allows the Advisory Board to accept applications for properties within that municipality's boundary.

I. PUBLIC RECORDING OF CONSERVATION AGREEMENTS

1. 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.

ARTICLE 2

2. 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.
3. A conservation agreement entered into for the purpose of enrolling real property in a Voluntary Agricultural District pursuant to N.C.G.S. 106-737(4) is not required to be recorded unless such conversation agreement is irrevocable as provided pursuant to N.C.G.S. 106-743.2.

J. REVOCATION AND RENEWAL OF CONSERVATION AGREEMENT

1. Renewal of Conservation Agreement

- a. **Districts.** Any conservation agreement, valid in Guilford County as of December 31, 2010, for land within a District shall be automatically renewed unless the landowner provides a thirty (30) day written notice to the Board of intent not to renew. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any conservation agreement unless this Ordinance 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.
- b. **Enhanced District.** A conservation agreement for the Enhanced District shall be deemed automatically renewed for an additional term of three (3) years, unless either the Advisory Board of the landowner gives written notice to the contrary prior to the termination date of the conservation agreement. At the end of each three (3) year term, the conservation agreement shall automatically renew for an additional three (3) year term unless notice of termination is given. The staff serving the Advisory Board shall send a notification letter to any landowner enrolled in an Enhanced District thirty (30) days prior to the day the 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.

2. Revocation of Conservation Agreement

- a. **Districts.** By written notice to the county, a landowner of qualifying farmland may revoke a conservation agreement; or the Advisory Board may recommend the revocation of a conservation agreement, based on non-compliance by the landowner, to the Board of County Commissioners for their action. Revocation shall result in the loss of eligibility to participate in a district.
- b. **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.

K. PUBLIC NOTICE

1. Procedure



ARTICLE 2 - ADMINISTRATION

Upon approval of a 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 Advisory Board, in cooperation with Guilford County, shall provide notification to property owners, residents, and other interested persons within one (1) mile and adjacent to any designated agricultural district, as set out in Section 2.10.5. 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.

2. Displays

The Districts and Enhanced Districts shall be marked on county maps, which may be displayed for public view in county offices including, but not limited to, the offices of the planning department and the Register of Deeds, and by the following:

- a. Signs identifying approved agricultural Districts and Enhanced Districts shall be placed along the right-of-ways of major roads and other prominent places, with permission of the landowner.
- b. Maps identifying approved District and Enhanced Districts shall be made available to the public on the Guilford County GIS data viewer.
- c. 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 (1) mile of the District or Enhanced District.

3. 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 article.

4. 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.

L. 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.

ARTICLE 2

1. Upon receiving a request, the Advisory Board shall publish notice, through sufficiently adequate mediums, within five (5) 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 (10) days of receipt of the request.
2. The Advisory 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 Advisory Board shall consult with designees from Cooperative Extension, Natural Resources Conservation Service, Soil & Water District, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
4. Within five (5) days after the hearing, 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 prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
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.
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 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.

M. WAIVER OF WATER AND SEWER ASSESSMENTS AND OTHER ENROLLMENT BENEFITS

1. **No requirement to connect.** No requirement to connect to Guilford County water and/or sewer systems shall be imposed upon qualifying farms inside a district.
2. **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.
3. **Termination of abeyance.** When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
4. **Suspension of statute(s) of limitations.** Statute(s) of limitations are suspended during the time that any assessment is held in abeyance without interest.
5. **Other statutory abeyance procedures.** Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under N.C.G.S. 153A-201 or other applicable law.



ARTICLE 2 - ADMINISTRATION

6. **Conflict with water and/or sewer system construction and improvement 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.
7. **Additional benefits for Enhanced Districts.**
 - a. **Sale of non-farm products.** Landowners participating in Enhanced Districts may receive up to twenty-five percent (25%) 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 N.C.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 twenty-five percent (25%) 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 N.C.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.
 - c. **Property consideration.** State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.
 - d. **No requirement to connect.** A landowner enrolled in an Enhanced District shall not be required to connect to any other Guilford County government operated utility systems.

N. NORTH CAROLINA AGENCY NOTIFICATION

The Board of County Commissioners shall make an annual report to the North Carolina Commissioner of Agriculture as specified in N.C.G.S. 106-743.

O. LEGAL PROVISIONS

1. **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.
2. **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.
3. **Amendments.** This article may be amended from time to time by the Board of Commissioners in consultation with the Advisory Board.