

VAD 101

Voluntary agricultural district (VAD) and enhanced voluntary agricultural district (EVAD) programs are created under N.C.G.S Chapter 106, Article 61: The Farmland Preservation Enabling Act and through a local government's general ordinance-making authority and, in North Carolina, are not associated with a county or town's zoning authority. The primary differences between a VAD program, authorized under N.C.G.S. § 106-738 of the act, and EVAD program, authorized under N.C.G.S. § 106-743.1, are (1) the type of agreement that is signed and (2) the additional benefits that an EVAD program can offer.

In instances where a county has a program and a town does not, the county and town may sign a memorandum of understanding allowing the county to administer its VAD program within the corporate limits of a town. This allows forest and farmland located within a town's corporate boundaries to be enrolled in the county VAD program. State law N.C.G.S. § 160A 383.2 grants municipalities zoning flexibility for land enrolled in VAD and EVAD programs.

A. BENEFITS FOR VAD AND EVAD PROGRAMS:

Public hearings on condemnation of farmland — An advisory board can hold public hearings on public projects likely to have an impact on an operation or if projects involve condemnation of all or part of qualifying forest, farm, or horticultural land. Before a state or local government agency can condemn any interest in qualifying land within a VAD or EVAD, it must request that the local agricultural advisory board (established under N.C.G.S. § 106-739) hold a public hearing.

Record notice of proximity — Under N.C.G.S 106-741, Record notice of proximity to farmlands, counties with VADs or EVADs are required to ensure that their public records have “some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.”

Of note, this requirement is **only** for counties that have VADs and EVADs, and the requirement is **only** applicable to properties that are within the statutory distances of a “qualifying farm” or voluntary agricultural district.

To be a “**qualifying farm**” under the statute (NCGS 106-737, Qualifying farmland), the real property must meet **all** of the following:

- (1) Is engaged in agriculture as that word is defined in G.S. 106-581.1*.
- (2) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and
- (3) 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 10 years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations.

Implementation

The statute is not specific as to what mechanism for notice would satisfy the requirement (deed notation, property tax card notation, GIS mapping indicators, etc.). Ultimately it will be the responsibility of the county to implement the new mandatory requirement in a manner that is consistent with the statute.

Waiver of water and sewer assessments — Water and sewer assessments may be held in abeyance, with or without interest for farms 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.

Other VAD and EVAD benefits not specifically listed under the act, but that may be included in your local government's program pursuant to N.C.G.S. § 106-738(B) or other authorities, include:

Notices — Notices may be posted in the register of deeds' office, and copies made available to anyone recording a deed or plat, stating the existence of a voluntary agricultural district program and describing the activities that may occur within these programs. These notices will explain that activities could occur during the day or night and include, but not be limited to, logging, sawing, pesticide spraying, truck operations, and other agricultural activities.

Signed Statement and Registration — Individuals applying for a building permit or persons registering a deed could be required to sign a statement that they have reviewed the most current maps indicating the locations of agricultural districts and noted the proximity of these districts to their property. This statement also attests that they understand that forestry, agricultural, and horticultural activities can occur at any time in these districts during the day or night.

Maps — Maps identifying agricultural districts may be posted in the register of deeds' office, Cooperative Extension and Soil and Water Conservation offices, inspections and planning departments, and other local agencies and offices.

Signage — Signs identifying approved districts may be placed along the rights-of-way of major roads that pass through or next to those districts. Additionally, members of voluntary agricultural districts may be provided with signs, for free or for a fee depending on the program, to place on their property enrolled in a district.

Subdivision and development review — Preliminary development plans or plats for subdivisions or planned unit developments that are within a specified distance of voluntary agricultural districts must designate their proximity to those districts.

Public expenditures — Before a county or town can spend funds to acquire land within a voluntary agricultural district for a use other than forestry, farming, or horticulture, it may be required to submit detailed information to the VAD advisory board showing that it has considered alternatives. The act also empowers the advisory board to hold public hearings on any public projects likely to affect agricultural, forestry, or horticultural operations.

Many of the mechanisms for advertising the presence of agricultural districts and the activities that occur within those districts, including signs in the community and maps, posted notices, and signed statements acknowledging the presence of a district within local government offices, are useful. These notify adjoining property owners of farm, forest, and horticulture activities that could occur on the land. However, the most legally effective provision for defending a nuisance lawsuit may be the record notice of proximity provision of the act. This provision also lets agencies and divisions such as transportation departments know where voluntary agricultural districts are located when planning for roads, utilities, or development — so that they can adjust their plans to reduce impacts on districts.

ADDITIONAL BENEFITS FOR ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS ONLY:

EVAD programs provide benefits in addition to those offered by VAD programs. Under N.C.G.S. § 106-743.4 of the act, a forestry, farming, or horticultural operation can sell products not produced on site and receive up to 25 percent of gross sales from these non-farm products, while still having those sales fall under the bona fide farm purpose exemption from county zoning.

A second benefit is that an operation can bring in and process (through value-added production) any amount of a product not grown on the operation if the final product is recognized by the North Carolina Department of Agriculture and Consumer Services as a “Goodness Grows in North Carolina Product.” This value-added processing can be considered a bona fide farm purpose that is also exempt from county zoning. Counties may not recognize the processing of products grown off site as a bona fide farm purpose. This provision provides some additional flexibility for forestry, farm, and horticultural operations subject to a conservation agreement in the EVAD program.

A third benefit is that under the act, state departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to any person who farms land that is subject to an EVAD conservation agreement as defined in N.C.G.S. § 106-743.2. Additionally, forest landowners that also have qualifying farmland subject to an EVAD conservation agreement are eligible to receive a higher percentage of Agriculture Cost Share Program funds.

B. RESPONSIBILITIES OF THE AGRICULTURAL ADVISORY BOARD:

An Agricultural District Ordinance shall provide for the establishment of an agricultural advisory board (AAB) organized and appointed as the country or city that adopted the ordinance shall deem appropriate. The county or city may confer upon this advisory board authority to:

- Review and make recommendations concerning the establishment and modification of agricultural districts.
- Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption.
- Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm.

- Advise the governing board of the county or city on projects, programs, or issues affecting the agricultural economy or way of life within the county.
- Perform other related tasks or duties assigned by the governing board of the county or city.

Chair Duties

Member Duties

Ex-Officio (agency Personnel)

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 on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the Advisory Board Membership.
- All meetings shall be open to the public.
- No business may be conducted by the Advisory Board without a quorum present. A quorum is defined as at least two-thirds of the members in attendance.
- All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein.
- 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.

C. ANNUAL TIMELINE OF DUTIES, REPORTS

Suggested Annual Activities to include:

- success stories
- celebration of milestones
- media releases on new farms
- regional meetings
- retreat ideas for VAD AAB needing a recharge
- economic development/tourism “kickoffs”

D. AGENCY RESOURCES/SUPPORT

Detailed profiles of State Committee Member Agencies- What they bring to the table

E. Successful VAD AAB Meeting Ideas, Structure and Agendas

F. Signage 101 – DOT guidance and anything we have to offer for consistency

Appendices

1. Legislation

2. Factsheets, Pamphlets from Agencies

<http://www.ctnc.org/site/DocServer/Fctsh2.4c.optsREV1208.web.pdf?docID=822>

<http://www.ncadfp.org/documents/VADBrochure.pdf>

3. Tips for Successful Boards – Examples from the field or our collective experience

4. Successful Board Meetings

5. Legislative update review

6. One-page factsheets- EVAD, OPEN MEETINGS, LISTING and GIS DETAILS

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