

FILED  
LEE COUNTY NC  
PAMELA G. BRITT  
REGISTER OF DEEDS

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**LEE COUNTY  
AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION  
ORDINANCE**

BE IT ORDAINED by the Board of Commissioners of the County of Lee:

**ARTICLE I  
TITLE**

An Ordinance of the Board of County Commissioners of LEE COUNTY, NORTH CAROLINA, entitled "AGRICULTURAL DEVELOPMENT AND FARMLAND PRESERVATION ORDINANCE."

**ARTICLE II  
AUTHORITY**

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the N.C.G.S. §§106-735 through 106-744 and Chapter 153A.

**ARTICLE III  
PURPOSE**

The purpose of this Ordinance is to promote agricultural values and the general welfare of the county and, more specifically, increase identity and awareness in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture, and forestry; and decrease the likelihood of legal disputes, such as nuisance actions, between farm owners and their neighbors. This Ordinance shall repeal and replace the Voluntary Agricultural District Ordinance enacted February 18, 2013.

This Ordinance establishes a Voluntary Agricultural District ("VAD") and Enhanced Voluntary Agricultural District Program ("EVAD"), which provide the following benefits:

- Preserves and maintains agricultural areas in the county.
- Informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells, which may avoid conflicts between neighbors and potential nuisance claims.
- Gives the farming community an enhanced voice in Lee County Commissioners' decisions affecting farmland.

- Conserves open space and natural resources as the county's population and development expand.
- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time.

## **ARTICLE IV DEFINITIONS**

The following are defined for purposes of this Ordinance:

**Advisory Board:** Lee County Agricultural Advisory Board.

**Board of Commissioners:** Lee County Board of Commissioners.

**Chairperson:** Chairperson of the Lee County Agricultural Advisory Board.

**District:** Voluntary Agricultural District as established by this Ordinance.

**Nonfarm Use:** Any use of land that does not qualify as bona fide farm use.

**Conservation Agreement:** as defined in N.C.G.S. § 121-35

**Voluntary Agricultural District:** as defined in N.C.G.S. § 106-738

**Enhanced Voluntary Agricultural District:** as defined in N.C.G.S. § 106-743.1

## **ARTICLE V AGRICULTURAL ADVISORY BOARD**

### **A. Creation**

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

### **B. Membership**

1. The Agricultural Advisory Board shall consist of no less than seven (7) voting members and an unlimited number of ex officio members. The members of the Agricultural Advisory Board shall be chosen to provide the broadest possible representation of the geographical regions of the local government and to represent, to the extent possible, all segments of agricultural production existing within Lee County.

2. Each Agricultural Advisory Board member, except those serving in an ex-officio capacity, shall be a Lee County resident or landowner.

3. A majority of board membership 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. All members of the Agricultural Advisory Board 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 Agricultural Advisory 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, 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. All members shall be appointed by the Lee County Board of Commissioners.

**C. Tenure**

Agricultural Advisory Board members currently appointed to serve, will continue to serve their terms and any vacancies will be filled by the Lee County Board of Commissioners. All new appointees shall serve terms of four (4) years.

**D. Vacancies**

Any vacancy of a member appointed by the Board of Commissioners shall be filled by the Board of Commissioners for the remainder of the unexpired term.

**E. Removal**

Any member of the Agricultural Advisory Board may be removed by the Board of Commissioners upon a majority vote of the Commissioners. No cause for removal shall be required.

**F. Advisory Board Procedure**

The Agricultural Advisory Board procedures will be established in Bylaws to be established and approved by the Agricultural Advisory Board. The Advisory Board shall use the Lee County fiscal year as its meeting year.

**G. Duties of Agricultural Advisory Board**

By approval of this Ordinance, the Lee County Board of Commissioners has delegated authority pursuant to N.C.G.S. §106-739(a)(1) to the Agricultural Advisory Board to:

- Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into the Voluntary Agricultural Districts and make decisions concerning the establishment and modification of Voluntary Agricultural Districts and enroll qualifying farms into agricultural districts.
- Notify Lee County GIS of all established Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts.
- Make recommendations concerning the establishment and modification of Voluntary Agricultural Districts, Enhanced Voluntary Agricultural Districts or Conservation Agreements or Conservation Easements.
- Execute agreements with landowners necessary for the enrollment of land in a Voluntary Agricultural District or an Enhanced Voluntary Agricultural District.
- 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 Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural or forestry activities or way of life within the county.
- 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.
- Consider development of a draft countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners.

## **ARTICLE VI IMPLEMENTATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

### **A. Purpose**

The purpose of establishing a Voluntary Agricultural District is to increase identity and awareness in the agricultural community and way of life, decrease the likelihood of legal disputes and encourage an interest in the protection of farmland.

### **B. Participation**

Landowners wishing to participate in the Voluntary Agricultural District may apply as provided in this ordinance. Participation is voluntary.

### **C. General Requirements for Voluntary and Enhanced Voluntary Agricultural Districts**

In addition to the requirements in Article VIII below, real property shall meet the following standards to qualify for a Voluntary Agricultural District or an Enhanced Voluntary Agricultural District:

- Be used for bona fide farm purposes as that term is defined in N.C. Gen. Stat. § 160D-903 and
- The District shall contain at least one of the following contiguous acreages of farmland:
  - (a) 1 (one) acre of land in production for horticultural or agricultural purposes or
  - (b) 10 (ten) acres of land for field crops or livestock or
  - (c) 20 (twenty) acres of forestry production with a forestry management plan or
  - (d) In the event a landowner has multiple tracts of qualifying farmland that are eligible and those tracts are located within one mile or less of each other, then they may comprise a Voluntary Agricultural District.
- All Landowner(s) requesting inclusion in the VAD and EVAD shall execute a conservation agreement with the Lee County Agricultural Advisory Board. Said agreement shall be in a form which is reviewed and approved by the Agricultural Advisory Board for the specified type of Agricultural District for which the Landowner is making application.
- The VAD and EVAD programs are completely voluntary, and landowners agree to be bound by the terms of their conservation agreement and this ordinance.
- All conservation agreements for VAD and EVAD must be recorded in the Lee County Register of Deeds.

## **ARTICLE VII IMPLEMENTATION OF ENHANCED VOLUNTARY AGRICULTURAL DISTRICT**

### **A. Purpose**

The purpose of establishing an Enhanced Voluntary Agricultural District is to provide additional benefits to farmland beyond what is available to the Voluntary Agricultural Districts, when the owner of the farmland agrees to a conservation agreement pursuant to N.C.G.S. § 106-743.2. The conservation agreement shall be between the Lee County Agricultural Advisory Board and the landowner and shall be irrevocable for a period of at least ten (10) years from the date of execution. At the end of its term, a conservation agreement shall automatically renew for a term of three (3) years, unless 30 days' advance written notice of termination is given by either party.

## **B. Requirements of Enhanced Voluntary Agricultural Districts**

All provisions above concerning Voluntary Agricultural Districts apply to the Enhanced Voluntary Agricultural District; therefore, all procedural requirements above and all benefits granted to Voluntary Agricultural Districts above apply to the Enhanced Voluntary Agricultural Districts.

## **C. Additional Benefits of Enhanced Voluntary Agricultural Districts**

- a. Property that is subject to the conservation agreement pursuant to N.C.G.S. § 106-743.2 that remains in effect may receive up to twenty-five (25) percent of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under N.C.G.S. § 160D-903. A farmer seeking to benefit from this, shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five (25) percent of its gross sales.
- b. A person who farms land that is subject to a conservation agreement under N.C.G.S. § 106-743.2 that remains in effect is eligible under N.C.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 Article 72 of chapter 106 of the North Carolina General Statutes, for funds to benefit that farmland.
- c. 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 a conservation agreement under N.C.G.S. § 106-743.2 that remains in effect.

## **ARTICLE VIII**

### **CERTIFICATION AND QUALIFICATION OF FARMLAND**

#### **A. Requirements**

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

1. The real property must be used for bona fide farm purposes, as that term is defined in N.C.G.S. §§ 106-737, 106-743.4(a) and 160D-903.
2. The real property must be managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service's defined erosion-control practices for highly erodible land.
3. The real property must be the subject of a conservation agreement as defined in N.C.G.S. § 121-35 in accordance with N.C.G.S. § 106-737 and § 106-743.4 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 agreements shall be approved by the Agricultural Advisory Board created under N.C.G.S. § 106-739.

4. The real property must be located in the unincorporated area of Lee County, unless a municipality of the County has by resolution requested that this Article be applicable within that municipality and such request has been formally granted by Lee County.

## **ARTICLE IX CONSERVATION AGREEMENTS FOR VAD AND EVAD**

For purposes of this program, "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.

Conservation Agreements as required by N.C.G.S. §§106-737 and 106-743.2 and defined in N.C.G.S. §121-35 suited to each district type (VAD or EVAD) must be executed for participation in the program for VAD and EVAD. All Conservation Agreements must be recorded with the Lee County Register of Deeds.

## **ARTICLE X APPLICATION, APPROVAL, AND APPEAL PROCEDURE**

### **A. Requirements to participate**

In order for farmland to qualify for a VAD and EVAD, it must be real property that meets all of the following requirements in Article VI-C above:

**B. Application Procedure**

A landowner may apply to participate in the Voluntary Agricultural District Program or Enhanced Voluntary Agricultural District by submitting an application to the Lee County Cooperative Extension. The application shall be on forms provided by Lee County Cooperative Extension and approved by the Agricultural Advisory Board and shall designate whether the application is for VAD or EVAD.

**C. Approval Process**

Upon receipt of an application, the County Extension Director will forward copies to the members of the Agricultural Advisory Board and all ex officio members for their evaluation.

The Agricultural 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.

**D. 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 Lee County 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 XI  
NOTIFICATION AFTER ESTABLISHMENT**

**A. Public Awareness**

Upon approval of a Voluntary Agricultural District or Enhanced Voluntary Agricultural District, the County Extension Director shall provide notification of said District to the following:

- Notification shall be mailed to the property owner / applicant by first class mail, to the Lee County Register of Deeds, the Lee County Tax Office and Lee County GIS Department.
- The Lee County Tax Department/GIS Mapping shall maintain maps of approved Districts within the Lee 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 VAD or EVAD.
- 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 (1/2)



mile of the property line of any tract in a VAD or EVAD. This mapping information may be viewed by accessing the Lee County GIS website.

- 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.
- 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 VAD or EVAD as defined in this Ordinance.
- In no event shall any cause of action arise out of the failure of a person licensed under N.C.G.S. Chapters 93A or 93 E for failure to report to any person the proximity of a tract to a qualifying farm or VAD or EVAD.

#### **B. Signage**

Lee County may, in its discretion, place signs identifying approved VAD or EVAD along major roads that pass through or next to those districts. Members of the Voluntary or Enhanced Voluntary 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-way or easements and shall conform to Chapter 11, Sign Regulations, of the Lee County Zoning Ordinance.

### **ARTICLE XII REVOCATION AND ENFORCEMENT, TRANSFER OF LAND, AND RENEWAL OF CONSERVATION AGREEMENTS**

#### **A. Revocation and Enforcement**

For VAD: A landowner of qualifying farmland may revoke his/her participation in the Voluntary Agricultural District Program formulated pursuant to this ordinance by providing thirty (30) days advance written notice to the Agricultural Advisory Board. The Agricultural Advisory Board may revoke a landowner's participation in the Voluntary Agricultural District based on noncompliance by the landowner by giving the landowner thirty (30) days advance written notice. Revocation shall result in loss of qualifying farm status. A landowner may appeal any revocation by the Agricultural Advisory Board applicant by giving written notice to the Lee County Board of Commissioners within sixty (60) days of the written Notice from the Agricultural Advisory Board. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final. A notice of revocation shall be recorded with Lee County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Voluntary Agricultural District program.

For EVAD: Conservation Agreements for land in EVADs are irrevocable for a period of ten years. Enforcement of the terms of the conservation agreement may be through an action for injunctive relief and/or damages in the General Courts of Justice for Lee County, North Carolina. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the conservation agreement. The right to terminate program benefits is in addition to any legal rights that the County may have under either this Article or the terms of the applicable conservation agreement. The County may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Agricultural Advisory Board shall revoke the EVAD conservation agreement for cause, the landowner may appeal any revocation by the Agricultural Advisory Board applicant by giving written notice to the Lee County Board of Commissioners within sixty (60) days of the written Notice from the Agricultural Advisory Board. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final. A notice of revocation shall be recorded with Lee County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program.

#### **B. Transfer of Land**

For VAD: 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 this ordinance. 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.

For EVAD: Transfers of land in an Enhanced Voluntary Agricultural District due to the death of the landowner, 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**

For VAD: Conservation agreements for VADs shall automatically renew for subsequent ten (10) year terms unless either the landowner or the Agricultural Advisory Board provides written notice to the other party at least thirty (30) days prior to the expiration of the conservation agreement.

For EVAD: Conservation agreements for EVADS shall automatically renew for an additional three (3) years in perpetuity, unless the landowner or the Agricultural Advisory Board provides

written notice to the other party at least thirty (30) days prior to the expiration of the conservation agreement.

**D. Term**

For VAD: The duration of a VAD conservation agreement shall be for ten (10) years.

For EVAD: The duration of an EVAD conservation agreement shall be irrevocable for ten (10) years.

**ARTICLE XIII  
PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND**

**A. Purpose**

Pursuant to N.C.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 Voluntary Agricultural District or an Enhanced Voluntary Agricultural District until such agency or unit has requested the Agricultural 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 Agricultural Advisory Board shall publish notice describing the proposed action in the appropriate newspaper of Lee County within ten (10) 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 thirty (30) days of receipt of the request.

The Agricultural 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 Agricultural Advisory Board shall consult with the Cooperative Extension Agricultural Agent(s), Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Agricultural Advisory Board to be necessary for its review of the proposed action.
4. Within five (5) days after the hearing, the Agricultural 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 Agricultural Advisory Board.
6. After the ten (10) day period for public comment has expired, the Agricultural Advisory Board shall submit a final written 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 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 Agricultural Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

**C. Stay of condemnation action**

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 Agricultural Advisory Board.

**ARTICLE XIV**

**SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Major and minor subdivisions shall include a designation on all final subdivision plats, the existence of any and all Voluntary Agricultural and Enhanced Voluntary Agricultural Districts within one-half (½) aerial miles of the proposed development.

**ARTICLE XV**

**COUNTY LAND-USE PLANNING**

**A. Duty of the Agricultural Advisory Board**

It shall be the duty of the Agricultural 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 Voluntary 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.

## **ARTICLE XVI CONSULTATION AUTHORITY**

The Agricultural Advisory Board may consult with 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 Agricultural Advisory Board deems necessary to properly conduct its business.

## **ARTICLE XVII NORTH CAROLINA AGENCY NOTIFICATION**

At least annually, Lee County Cooperative Extension **shall** submit a written report to the Office of the Commissioner of Agriculture and Consumer Services on the county's agricultural district program, 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 is available to the Board of Commissioners, Lee County Soil and Water Conservation District, Lee County Tax Department/GIS Mapping, Lee County Planning and Zoning Department and Lee County Forest Service.

## **ARTICLE XVIII CONSERVATION EASEMENTS**

The County will establish a policy governing landowner requests for conservation easements and will encourage and promote conservation easements in its educational materials.

**ARTICLE XIX  
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 Lee 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 Commissioner of the N.C. Department of Agriculture and Consumer Services.

**ARTICLE XX  
ENACTMENT**

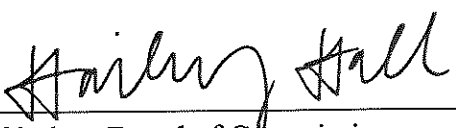
The Lee County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the 3 day of MARCH, 2025.

  
Chairperson

ATTEST:



  
Clerk to Board of Commissioners