

# Agriculture and Zoning

Theodore A. (Ted) Feitshans  
Extension Associate Professor  
Department of Agricultural & Resource Economics  
North Carolina State University  
919-515-5195 ted\_feitshans@ncsu.edu  
July 25, 2011

**NC** State University  
A&T State University  
**COOPERATIVE  
EXTENSION**

*Empowering People • Providing Solutions*

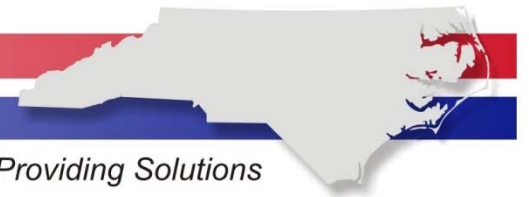
---

---

# DISCLAIMER

**Information provided is for educational purposes only; nothing herein constitutes the provision of legal advice or services, and no attorney-client relationship is formed.**

**E-mail correspondence to and from this address ([ted\\_feitshans@ncsu.edu](mailto:ted_feitshans@ncsu.edu)) may be subject to the North Carolina Public Records Law and may be disclosed, if permitted by law, to third parties. All e-mail to and from this address will be archived for a minimum period of 10 years.**

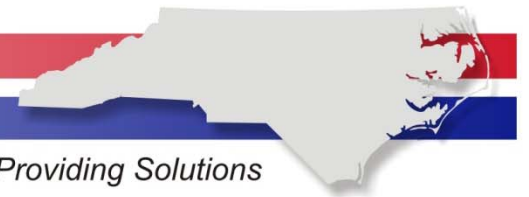


---

---

§ 106 - 581.1 . Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to 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.



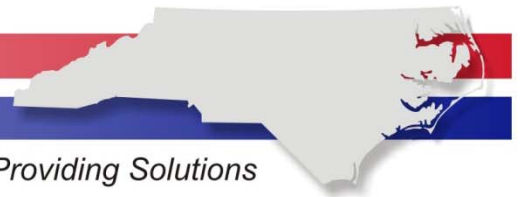
---

---

§ 106 - 581.1 . Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(2) The planting and production of trees and timber.



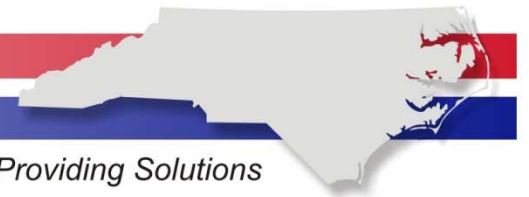
---

---

§ 106 - 581.1 . Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

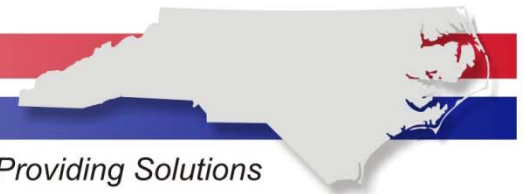
(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.



---

S. L. 2006 Session 2006 – Senate Bill 1587

SECTION 6. G.S. 106-581.1(3) reads as rewritten:  
"(3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, ~~deer, elk,~~ and other animals for individual and public use, consumption, and marketing."



---

§ 106 - 581.1 . Agriculture defined.

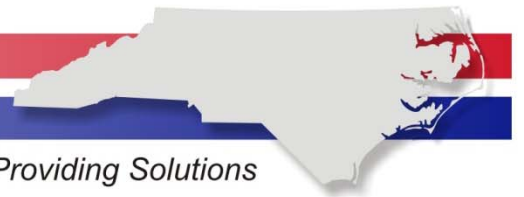
For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(4) Aquaculture as defined in G.S. 106-758.

-----

N.C.G.S. § 106 - 758 . Definitions.

In addition to the definitions in G.S. 113-129, the following definitions shall apply as used in this Article,  
(1) "Aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching; ...

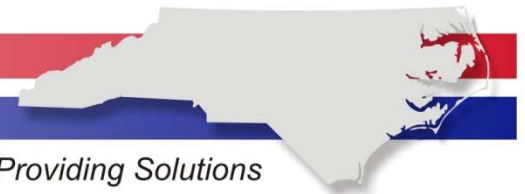


---

§ 106 - 581.1 . Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(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.

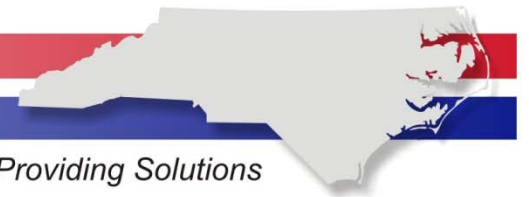


---

§ 106 - 581.1 . Agriculture defined.

For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:

(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.

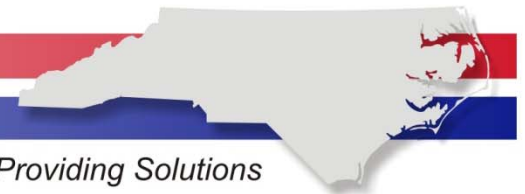


---

## S.L. 2011-363 Session 2011 — HOUSE BILL 168

SECTION 1. G.S. 153A-340(b)(2) reads as rewritten:

"(b) (2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of ~~agricultural products~~ agriculture as defined in ~~G.S. 106-581.1~~ G.S. 106-581.1 ~~having a domestic or foreign market.~~ For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a 'Goodness Grows in North Carolina' product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose.

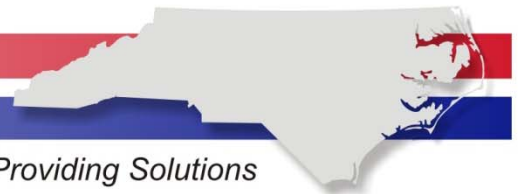


---

## Safe harbor provisions of HB 168:

For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

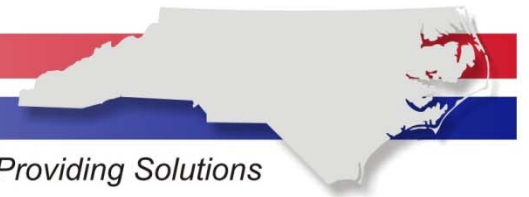
- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency."



---

N.C.G.S. 160A-458.5. Restriction of certain forestry activities prohibited.

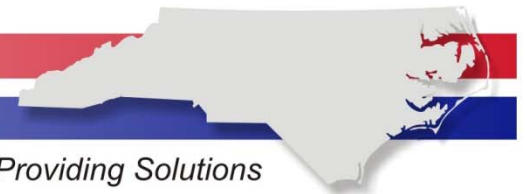
(2) Forest management plan. — A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.



---

**§ 113A-178. Definitions. As used in this Article: (1) "Approved forest management plan" means the forest management plan submitted by the eligible landowner and approved by the Secretary. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.**

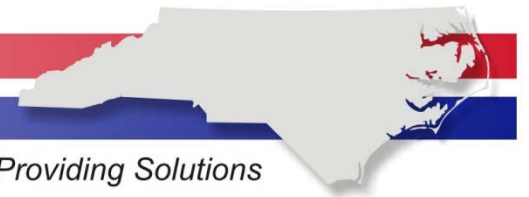
**(2) "Approved practices" mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber, or of insuring maximum growth potential of forest stands to commercial production levels. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, cultivation of established young growth of desirable trees for silvicultural purposes, and improvement of immature forest stands for silvicultural purposes. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.**



---

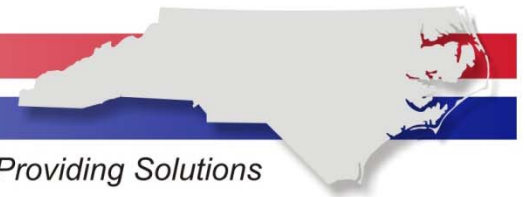
**N.C.G.S. § 105-277.3. Agricultural, horticultural, and forestland  
— Classifications.**

**(g) Sound Management Program for Forestland. — If the owner of forest-land demonstrates that the forestland complies with a written sound forest management plan for the production and sale of forest products, then the forestland is operated under a sound management program.**



---

# Expansion of *bona fide* farm exemption for farms in EVADs



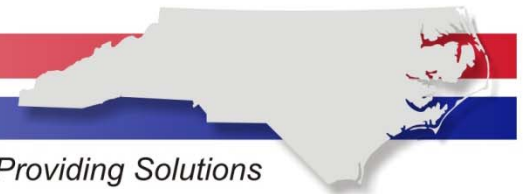
---

**S.L. 2005-390 Session 2005 — House Bill 607**

**"Section 106-743.4. Enhanced voluntary agricultural districts; additional benefits.**

**(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) 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 G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (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.**

**Nothing in this section shall affect the county's authority to zone swine farms pursuant to G.S. 153A-340(b)(3).**



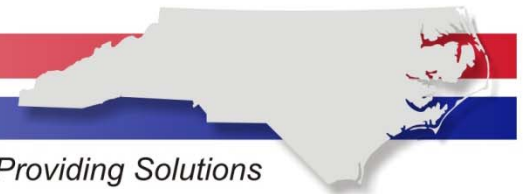
---

## Zoning Flexibility for Cities with VADs & EVADs in Planning Jurisdiction

**SECTION 7. Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:**

**"Section 160A-383.2. Voluntary agricultural districts.**

**A city may amend the ordinances applicable within its planning jurisdiction to provide flexibility to farming operations that are located within a city or county voluntary agricultural district or enhanced voluntary agricultural district adopted under Article 61 of Chapter 106 of the General Statutes. Amendments to applicable ordinances may include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming. For purposes of this section, the term "farming" shall have the same meaning as set forth in G.S. 106-581.1."**



---

**Expansion under: S.L. 2011-219 Session 2011 — House Bill  
406**

**SECTION 1. G.S. 106-737 reads as rewritten:**

**"Section 106-737. Qualifying farmland.**

**In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district under Part 1 or Part 2 of this Article, it must be real property that:**

**(1) ~~Is participating in the farm present-use-value taxation program established by G.S. 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 G.S. 105-277.3; engaged in agriculture as that word is defined in G.S. 106-581.1.~~**

