



Bona Fide Farms and Development Regulations

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Overview

In North Carolina certain farm activities and farm buildings enjoy exemptions from specific local development regulations. Land use zoning does not apply to bona fide farm activities in county jurisdiction and in municipal extraterritorial jurisdiction (ETJ). Building rules, such as the State Building Code, do not apply to some farm buildings, depending upon the type of building and applicable jurisdiction. And there are specific protections from local development regulations for forestry, beekeeping, farm operator housing, and certain other agricultural land uses.

The basic concept is straightforward: Building and development rules should not infringe on certain farm activities. But, as is often the case, the devil is in the details. The precise scope of the bona fide farm exemption is complicated. Statutory definitions and relevant caselaw help to clarify what counts and what does not count as “agriculture,” but significant ambiguity remains.

This bulletin outlines the bona fide farm exemption from land use zoning, explores the wide-ranging definitions of *bona fide farm purposes* and *agriculture*, summarizes the building-rule exemption for farm buildings, and surveys other aspects of regulatory relief for agricultural activities.

Key Considerations

Deciphering whether a particular local regulation applies to a particular activity or structure is a fact-specific, case-by-case determination. Here are some essential questions that help guide the analysis:

What regulation is in question?

Bona fide farm activities and buildings enjoy a variety of exemptions, but there is not a blanket waiver from all development rules. The particular exemption is specific to the regulation, whether it is zoning, State Building Code, or another.

What is the applicable jurisdiction?

Some rules for bona fide farms vary based on whether the property is subject to county jurisdiction, municipal jurisdiction, or municipal ETJ.

Is the property a bona fide farm property?

A threshold question about farm activities is whether or not the property is a farm. State law sets certain presumptions for what property counts as a farm.

Is the activity a bona fide farm purpose?

Just because an activity occurs on a farm does not mean it counts as a farm activity. North Carolina statutes and caselaw have developed a complex array of what activities count as a bona fide purpose. Careful consideration and analysis is necessary to make a determination.

Is the building a farm building? And is it residential?

Just because a building sits on a farm does not mean it counts as a farm building. As with bona fide farm purposes, North Carolina law has a complex set of rules for what buildings count as farm buildings. Those rules are different for residential buildings as compared to nonresidential buildings.

Does the activity or building fall under another special protection?

Beyond the major exemptions of zoning and building rules, North Carolina law has a set of other provisions and exemptions to protect specific farm activities.

All of these questions—and the statutory and caselaw details underlying them—are explored more in this bulletin.

Land Use Zoning Exemptions

County Zoning

Bona fide farm activities are exempt from county zoning: “County zoning regulations may not affect property used for bona fide farm purposes.”¹ So local zoning does not regulate where the farmer plants crops or when the rancher feeds the cows. The scope of “bona fide farm purposes” is broad, so the exemption goes beyond just core agricultural operations. Notably, though, zoning regulations still apply to “the use of farm property for nonfarm purposes.”² The challenge, then, is determining what is a bona fide farm purpose and what is not. The sections below explore that phrase and applicable definitions.

Municipal Zoning

Subject to certain limitations (discussed in later sections), municipal governments can regulate agricultural activities within the municipal corporate limits but not in the municipal ETJ. “Property that is located in a city’s extraterritorial planning and development regulation jurisdiction and that is used for bona fide farm purposes is exempt from the city’s zoning regulation to the same extent bona fide farming activities are exempt from county zoning.”³ Notably, if the property ceases to be used for bona fide farm purposes, it is subject to municipal zoning again.

Some municipalities choose to extend the bona fide farm exemption to farms within the municipal corporate limits. That is a policy choice for the community under the general authority for zoning regulation, and it is specifically authorized in the statutes:

A city may amend the development regulations applicable within its planning and development regulation 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

1. [Chapter 160D, Section 903\(a\) of the North Carolina General Statutes](#) [hereinafter G.S.].

2. G.S. 160D-903(a); *Hampton v. Cumberland County*, 256 N.C. App. 656, 808 S.E.2d 763 (2017) (distinguishing what activities count as exempt agritourism and what activities are subject to zoning regulation), *appeal dismissed as improvidently allowed*, 373 N.C. 2, 832 S.E.2d 692 (2019).

3. G.S. 160D-903(c).

Statutes. Amendments to applicable development regulations may include provisions regarding on-farm sales, pick-your-own operations, road signs, agritourism, and other activities incident to farming.⁴

Certain agricultural activities have specific protection from municipal regulations. As discussed in the last section of this bulletin, forestry, beekeeping, certain farm buildings, and other agricultural uses have special treatment in state law.

Evidence of a Bona Fide Farm

There are two key questions for determining whether a bona fide farm exemption from zoning applies in a particular case:

- Is the property a farm?
- Is the activity a bona fide farm purpose?

For the first question, state law sets forth specific documents that are sufficient evidence that the property is a farm: a sales-tax exemption, a present-use-value enrollment, a Schedule F tax document, or a forest management plan. If the property owner provides one of those documents, it is presumed that the property is used as a farm. Additionally, the local government may consider other evidence to demonstrate that a property is used for bona fide farm purposes. Note that the listed documents are all commercial in nature. They require evidence that the agricultural operation is a commercial endeavor.

Several of the listed documents are related to applicable tax laws, so coordination between the local tax office and the local planning department may be prudent when evaluating farm status.

As discussed below, specifically for *buildings used for agritourism*, in order to qualify as a bona fide farm purpose, the owner must have a farm sales-tax exemption or the property must be enrolled in the present-use-value program, and that status must be maintained for three years from the time the building is classified as a bona fide farm purpose. For those agritourism buildings, a Schedule F or a forest management plan is not sufficient.⁵

Now, consider the specifics for the documents that are sufficient to show that a property is a bona fide farm property.

Farm Sales-Tax Exemption (Qualifying Farmer Status)

- (1) A farm sales tax exemption certificate issued by the Department of Revenue.⁶

Farmers are exempt from paying sales taxes on certain purchases. In order to enjoy this exemption, the farmer must be certified as a “qualifying farmer” by the North Carolina Department of Revenue. To qualify, a farmer must have an annual income from farming

4. *Id.* § 903(e).

5. *Id.* § 903.

6. *Id.*

operations for the preceding taxable year of \$10,000 (or an average of \$10,000 over the preceding three years). The exemption expires when the farmer fails to meet the income threshold for three consecutive years or ceases farming operations.⁷

State law allows for a “conditional exemption certificate” for a person who does not yet qualify for the standard exemption, but who certifies that they intend to engage in farming operations. A conditional exemption is valid for the taxable year it is issued and two more taxable years.⁸ The statute providing for bona fide farm exemptions does not clarify whether conditional exemptions count as sufficient evidence. The statute merely says “[a] farm sales tax exemption certificate issued by the Department of Revenue.”⁹

Eligibility for the Present-Use-Value Program

- (2) 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](#).¹⁰

Under North Carolina tax law, a farm property may be taxed at its present-use value (a farm) rather than at its highest and best use value. In order to qualify, the property must meet certain size thresholds: twenty acres for forestry (with a forest management plan), ten acres for farmland (crops and livestock), and five acres for horticulture. The property must have an agricultural-management plan. At least one tract of the farm must produce at least \$1,000 average gross farm income over the preceding three years.¹¹

Schedule F

- (3) 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.¹²

Schedule F is the “Profit or Loss from Farming” schedule for the Form 1040 federal income-tax filing. A farmer’s Schedule F will show income and expenses from farm operations. The Schedule F can be used to substantiate present-use-value-income qualification and to verify qualifying-farmer status for the sales-tax exemption.

Forest Management Plan

- (4) A forest management plan.¹³

A forest management plan is listed as sufficient evidence that a property is used for a bona fide farm purpose. While [Chapter 160D, Section 903 of the North Carolina General Statutes](#) [hereinafter G.S.] does not give additional guidance, other legal provisions require forest

7. [G.S. 105-164.13E](#).

8. *Id.*

9. [G.S. 160D-903](#).

10. *Id.*

11. For more detail, see N.C. DEPT. OF REVENUE, [PRESENT-USE VALUE PROGRAM GUIDE](#) (Aug. 2023 ed. 2023), <https://www.ncdor.gov/2023-08-present-use-value-program-guidepdf/open>.

12. [G.S. 160D-903](#).

13. *Id.*

management plans. Those provisions—including present-use-value determinations, zoning exemptions for forestry, and forest-development protections—may offer guidance for what is acceptable as a “forest management plan” for bona fide farm determinations.

A written sound management plan is required in order to qualify for the present-use-value program, and the guidance from that program may be instructive for forest management plans.¹⁴ A written sound management plan is defined by statute as “[a] program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.”¹⁵ Guidance from the North Carolina Department of Revenue provides that a sound management program for forestry has key elements, including objectives, location, forest-stand-management recommendations, regeneration-harvest methods and dates, and regeneration technique. Additionally, the guidance provides that

[f]orest management plans can be prepared by an independent consulting forester, by a forester with the North Carolina Forest Service, and by the property owner. However, if the owner prepares the plan, the owner must have the appropriate forestry management and analysis skills to properly prepare a plan comparable to a plan prepared by a qualified forester.¹⁶

[G.S. 160D-921](#) protects forestry operations from local zoning restrictions (those protections are discussed in more detail later in this bulletin). The law requires a forest management plan and provides a definition:

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.

The Forest Development Act defines “approved forest management plan” as a “forest management plan submitted by the eligible landowner and approved by the Commissioner [of Agriculture]. 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.”¹⁷

Thus, there are several programs that involve forest management plans. While the precise requirements of those other programs are not necessarily controlling for the bona fide farm exemption “forest management plan,” these parameters for those other legally required “forest management plans” may be instructive for what counts as evidence for a bona fide farm determination.

14. For more detail, see N.C. DEPT. OF REVENUE, [Sound Management Requirements](#), in PRESENT-USE VALUE PROGRAM GUIDE ch. 5 (Aug. 2023 ed. 2023).

15. [G.S. 105-277.2\(6\)](#).

16. N.C. DEPT. OF REVENUE, *supra* note 14, at 66–67.

17. [G.S. 106-1012](#).

Other Evidence

While the preceding documents are sufficient according to state law, other evidence may also be considered. Notably, the other documents previously discussed (sales-tax exemption, present-use-value status, Schedule F, and forest management plan) are commercial in nature. Each requires some showing of commercial agricultural operation. Other evidence may be similarly commercial in nature.

Defining “Bona Fide Farm Purposes”

After determining whether a property is a farm property, there is the next question: Is the *activity* a bona fide farm purpose? This question is more complex and nuanced. Some activities plainly are agriculture, and some activities plainly are not, but many, many activities fall in between. The definition of “bona fide farm purposes” is key to determining whether an activity qualifies.

The phrase is established and defined by [G.S. 160D-903](#), with cross-reference to [G.S. 106-581.1](#).

[B]ona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.¹⁸

G.S. 106-581.1, in turn, lists many activities as “agriculture.” This includes production and harvesting of crops, planting and production of timber, raising and management of livestock, and aquaculture. The definition also includes construction and maintenance of land and buildings incident to the farming operation, processing and packing items produced on the farm, marketing and selling agricultural products, certain grain-warehouse operations, and agritourism.

Putting those sections together, there is a significant range of activities and facilities that are exempt from county and ETJ zoning as bona fide farm purposes. This section explores those activities and facilities.

Crop and Plant Production

Agriculture is defined to include “[t]he cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.”¹⁹

In *Baucom’s Nursery Co. v. Mecklenburg County*, the court held that a nursery with greenhouses was a bona fide farm because agricultural operations included the growing of vegetables, flowers, and shrubs.²⁰

In *Ball v. Randolph County Board of Adjustment*, the court held that treatment of petroleum-contaminated soil through a process known as “land farming” was not an agricultural use. The process included transporting the soil to the site, treating the soil to stimulate microbial

18. [G.S. 160D-903](#).

19. [G.S. 106-581.1\(1\)](#).

20. 62 N.C. App. 396, 303 S.E.2d 236 (1983).

consumption of the contaminants, and tilling the soil to stimulate the process. Because the process did not involve crops, plants, or other agricultural products, it was a waste-treatment process, not agriculture.²¹

Livestock, Dairies, and Horses

Agriculture is defined to include “[d]airying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing. The raising, management, care, and training of horses includes the boarding of horses.”²²

Under previous law counties had authority to regulate large-scale hog farms (such farms were not exempt from zoning). In 2017, however, the General Assembly amended the statute to withdraw that authority.²³

In *Development Associates, Inc. v. Wake County Board of Adjustment*, the court determined that a dog-breeding and kennel facility was not “agriculture” since dogs were not “livestock” under related statutory definitions.²⁴

Forestry

Agriculture is defined to include “[t]he planting and production of trees and timber, including pine orchards planted and maintained for the purpose of harvesting pine needles for sale, or the harvesting of pine needles for sale from land with a forest management plan.”²⁵

State law also addresses forestry at [G.S. 160D-921](#), as discussed more below.

Aquaculture

Agriculture is defined to include “[a]quaculture,” which in turn is defined as “the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching.”²⁶

Farm Maintenance, Buildings, Structures, and Facilities

Agriculture is defined to include “[t]he 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.”²⁷

In addition to the general protection for buildings and structures incident to the farm, certain facilities are specified for protection.

21. 129 N.C. App. 300, 498 S.E.2d 833, *appeal dismissed*, 349 N.C. 348, 507 S.E.2d 272 (1998).

22. [G.S. 106-581.1\(3\)](#).

23. [S.L. 2017-108](#) (S.B. 615).

24. 48 N.C. App. 541, 269 S.E.2d 700 (1980).

25. [G.S. 106-581.1\(2\)](#).

26. *Id.* § 581.1(4) (cross-referencing [G.S. 106-758](#)); *id.* § 758.

27. *Id.* § 581.1(5).

Grain Warehouses

The following is included under the definition of agriculture:

A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.²⁸

Cotton-, Peanut-, and Sweet-Potato-Storage Structures

“A building or structure that is used solely for storage of cotton, peanuts, or sweetpotatoes [sic], or any byproduct of those commodities, is a bona fide farm purpose, including a building or structure on a property that does not have the documentation listed in [G.S. 160D-903(1) to (4)].”²⁹

Turkey Brooder Facilities

“A facility that receives used turkey brooder litter from brooder farms and recycles the used litter by means of a drying process to reduce the moisture content of the litter sufficient to send the recycled litter to a turkey grow-out farm for reuse is a bona fide farm purpose.”³⁰

Value-Add Activities

Agriculture is defined to include the following activities when they are “performed on the farm”:

marketing and selling of agricultural products, agritourism, biofuel production for commercial sale, 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 a farm, and similar activities incident to the operation of a farm.³¹

[G.S. 160D-903](#) provides further clarification for these value-add activities. “[T]he farm” includes “the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located.”³²

Even production of nonfarm products gets protection on certain farms. “[T]he 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.”³³

In *North Iredell Neighbors for Rural Life v. Iredell County*, the court ruled that a biodiesel operation producing 500,000 gallons of fuel per year was an industrial activity, not agriculture. The court considered factors such as whether the operation was self-contained (it was not; some of the seeds used in production would be produced off-site) and whether the fuel would be used

28. *Id.* § 581.1(7).

29. [G.S. 160D-903](#).

30. *Id.*

31. G.S. 106-581.1(6).

32. G.S. 160D-903(a).

33. *Id.*

mostly on-site (it would not; the facility would produce substantially more fuel than could be used for on-site agricultural activities).³⁴ Subsequent to this case, the General Assembly amended the definition of “agriculture” to include “biofuel production for commercial sale.”³⁵

“Activities Incident to the Operation of a Farm”

The statutory definitions include general phrasing to include activities that are closely related to agriculture. [G.S. 160D-903](#) states that “bona fide farm purposes include the production and activities *relating or incidental* to the production.” [G.S. 106-581.1\(6\)](#) lists a range of value-add activities related to agriculture and then includes “similar activities incident to the operation of a farm.”³⁶

While these phrases—“relating . . . to the production” and “incident to the operation”—are somewhat ambiguous, they are each surrounded by lists of activities that give context and limitation. The scope of activities *incident to the farm* is properly limited by the nature and scope of the surrounding terms. “The interpretative canon of *noscitur a sociis* instructs that ‘associated words explain and limit each other’ and an ambiguous or vague term ‘may be made clear and specific by considering the company in which it is found, and the meaning of the terms which are associated with it.’”³⁷

G.S. 160D-903 does use the phrase “bona fide farm purposes include the production and activities relating or incidental to”, but it then continues to list specific agricultural activities that must be related to or incidental to “the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1.”

G.S. 106-581.1(6) lists a set of value-add activities: “marketing and selling of agricultural products, agritourism, biofuel production for commercial sale, 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 a farm.” And then the statute follows that list with “and similar activities incident to the operation of a farm.” When interpreting that last phrase, it is properly considered and limited by the nature and scope of the activities listed before.

In *County of Durham v. Roberts* a court determined that grading, excavation, and removal of clay and soil was incidental to the agricultural activity of raising horses. While the county viewed the activities as resource extraction, the court ruled that pasture improvements were incidental to the operation even if the by-products were sold for nonagricultural purposes and even if such activity is not “necessary and customary” for farming.³⁸

Residence for the Farm Owner or Operator

G.S. 160D-903(a) includes a specific provision related to housing for the owner or operator of the farm. “Activities incident to the farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or

34. 196 N.C. App. 68, 674 S.E.2d 436 (2009).

35. [S.L. 2023-63](#) (S.B. 582).

36. G.S. 106-581.1(6).

37. *Jeffries v. County of Harnett*, 259 N.C. App. 473, 493, 817 S.E.2d 36, 50 (2018) (quoting *City of Winston v. Beeson*, 135 N.C. 271, 47 S.E. 457 (1904)).

38. 145 N.C. App. 665, 671, 551 S.E.2d 494, 498 (2001) (quoting [G.S. 153A-340\(b\)\(2\)](#), *repealed by* S.L. 2019-111).

operator of the farm and other buildings or structures sheltering or supporting the farm use and operation.” This provision includes key criteria for the housing to be “incident to the farm” and thus exempt from zoning. To be exempt, the housing must be

- a residence constructed to the applicable residential building code;
- situated on the farm; and
- occupied by the owner, lessee, or operator of the farm.

If a residence meets each of these criteria, then it is exempt from zoning, but it is not exempt from everything; the building code still applies, the land-subdivision ordinance may apply, and other development regulations may apply. Notably a change in the occupancy may mean that the home is no longer exempt from zoning. At the time of construction and building permits, it would be prudent for the local government to communicate to the owner the risk of future enforcement if the home is occupied by someone other than the owner, lessee, or operator of the farm.

This provision is limited to housing for the owner or operator, which is defined by state law as “incident to the farm.” This is not an unlimited allowance for housing. It is unclear how manufactured homes fit under this provision. A qualifying residence must be “constructed to the applicable residential building code.”

Other residential situations may arise in the context of bona fide farm properties. Migrant housing and large-lot residential development are each discussed separately below. Overnight lodging is discussed under Agritourism.

Agritourism

Agritourism is part of the definition of agriculture at [G.S. 106-581.1](#), so agritourism is a bona fide farm purpose and exempt from county and ETJ zoning. The statutes give additional guidance on determining what activities count as agritourism.

Agritourism is

any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.³⁹

In addition to the guidance on what *activities* count as agritourism, state law gives specific provisions about farm documentation for *a building* to qualify as exempt agritourism. The property must be owned by a person with a farm sales-tax exemption or the property must be enrolled in the present-use-value program.⁴⁰ That qualifying property status must be maintained

39. [G.S. 160D-903](#).

40. Note that this documentation is specific to agritourism buildings. This is distinct from the documentation standards for establishing that a property is a farm property.

for three years after the building was classified as a bona fide farm purpose. If the owner fails to maintain qualifying status for three years, the building or structure is subject to the zoning regulations effective on the date the property lost qualifying property status.⁴¹

In *Jeffries v. County of Harnett*⁴² the North Carolina Court of Appeals offered guidance in determining whether an activity is agritourism under the statutory definition. The court found commonality across the listed terms and activities in the definition.

- Agritourism activities “allow members of the non-rural public to view or enjoy traditional rural activities or attractions relating to agriculture that typically occur in a rural setting.”⁴³
- Agritourism activities “are ‘natural,’ in that their performance preserves the land and does not require its alteration other than by public consumption of natural items on the land.”⁴⁴
- Agritourism buildings or structures are those used for activities “purposefully performed on a farm for the aesthetic value of the farm or its rural setting.”⁴⁵
- Agritourism activities share inherent risks of agricultural activities: “Those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations.”⁴⁶

In *Jeffries*, the court ruled that

commercial shooting activities involving the operation of continental shooting towers, 3D archery courses and ranges, sporting clay, skeet and trap ranges, rifle ranges, and pistol pits, even when performed on a bona fide farm, and even when done in preparation for the hunt, were not contemplated by our legislature as types of “agritourism” activities intended to be shielded from countywide zoning under the statutory farm exemption.⁴⁷

The court determined that while an outdoor shooting range may require space that only a rural setting can provide, shooting is not purposefully performed on a farm for the aesthetic value of the farm or its rural setting, construction of shooting towers was an alteration of the natural setting not contemplated in the statute, and the inherent risks of commercial shooting activities were greater than the inherent risks of agritourism. Therefore, the court held that the shooting activities were not agritourism and were subject to county zoning.⁴⁸

41. [G.S. 160D-903](#).

42. 259 N.C. App. 473, 817 S.E.2d 36 (2018).

43. *Id.* at 494, 817 S.E.2d at 50.

44. *Id.*, 817 S.E.2d at 50.

45. *Id.*, 817 S.E.2d at 50.

46. *Id.* at 495, 817 S.E.2d at 51 (citing [G.S. 99E-30\(3\)](#)).

47. *Id.* at 496, 817 S.E.2d at 51.

48. *Id.* at 495–96, 817 S.E.2d at 51.

The court allowed that “traditional hunting may constitute agritourism.” Subsequent to the case, the General Assembly amended the statutory definition of “agritourism” to include “hunting.”⁴⁹ Note that an early version of the legislation would have included sport shooting ranges as exempt agritourism, but that was not included in the final bill.

What about overnight lodging? Can that be exempt as agritourism? The answer is not clear. On the one hand, a commercial hotel that happens to be located on a farm is not a bona fide farm purpose. It is a commercial activity subject to zoning. But the broad definition of “agritourism” may be broad enough to include an overnight stay in a farm cabin. In the case of wedding venues, arguably lodging that is specifically intended for a wedding venue would be incidental to the wedding venue, not necessarily incidental to the farm (and so arguably not exempt). As is the case with all of these bona fide farm scenarios, the determination will be fact-specific and case-by-case.

Nonfarm Activities

[G.S. 160D-903](#) provides a broad exemption from zoning for the bona fide farm purposes discussed above, but that is not a blanket exemption. As stated in the law, “this section does not limit zoning regulation with respect to the use of farm property for nonfarm purposes.” An activity is not exempt merely because it occurs on a farm. A simple roadside farmstand may be exempt as incidental to the farm, but a full-scale grocery store is not a bona fide farm purpose. A small-scale butchering operation likely is permissible as a value-add activity, but an industrial-scale meat processor would not be exempt from zoning merely because it sits on a farm.

As discussed before, there are two key questions to determine a bona fide farm exemption from zoning: Is the property a farm? *And* is the activity a bona fide farm purpose? An activity may occur on a farm but that does not mean that it is a bona fide farm purpose.

Building Code Exemptions

The prior discussion focused on the bona fide farm exemption from *zoning*. Separate from that topic is the topic of the farm-building exemption from *the building code*. The North Carolina State Building Code regulates the construction, installation, alteration, or repair of “every type of building or structure, wherever it might be situated in the State,” except for limited circumstances and exceptions.⁵⁰ Certain farm buildings in certain scenarios enjoy an exemption from the State Building Code.⁵¹ This section explores the building code exemptions for farm buildings.

“Building Rules”

“Building rules” do not apply to certain farm buildings. That phrasing of “building rules” requires some interpretation and application.

A 2016 appeal of a stop work order to the Department of Insurance concerned whether an event building on a farm required building permits. The appeal decision noted that under the law at the time, building rules did not apply to farm buildings, and the event building qualified

49. [S.L. 2020-18](#) (S.B. 315), § 5.

50. [G.S. 143-138\(b3\)](#).

51. *Id.* § 138(b4).

as a farm building. Notably the decision stated that “[G.S. 143-138](#) extends only [to] the ‘building rules’, but does not extend to overall safety of the occupancy. Imminent life safety hazards can be identified and cited in accordance with G.S. 153A-365 [now 160D-1118] due to the public nature of the venue.”⁵²

In 2019 the Department of Insurance provided a guidance paper on wedding venues and farm buildings, based on an advisory letter from the Special Deputy Attorney General. That guidance paper advised that an event venue on a farm is agritourism and so it is exempt from the building code, but it is still subject to the electrical code. In particular, the advisory letter pointed to [G.S. 143-143.2](#) for the applicability of electrical-code requirements for farm buildings.⁵³

Drawing from the statute and those guidance decisions, a nonresidential farm building is exempt from core building code requirements (“building rules”), but electrical-code requirements still apply.

The fire code itself specifies that farm buildings are exempt from the fire code *unless* the farm building is used for sleeping purposes or the farm building is used to store hazardous materials in excess of certain limits (within municipal jurisdiction). In either of those situations, the fire code does apply.⁵⁴ That said, many provisions of the fire code apply to farm-related or agriculture-adjacent activities. Chapter 28 of the fire code, for example, outlines requirements for lumber yards and for agro-industrial, solid-biomass, and woodworking facilities.

“Farm Buildings”

Building rules do not apply to certain farm buildings, including (1) nonresidential farm buildings in the county jurisdiction (outside of municipality and ETJ), (2) greenhouses and therapeutic equine facilities within municipal jurisdiction (including ETJ), (3) primitive camps, and (4) primitive farm buildings.⁵⁵ State law provides specific definitions of such farm buildings. Each is discussed in more detail below.

Nonresidential Farm Buildings in County Jurisdiction

Building rules do not apply to a farm building in county jurisdiction. “Farm building” is defined as any nonresidential building used for bona fide farm purposes as defined at [G.S. 160D-903\(a\)](#), as discussed in the sections above on defining bona fide farms and bona fide farm purposes.⁵⁶

Hosting events does not negate “farm building” status.

A “farm building” shall not lose its status as a farm building because it is used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.⁵⁷

52. [Appeal of August 2, 2016 Stop Work Order Issued by Surry County](#), at 3 (N.C. Dep’t of Ins. Aug. 16, 2016), <https://www.ncosfm.gov/appeals/160816-jonczak-ncdoi-decision-farm-building/open>.

53. ENG’G DIV., OFF. OF STATE FIRE MARSHAL, [GUIDANCE PAPER: WEDDING VENUES AND FARM BUILDINGS](#) (Mar. 5, 2019), <https://www.ncosfm.gov/guidance-papers/gs-143-138-wedding-venues-and-farm-buildings/open>.

54. *N.C. State Building Code: Fire Prevention Code* § 102.13 (2018); *N.C. STATE BUILDING CODE: FIRE PREVENTION CODE* § 102.13 (2024). The 2024 fire code extends the exemption to any “[f]arm structures exempt by [N.C.G.S. 143-138\(b4\)](#).” *Id.* § 102.13(7).

55. G.S. 143-138.

56. *Id.* § 138(b4)(1).

57. *Id.* § 138(b4)(1a).

Particular farm structures and activities have particular provisions. The following are exempt as farm buildings with specified conditions:

- “[a]ny structure used or associated with equine activities” (but state law allows an “annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building”);⁵⁸
- any certified roadside farm markets that are used to display and sell produce, are less than 1,000 square feet, are open no more than 180 days, and are certified by the Department of Agriculture and Consumer Services;⁵⁹
- any unoccupied structure on state-owned land that is used for forestry or agricultural production and research by the Department of Agriculture and Consumer Services or by North Carolina State University;⁶⁰ and
- any building used primarily for storage of agriculture commodities, products, or materials, provided there are at least 60 feet of public ways and yards surrounding the building and provided that the owner posts a 24-inch-by-24-inch red-and-white reflective placard stating “Ag. Exempt” in 12-inch letters.⁶¹

Accessory Farm Buildings Within Municipal Jurisdiction

Except as specified below, farm buildings subject to municipal jurisdiction are subject to the State Building Code. Notably, though, a municipality may choose for accessory buildings of bona fide farms to have the same building code exemption as under county jurisdiction.⁶²

Greenhouses and Therapeutic Equine Facilities Within Municipal Jurisdiction

Building rules do not apply to greenhouses and therapeutic equine facilities within municipal jurisdiction for building rules.

“Greenhouse” is defined as

a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales.

The statute allows that “[a]dditional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.”⁶³

A “therapeutic equine facility” is defined as “an equine facility . . . operated by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code that provides therapeutic equine-related activities for persons who are physically, intellectually, or emotionally challenged.”⁶⁴

58. [Id. § 138\(b4\)\(1\)a.](#)

59. [Id. § 138\(b4\)\(1\)b.](#)

60. [Id. § 138\(b4\)\(1\)c.](#)

61. [Id. § 138\(b4\)\(1\)d.](#)

62. [G.S. 160D-903\(d\).](#)

63. [G.S. 143-138\(b4\)\(2\).](#)

64. [Id. § 138\(b4\)\(2a\).](#)

Primitive Camps and Primitive Farm Buildings

Primitive camps and primitive farm buildings are exempt from building rules, whether they are in county or municipal jurisdiction.

“[P]rimitive camp” is defined to include any structure—not greater than 4,000 square feet and not intended to be occupied for more than twenty-four hours consecutively—“primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training.” These include shelters, cabins, tents, and other structures.⁶⁵

“[P]rimitive farm building” is defined to be “any structure used for activities, instruction, training, or reenactment of traditional or heritage farming practices.” These include sheds, barns, outhouses, and other structures.⁶⁶

Migrant Housing

Migrant housing is exempt from fire-code requirements for automatic sprinkler systems if the housing has one floor and meets certain state and federal requirements for migrant housing.⁶⁷

Related Local Regulations and Agricultural Protections

Beyond the zoning and building code exemptions, there are a range of provisions that protect farm activities from local regulations. This section outlines some of those protections.

Nuisance Codes

Counties and municipalities are authorized to adopt and enforce nuisance codes—local ordinances defining and regulating unsafe situations on property.⁶⁸ Local governments also have authority to address public health nuisances on private property.⁶⁹ That authority, though, is limited when it comes to farm and forestry activities. A local government may not adopt or enforce an ordinance that would declare or abate as a nuisance “the operation of any such agricultural or forestry operation or its appurtenances.”⁷⁰ The statute, though, allows enforcement within municipal corporate limits when a nuisance results from an agricultural or forestry operation.

Nuisance ordinances may still be enforced against nonfarm activities. Indeed, the county statute for abatement of public health nuisances specifically provides that “any use of farm property for nonfarm purposes is subject to this section.”⁷¹

65. [Id. § 138\(b4\)\(4\)](#).

66. [Id. § 138\(b4\)\(5\)](#).

67. [Id. § 138\(b13\)](#).

68. [G.S. 160A-174, 153A-121](#).

69. [G.S. 160A-193, 153A-140](#).

70. [G.S. 106-701\(d\)](#).

71. [G.S. 153A-140](#).

Annexation

Municipalities have limited authority to annex property on their own initiative into the municipal limits, as outlined in [G.S. 160A, Article 4A, Part 7](#). Bona fide farms enjoy some extra protection from city-initiated annexation: “Property that is being used for bona fide farm purposes on the date of the resolution of intent to consider annexation may not be annexed without the written consent of the owner or owners of the property.”⁷²

Public Hearings for Rezoning and Condemnation

The state law concerning standard and enhanced voluntary agriculture districts requires extra procedures for condemnation and rezoning of farmland. Pursuant to [G.S. 106-740](#), a local government or state agency may not “formally initiate any action to condemn any interest in qualifying farmland, or rezone such land” in a voluntary agricultural district until the agency has requested the local agricultural advisory board to hold a public hearing on the condemnation or rezonings. Following that request the advisory board must, within forty-five days of receiving the request,

- hold a public hearing on the condemnation or rezoning and
- prepare and submit written findings and a recommendation.

The agency cannot formally initiate the condemnation or rezoning action “until 120 days after the date the local agricultural advisory board submits its findings and recommendations to the agency.”

Farm Signs

[G.S. 136-129](#) regulates outdoor advertising signs along interstates and primary highways. Farm signs are listed among the exceptions from the regulation. The statute exempts advertising to promote a bona fide farm that is exempt from county zoning regulation. The sign can be no more than three feet long on any side and must be on farm property that is owned or leased by the owner or lessee of the bona fide farm.

Catering on a Farm

Local governments may not require a permit for the provision of catering services within the county or city when the services are offered by a catering business located on a bona fide farm.⁷³ This provision seems intended to address licensing and similar business permits rather than development approvals under G.S. 160D.

Forestry

A local government—municipality or county—may not regulate forestry activities. In particular, [G.S. 160D-921](#) specifies that local governments cannot regulate the following:

- (1) Forestry activity on forestland that is taxed on the basis of its present-use value as forestland under [Article 12 of Chapter 105 of the General Statutes](#).

72. [G.S. 160A-58.54\(c\)](#).

73. [G.S. 153A-145.8](#), [160A-203.2](#).

- (2) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the General Statutes.

“Forestry activity” is defined to be “[a]ny activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.” These provisions address onsite timber management and harvesting. Such activity is distinguished from equipment yards for commercial logging operations or industrial sawmills and pulp mills. Those are off-site commercial operations related to but distinct from the on-site forestry activity.

Notably, a local government may still regulate development, “including timber harvesting, that is associated with the conversion of forestland to nonforest use.”

Beekeeping

Counties must allow a person or entity to have at least five beehives. A municipality may adopt regulations for beehives within the municipal corporate limits but those regulations must meet certain standards: They must allow up to five hives on a parcel, the hives must be at ground level or securely anchored, the regulations may specify location and setbacks, and the regulations may require removal when necessary.⁷⁴

Exemption for Ten-Acre Subdivisions

Divisions of land resulting in lots greater than ten acres are not considered “subdivisions” subject to the local subdivision ordinance.⁷⁵

Large-Lot Residential in County Jurisdiction

County zoning must allow for single-family detached residential uses when certain criteria are met: The lot is greater than ten acres, the residence meets the State Building Code, and more than 50 percent of the land in the applicable zoning district is used for agriculture or silviculture purposes (there is no additional guidance on how exactly to calculate this land use percentage). This provision does not apply to commercial or industrial districts.⁷⁶

Additionally, a zoning regulation must not require any lot that is larger than ten acres to “have frontage on a public road or county-approved private road or be served by public water or sewer lines in order to be developed for single-family residential purposes.”⁷⁷

Environmental Health

Bona fide farms are not exempt from local environmental-health requirements. Standards and permits for well and septic systems still apply.

74. [G.S. 106-645](#).

75. [G.S. 160D-802\(2\)](#).

76. [Id. § 903\(b\)](#).

77. *Id.*

Floodplain Regulations

Floodplain regulations apply to farms despite the bona fide farm exemption from zoning. While floodplain regulations are closely related to zoning (and are sometimes incorporated into the zoning ordinance), floodplain regulations are separately authorized and part of a regulatory scheme overseen by the federal and state governments.

North Carolina local governments are authorized to adopt floodplain regulations in Part 6, Floodway Regulation, of the state law on Water and Air Resources.⁷⁸ Because floodplain regulations are development regulations (similar to zoning), the local government follows the procedural and enforcement provisions of Chapter 160D as long as those do not conflict with Chapter 143.⁷⁹ The federal government oversees the National Flood Insurance Program, which is a voluntary program. When a community elects to participate, a local government must adopt floodplain regulations that meet or exceed the federal minimum standards in order for local residents and businesses to have access to federal flood insurance and in order for the community to access some disaster assistance.

The distinction between zoning and floodplain regulation—and the applicability of floodplain regulations to bona fide farms—is reinforced by statutory clarification that farms in the municipal ETJ are subject to county floodplain regulations: “For purposes of complying with State or federal law, property that is exempt from municipal zoning pursuant to this subsection is subject to the county’s floodplain regulation or all floodplain regulation provisions of the county’s unified development ordinance.”⁸⁰

Many farm activities are permitted in the floodplain, including “farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.”⁸¹ But structures, including farm structures, are subject to the local regulatory limitations on development in the floodplain.

Erosion and Sedimentation Control

Local governments regulate erosion and sedimentation control for certain activities, but farm activities are excluded. The following are not considered land-disturbing activities subject to erosion and sedimentation control permits.⁸²

- (1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
 - b. Dairy animals and dairy products.
 - c. Poultry and poultry products.
 - d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats. This includes the rearing, feeding, training, caring, boarding, and managing of horses.

78. [G.S. 143-215.51 to .61](#).

79. [G.S. 160D-923](#).

80. [Id. § 903\(c\)](#).

81. [G.S. 143-215.54\(b\)](#).

82. [G.S. 113A-52.01](#).

- e. Bees and apiary products.
 - f. Fur producing animals.
 - g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, “mulch” means substances composed primarily of plant remains or mixtures of such substances.
- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, as adopted by the Department of Agriculture and Consumer Services.⁸³

Note that this list of farm activities is more limited than the broad definitions of “agriculture” and “bona fide farm purposes” used for zoning and building rules. The General Assembly could have used those broad definitions here, but did not. Therefore, it appears that some activities (agritourism, for example) that are exempt from zoning are not exempt from erosion and sedimentation control.

Other Local Environmental Requirements

A variety of environmental regulations may apply to agricultural activities. Stream and wetland impacts may require permits from the Army Corps of Engineers, operators of large-scale feedlots must obtain state permits and meet standards for their animal-waste-management systems,⁸⁴ and so on. This section does not pretend to cover any and all environmental approvals that a farmer may need to obtain. But there are some particular local environmental regulations to highlight.

Local and state rules for water-supply watersheds are still applicable to agriculture and silviculture pursuant to [G.S. 143-214.5](#).

State and federal rules do not require an NPDES (National Pollutant Discharge Elimination System) permit for stormwater management for certain nonpoint-source agricultural and silvicultural activities.⁸⁵

Local governments are obligated to adhere to permit conditions of their Clean Water Act section 404 permits. And riparian buffers required by permits are not waived for bona fide farms.⁸⁶

Local governments may not charge stormwater utility fees on any property used for bona fide farm purposes. Notably, this applies in county and municipal jurisdictions, including within municipal corporate limits.⁸⁷

83. [Id. § 52.01\(1\)–\(2\)](#).

84. [G.S. 143-215, art. 21, pt. 1A](#).

85. Title 15A, Chapter 02H, Section .0153 of the North Carolina Administrative Code.

86. *Arstark v. Cabarrus County*, 297 N.C. App. 579, 909 S.E.2d 925 (2024) (unpublished).

87. [G.S. 153A-277, 160A-314](#).

Conclusion

North Carolina farms enjoy certain exemptions from development regulation. Land use zoning does not apply to bona fide farm activities in county jurisdiction and in municipal ETJ. The State Building Code does not apply to some farm buildings, although the electrical code may still apply. Specific protections for forestry, beekeeping, and farm signs also apply.

With this web of regulations and exemptions, it is necessary to carefully consider the details of each situation:

- What regulation is in question?
- What is the applicable jurisdiction?
- Is the property a bona fide farm property?
- Is the activity a bona fide farm purpose?
- Is the building a farm building? And is it residential?
- Does the activity or building fall under another special protection?

Appendix

As explored in the bulletin, the rules related to bona fide farms are complex and the determinations are case-by-case and fact-specific. Because of that, local governments need to educate the public about the web of regulations and obtain clear information for particular projects and properties. This appendix includes examples of public information and applications related to bona fide farms.

Orange County Bona Fide Farms Guide



What is a Bona Fide Farm?

Bona Fide Farm is a legal term for official farms recognized by State law. Bona fide farms are eligible for relief from taxes, zoning requirements, and some development regulations. Bona fide farm status may also qualify the farmer for federal, state, and local technical assistance, special programs, and financial aid. The UNC School of Government puts it this way: *“The basic idea of the farm exemption is simple: The county government ought not be telling the farmer when to plow her field, where to build her barn, or how many cattle to graze in the pasture.”*



North Carolina General Statute

Criteria

The following is sufficient to determine if a property is used for bona fide farm purposes:

- a. NC Department of Revenue farm sales tax exemption certificate.
- b. A copy of the property tax listing showing that the property is eligible for participation in the Present Use Value program pursuant to NCGS 105-277.3. Farms and property that qualify as bona fide farms do not automatically qualify for the Present Use Value Program, which is administered by the Orange County Tax Administration. In order to qualify and enroll in this program, the property must meet the criteria established in NCGS 105-277.3.
- c. A copy of the IRS Schedule F from the farm owner’s or operator’s most recent federal income tax return.
- d. Approved forest management plan.

As defined in NCGS 106-581.1, bona fide farm uses include:

1. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers, and ornamental plants
2. The planting and production of trees and timber including croplands and timberlands.
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. Examples include livestock (not including household animals such as cats and/or dogs) horse farm (including training and breeding), and beekeeping.
4. Aquaculture as defined in NCGS 106-758;
5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation. This may include barns, storage buildings, and greenhouses.
6. 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. This may include farm tours, corn mazes, product stands, or pick-your-own produce.

Bona Fide Farm Exemption Form

Property owners may complete voluntary exemption forms for a bona fide farm.

1. Complete a Bona Fide Farm Exemption form. Forms are available at the following link: www.orangecountync.gov/BonaFide
2. Submit completed form and other materials to the Orange County Planning Department (www.orangecountync.gov/Planning).
3. Contact Building Inspections (www.orangecountync.gov/Inspections) to determine if a building permit is required.
4. Contact Erosion Control (www.orangecountync.gov/Erosion) to determine if a land disturbance permit is required.
5. Contact Environmental Health (www.orangecountync.gov/EH) to determine if a permit is required. Note, there are no Environmental Health exemptions for bona fide farms.



Present Use Value Program (PUV)

Topic	Dept/Division	Contact
Tax Status e.g. County Present Use Value (PUV), Farm Status, Farm Use Value Taxation	Tax Administration	919-245-2108 tax@orangecountync.gov www.orangecountync.gov/Tax

Zoning and Housing

Zoning regulations do not apply to property used for bona fide farm purposes, as defined by North Carolina General Statutes, except as follows:

- Any non-farm use of farm property
- Compliance with all regulations required by the Federal Emergency Management Agency (FEMA) through the National Flood Insurance Program and
- Compliance with the Orange County flood damage prevention regulation.

Based on NCGS 160D-903(a), housing incidental to the farm **may** be exempt from zoning. **However, the state building code, subdivision standards, and other development regulations still apply.** To qualify as exempt, housing must be:

- A residence constructed to the applicable residential building code;
- Situated on the farm; and
- Occupied by the owner, lessee, or operator of the farm.



Orange County Bona Fide Farms Guide continued



If these criteria are met, the house may be exempt from zoning. A future change in occupancy or ownership may mean the home is no longer exempt from zoning and would be subject to zoning regulations. This may result in a violation of development regulations subject to enforcement action.

Topic	Dept/Division	Contact
Planning and Zoning e.g. house, barn, shed	Planning Department	919-245-2575 planningapps@orangecountync.gov www.orangecountync.gov/Planning

Addressing

Per the Addressing Ordinance, all habitable structures are required to have an E911 address. Addressing of any structures used for bona fide farming purpose shall follow the Road Naming and Addressing Ordinance (www.orangecountync.gov/RoadNaming).

Topic	Dept/Division	Contact
Addressing	Tax Administration	919-245-2576 addressing@orangecountync.gov www.orangecountync.gov/RoadNaming

Environmental Health

Bona Fide Farm status does not exempt property owners from public health laws and regulations. Public Health Statute 130A7 regulates wells, septic systems, and food service permits. NCGS 143-215.18 includes an exception whereby a permit is not required for wastewater produced by activities related to processing of agricultural products. There are several conditions that apply to this exemption.

Can we use a composting toilet?

Yes, composting toilets may be used so long as there is no water carried waste, including from the washing of hands, generated. All water carried waste must be treated using an approved ground absorption wastewater system.

Topic	Dept/Division	Contact
Well and Septic	Environmental Health	919-245-2360 ehapplications@orangecountync.gov www.orangecountync.gov/EH

Land Disturbance Permits (LDP)

Depending on the type of land disturbance, the Erosion Control and Stormwater Management Division (www.orangecountync.gov/Erosion) may regulate the activity.

The land disturbance must be conducted on agricultural land and the disturbance must be undertaken for the production of plants and animals useful to man. If the disturbance is not solely agricultural, the project shall be regulated. Both criteria must apply to claim agricultural exemption.

Topic	Dept/Division	Contact
Land Disturbance Permits e.g. grading, Stormwater Management Plans	Erosion Control and Stormwater Management	919-245-2575 erosioncontrol@orangecountync.gov www.orangecountync.gov/Erosion

North Carolina Building Code

The North Carolina Building Code may exempt agricultural buildings from standards for construction, but any electrical work will require the issuance of an electrical permit. Additional permits may be required from the Fire Marshal (www.orangecountync.gov/FireMarshal) depending on the project. This information may be provided to the customer during the application process.

Topic	Dept/Division	Contact
Building Permits e.g. house, barn, shed	Building Inspections	919-245-2601 mrettie@orangecountync.gov www.orangecountync.gov/Inspections

Additional Contact Information

Topic	Dept/Division	Contact
Emergency Services, Fire Code	Emergency Management Services	919-245-6100 www.orangecountync.gov/EMS
Conservation Easements	Department of Environment, Agriculture, Parks, and Recreation	919-245-2514 www.orangecountync.gov/DEAPR
Voluntary Agricultural District	Soil and Water Conservation District	919-245-2750 www.orangecountync.gov/VAD
Agriculture Grants	Economic Development	919-245-2325 www.orangecountync.gov/VAD



Orange County Bona Fide Farm Exemption Affidavit



Orange County Planning & Inspections Department
 131 W. Margaret Lane, Suite 200, Hillsborough, NC 27278
 919-245-2575 or planningapps@orangecountync.gov

Bona Fide Farm Exemption Affidavit

Please check all applicable boxes and complete the required documentation.
 If completing by hand, please use black or blue ink.

STATE OF NORTH CAROLINA
 ORANGE COUNTY

BONA FIDE FARM EXEMPTION AFFIDAVIT
PURSUANT TO N.C.G.S. 106-581.1 and
160D-903

Date: _____

Contact Information

Property Owner(s): _____
 Mailing Address: _____
 Phone: _____ Email: _____

Property Information

Property Address: _____
 Parcel ID Number (PIN): _____ (For multiple parcel(s) please provide separate affidavits)

Certification and Signatures

For Zoning purposes, I hereby certify and claim:

1. The property is used for farm purposes consistent with N.C.G.S. 106-581.1, including (check all that apply):
 - a. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
 - b. The planting and production of trees and timber.
 - c. 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.
 - d. Aquaculture as defined in N.C.G.S. 106-758.
 - e. 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.
 - f. 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.

2. In accordance with N.C.G.S. 160D-903 (a) I hereby submit the following sufficient evidence that the property is being used for bona fide farm purposes (check all that apply):
 - a. A Farm Sales Tax Exemption Certificate Issued by the Department of Revenue; or

Orange County Bona Fide Farm Exemption Affidavit continued

- b. Property tax listing showing that the property is enrolled/eligible for participation in the present use value program pursuant to N.C.G.S. 105-277.3; or
- c. Copies of Schedule F from the most recent federal income tax return; or
- d. A forest management plan.

I understand that nonfarm uses are not exempt and that I am subject to future enforcement for any nonfarm use, including land-clearing activity that does not comply with applicable provisions of the Orange County Unified Development Ordinance (UDO) or State Building Code.

For all residential construction on bona fide farm property, no NC Building Code exemptions apply. All construction permits are required, to include any accessory building and structures for the residential occupancy.

Signature

Signature

Seal

Seal

NORTH CAROLINA
 _____ COUNTY

I, a Notary Public of said State and County, do hereby certify that
 _____ personally appeared before me this day and acknowledged
 the due execution of the foregoing Affidavit.

Witness my hand and notarial seal, this _____ day of _____, 20_____.

 Notary Public

My Commission Expires: _____

Sampson County Bona Fide Farm Exemption Application

405 County Complex Rd.
 Clinton NC 28328
 Inspection: 910-592-0146
 Planning: 910-631-1039
 Fax: 910-596-0773



Hours of Operation:
 Mon-Thurs. 7AM-5:30PM

Sampson County Inspection and Planning Department

Submit Form

BONA FIDE FARM EXEMPTION

Please read the following farm criteria below and initial all that applies:

- For BONA FIDE FARM ACTIVITY:** I certify that this property is a bona fide farm per G.S. 153A-340 and has one of the qualifying documents below submitted with this application.
 - A copy of farm sales tax exemption certificate issued by the Department of Revenue.
 - A copy of the property tax listing showing that the farm qualifies for the present use-value property taxation program pursuant to G.S. 105-277.3
 - A copy of the farm operator's Schedule F from the operator's most recent federal income tax return
 - A copy of your forestry management plan

Proposed Use:

- For FARM DWELLING:** I certify that this dwelling is to be occupied by persons that will farm the land noted above as the project address.
- For FARM STRUCTURE:** I certify that this structure is necessarily incidental to such agricultural production such as housing of livestock and the packing, treating and/or storing of products/equipment.

APPLICANT INFORMATION

Name: _____
 Address: _____
 Phone: _____
 Email: _____

Sampson County Bona Fide Farm Exemption Application continued

PROPERTY OWNER INFORMATION

Name: _____

Address: _____

Phone: _____

Email: _____

SUBJECT PROPERTY INFORMATION

Address: _____

Parcel #: _____ Deed book & page #: _____

Zoning District: _____

What are the proposed uses of the building(s)/structure(s)?

What are the dimensions of the building(s)/structure(s)?

Will the building(s)/structure(s) be storing anything other than agricultural equipment, animals, or animal feed?

NO YES

If yes, what else will be stored in the building/structure?

Sampson County Bona Fide Farm Exemption Application continued

A TRADE PERMIT WILL BE REQUIRED IF THERE IS ANY PROPOSED ELECTRICAL, PLUMBING OR MECHANICAL WORK.

Please read the following statements and sign:

I understand that any land, buildings, or structures containing non-agricultural uses are subject to the provisions of the Sampson County Zoning Ordinance. If the farm use as stated above is discontinued at any point in the future, then the subject property will have to be brought into compliance with all applicable regulations (e.g. – setbacks, building code, up to and including possible removal of any buildings that were previously determined to have been farm exempt. I certify that I have read **Section 107 Bona Fide Farms** of the Sampson County Zoning Ordinance and to the best of my knowledge and belief all information supplied in and with this application is true and accurate.


Applicant Signature: _____


Date: _____

Property Owner Signature: _____






Date: _____

Union County Farm Affidavit Process

UC Alerts Careers Water Bill Tax Bill Service Finder

I want to... Department Resources UC Atlas 

Learn about Agricultural Exemptions

 Print  Feedback  Share & Bookmark Font Size:  

Union County Farm Affidavit Process

The North Carolina General Statutes provide exemptions for certain types of uses and buildings if they qualify as a bona fide farm. These exemptions apply to the provisions of the Union County Development Ordinance and the NC Building Code.

Regardless of bona fide farm status and associated exemptions, a property is subject to all applicable North Carolina Public Health Laws and Rules as found in the North Carolina General Statutes and North Carolina Administrative Code.

The Union County Planning Department in conjunction with Building Code Enforcement and Environmental Health created a process to review farm exemption requests:

- Step 1:** Customer stops in at one of the aforementioned departments to discuss their plans.
- Step 2:** If staff or the applicant thinks that their project may be exempt from certain rules because they are a farm, then the applicant is given the [Farm Use/Structure Affidavit](#).
- Step 3:** Applicant completes all three sections of the affidavit and provides any required documentation. A site plan showing all existing and proposed structures along with the locations of existing septic systems and wells must be submitted.

Incomplete submittals will not be processed. Please use the [Plot Plan for Farm/Structure Use](#) for this step.

- Step 4:** Applicant brings in or uploads the form and supplemental documents to the online permitting/project review system (Evolve).
- Step 5:** The review is sent to Planning, Environmental Health and Building Code to review. The reviews are done simultaneously.

Union County Farm Affidavit Process continued

Step 6: Once all reviews are complete the applicant is emailed a letter explaining whether the affidavit was approved or whether departments had comments, questions or disapproved.

Step 7: If any of the departments had comments or questions a resubmittal will be required to address the comments or questions.

Step 8: Multiple scenarios could happen when the affidavit review is complete. Please review below.

Scenario Examples:

Scenario 1 – All departments approve the affidavit -

Outcome:

The applicant may proceed with their proposed use without having to obtain permits from Planning or Building Code Enforcement. Environmental Health may have procedures or recommendations that are outlined in their comments.

Scenario 2 – Building Code Enforcement and Environmental Health approve but Planning turns down

Outcome:

The applicant does not need a building permit for the proposed use but will require zoning approval. Environmental Health may have procedures or recommendations that are outlined in their comments.

Scenario 3 – Planning and Environmental Health approve but Building Code Enforcement turns down

Outcome:

The applicant does not need planning approval for the proposed use but will require a building permit. Environmental Health may have procedures or recommendations that are outlined in their comments.

Scenario 4 – Building Code Enforcement and Planning turns down and Environmental Health approves -

Outcome:

The applicant is not exempt from any aspects of the Development Ordinance or the Building Code and must obtain applicable permits.

Union County Farm Affidavit Process continued

Scenario 5 - Building Code Enforcement and/or Planning approve. Environmental Health - does not approve

Outcome:

The property, regardless of bona fide farm status and associated exemptions, is subject to all applicable North Carolina Public Health Laws and Rules as found in the North Carolina General Statutes and North Carolina Administrative Code. Applicant must obtain approvals or permits as required by law.

Comments will be provided by Environmental Health during review process. Please contact them [here](#) for assistance.



UNION COUNTY
plant your future.

FIND US

500 North Main Street
Monroe, NC 28112

CONTACT US

704-283-3500
[Send a Message](#)

KEEP IN TOUCH







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Source: [Learn About Agricultural Exemptions](https://www.unioncountync.gov/business/development-services/i-want-to/learn-about-agricultural-exemptions), UNION COUNTY, NC, <https://www.unioncountync.gov/business/development-services/i-want-to/learn-about-agricultural-exemptions> [<https://perma.cc/6NZ9-RY59>] (last visited Apr. 21, 2026).

Union County Farm Structure/Use Affidavit



UNION COUNTY, NORTH CAROLINA FARM STRUCTURE/USE AFFIDAVIT

Property Address: _____

Parcel Number: _____

PART I – NORTH CAROLINA BUILDING CODE

1. The proposed structure/use is a **“Farm Building”** as defined by N.C.G.S. § 143-138 (b4) (definition below)

A "farm building" shall include any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.

A "farm building" shall include any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market.

Per NCGS § 160D-903 a "farm building" includes any structure or building used in the production of and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental or flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS § 106-581.1

NCGS § 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.*
- (2) *The planting and production of trees and timber.*

Union County Farm Structure/Use Affidavit continued

- (3) *Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.*
- (4) *Aquaculture as defined in G.S. 106-758.*
- (5) *The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.*
- (6) *When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.*
- (7) *A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.*

Does the proposed/existing structure meet this definition? YES _____ NO _____

If yes, please give a detailed description of the use of the building (specifically noting whether there is any spectator seating associated with the use)

- _____
2. The proposed structure/use is for “**Agritourism**” as defined in NCGS § 160D-903 (see below)

A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E (a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3. Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide purpose pursuant to this subdivision shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Does the proposed/existing structure meet this definition? YES _____ NO _____

If yes, please give a detailed description of the use _____

Union County Farm Structure/Use Affidavit continued

Please check components of structure/use

Bedroom	<input type="checkbox"/>	Living Area	<input type="checkbox"/>	Animal Housing	<input type="checkbox"/>
Bathroom	<input type="checkbox"/>	Rec Room	<input type="checkbox"/>	Tack Room	<input type="checkbox"/>
Kitchen	<input type="checkbox"/>	Laundry Room	<input type="checkbox"/>	Stalls	<input type="checkbox"/>
Office	<input type="checkbox"/>	Storage Area	<input type="checkbox"/>	Other	<input type="checkbox"/>

Describe other _____

Note: Modifications and/or additions to existing electrical systems and new electrical services and systems require permitting regardless of the use of the structure or building.

Just because the structure/use may qualify for an exemption to the North Carolina Building Code does not necessarily mean that the structure/use will qualify for an exemption of the Union County Zoning regulations.

OFFICE USE ONLY – Union County Building Inspections Departments

Approved _____ Denied _____ Official _____

Signature _____ Date _____

Union County Farm Structure/Use Affidavit continued

PART II – UNION COUNTY ZONING REGULATIONS

1. As provided by NCGS 160D-903, the zoning regulations of this ordinance in no way regulate, restrict, prohibit or otherwise deter or affect property used for bona fide farm purposes, except that:

- A. Farm property used for non-farm purposes must comply with applicable zoning regulation; and*
- B. Bona fide farms and other farm properties must comply with any flood protection regulations required to be imposed by the National Flood Insurance Program.*

2. For purposes of determining whether a property is being used for bona fide farm purposes, any one of the following constitutes 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 NCGS 105-277.3;*
- C. A copy of the farm owner’s or operator’s most recent Schedule F federal income tax return; or*
- D. A forest management plan*

Please note below which document is being provided to meet the definition of a Bona Fide Farm. Also, **please attach a copy of the appropriate documentation.**

Note: For an agribusiness to qualify as a bona fide farm you must have one of the documents listed in items A or B above. Please refer to number 2 under Part 1 – NC Building Code for NC General Statute pertaining to agribusiness.

3. Please provide any additional information/description of the structure/use that may be relevant in determining if it qualifies under a relevant exemption:

OFFICE USE ONLY – Union County Planning Department		
Approved _____	Denied _____	Official _____
Signature _____		Date _____

Union County Farm Structure/Use Affidavit continued

PART III – ENVIRONMENTAL HEALTH REGULATIONS

For purposes of determining whether a property that is being used for bona fide farm purposes requires involvement from the Union County Environmental Health Division, please respond to the following questions and provide a brief description of the intended use of the property:

1. Are there existing septic systems on the property? Y/N
2. Are there existing wells on the property? Y/N
3. Are any new buildings being constructed or additions being added to existing buildings on the property? Y/N
4. Will the structures include bedrooms/living quarters? Y/N
5. Will plumbing be added to existing or new structures? Y/N
6. Will the property be used to operate a business? Y/N
7. If yes, will the property and/or structures be open to the public? Y/N
8. If yes to question 6, what type of business (i.e. wedding/party venue, winery, produce stand, camp, etc.)? _____
9. Will food and or drinks be prepared and/or sold? Y/N

Description of Structure/Use (please attach a site plan):

I, the undersigned, do certify that the information I have provided in PART I, PART II, and PART III of this document is true and accurate. I hereby declare that the property referenced in this affidavit is a bona fide farm and that the proposed structure/use meets the requirements for agricultural and/or farm building exemption from the North Carolina Building Code and/or the Union County Development Ordinance. I acknowledge that any proposed building/structure will not contain any bedroom, or other form of sleeping quarters, and will not be used for storage of residential items.

Union County Farm Structure/Use Affidavit continued

I, the undersigned, acknowledge and understand that the property referenced in this affidavit as a bona fide farm is subject to all applicable North Carolina Public Health Laws and Rules as found in the North Carolina General Statutes and the North Carolina Administrative Code.

I, the undersigned, acknowledge and understand that the property referenced in this affidavit as a bona fide farm is subject to all applicable provisions of the Union County Code.

I, the undersigned, also acknowledge and understand that if any information I have provided is inaccurate by negligence or intent or any structure/use that is found to be inconsistent with the information I have provided will result in corrective action as deemed appropriate by Union County and I as the undersigned property owner assume full responsibility.

Print owner name

Email (Print Clearly)

Official Seal

Signature of owner

Date



Phone number

NOTARY

_____ County, North Carolina

I certify that _____ personally appeared before me this day, each acknowledging to me that he / she signed the forgoing document.

Names of Principal (s): _____

Date: _____

Official Signature of Notary

_____, Notary Public

Notary's Printed Name

My Commission Expires

Union County Plot Plan for Farm Affidavit



Plot Plan for Farm Affidavit

PLOT PLAN FOR FARM STRUCTURE/USE		Permit #:
Street #:	(N,S,E,W) Street Name	(AV, RD, etc.) Suite #/Units
Tax Parcel #:	Job #:	
<p>INSTRUCTIONS:</p> <p>In the space provided, draw plot plan as neatly and accurately as possible or state in box "See Attachment" and attach Survey or Plot Plan to this Application.</p> <p>Separate application and plot plan required for each building.</p> <ol style="list-style-type: none"> 1. Draw street(s) 2. Draw property lines with dimensions. 3. Draw proposed and existing buildings showing any attached porch(es), deck(s), chimney(s), carport(s) or garage(s), etc... 4. Show distances of buildings from property lines, wells, septic systems and/or other structures. 5. Show all water bodies, streams and floodplain. 6. List building heights for Accessory Structures. 	<div style="border: 1px solid black; height: 400px; width: 100%;"></div>	

ALL EXISTING AND PROPOSED BUILDINGS AND EXISTING AND PROPOSED WELLS AND SEPTIC SYSTEMS ON LOT ARE SHOWN WITH MEASUREMENTS INDICATED.

Applicant's signature

Date

PRINT APPLICANT'S NAME