

<b>Topic:</b>	State Land Use law; Agriculture; Historic Preservation; Open Space Preservation; Farmland Protection & Preservation
<b>Resource Type:</b>	Regulations
<b>State:</b>	North Carolina
<b>Jurisdiction Type:</b>	State
<b>Municipality:</b>	N/A
<b>Year (<i>adopted, written, etc.</i>):</b>	2004
<b>Community Type – applicable to:</b>	Urban; Suburban; Rural
<b>Title:</b>	State of North Carolina Agricultural Land Protection Ordinance – Cities
<b>Document Last Updated in Database:</b>	May 7, 2017

### ***Abstract***

Under the Conservation and Historic Preservation Agreements Act, found at Article 4 within Chapter 121, cities have the authority to acquire conservation easements and other interests in property for the purpose of retaining the land for, among other uses, agriculture, horticulture, and farming. § 121-35, § 121-37. (See Conservation Easements, above.) Additionally, North Carolina has a statutorily stated goal of preserving one million acres of farm lands, open space, and conservation lands by 2009. §§ 113A-240, 241. However, the provisions of the Conservation, Farmland, and Open Space Protection and Coordination Act simply set forth the goal and direct the Secretary of the Department of Environment and Natural Resources to “lead the effort” and “coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes.” § 113A-241(b). Thus, the actual effect of the initiative on local governments is not yet clear.

### ***Resource***

#### § 121-35. Definitions

Subject to any additional definitions contained in this Article, or unless the context otherwise requires:

(1) A "conservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all (i) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (ii) dumping or

placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (iii) removal or destruction of trees, shrubs or other vegetation, (iv) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (v) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (vi) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (vii) other acts or uses detrimental to such retention of land or water areas.

(2) "Holder" means any public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision or municipal or public corporation, or any instrumentality of any of the foregoing, any agency, department, or instrumentality of the United States, any nonprofit corporation or trust, or any private corporation or business entity whose purposes include any of those stated in (1) and (3), covering the purposes of preservation and conservation agreements.

(3) A "preservation agreement" means a right, whether or not stated in the form of a restriction, reservation, easement, covenant, condition or otherwise, in any deed, will or other instrument executed by or on behalf of the owner of the land or any improvement thereon, or in any other [order] of taking, appropriate to preservation of a structure or site historically significant for its architecture, archaeology or historical associations, to forbid or limit any or all (i) alteration, (ii) alterations in exterior or interior features of the structure, (iii) changes in appearance or condition of the site, (iv) uses not historically appropriate, or (v) other acts or uses supportive of or detrimental to appropriate preservation of the structure or site.

#### § 121-37. Acquisition and approval of conservation and preservation agreements

Subject to the conditions stated in this Article, any holder may, in any manner, acquire, receive or become a party of a conservation agreement or a preservation agreement.

#### § 113A-240. Intent

(a) It is the intent of the General Assembly to continue to support and accelerate the State's programs of land conservation and protection, to find means to assure and increase funding for these programs, to support the long-term management of conservation lands acquired by the State, and to improve the coordination, efficiency, and implementation of the various State and local land protection programs operating in North Carolina.

(b) It is the further intent of the General Assembly that the State's lands should be protected in a manner that minimizes any adverse impacts on the ability of local governments to carry out their broad mandates.

#### § 113A-241. State to Preserve One Million Acres; Annual Report

(a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009. These lands shall be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or by private entities that are organized to receive and administer lands for conservation purposes.

(b) The Secretary of Environment and Natural Resources shall lead the effort to add one million acres to the State's protected lands and shall plan and coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes.

(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission on or before 1 October of each year on the State's progress towards attaining the goal established in this section.