



GATES COUNTY PLANNING AND DEVELOPMENT

Bona Fide Farm Procedures

OVERVIEW

North Carolina General Statutes (NCGS) 153-A-340 and Section 1-C of the Gates County Development Ordinance specifically exempt Bona Fide Farms (farm land related structures) from zoning and some North Carolina State Building Code (the Building Code) requirements.

The provision of this Ordinance shall in no way regulate, restrict, prohibit, or otherwise deter any bona fide farm and its related uses, except that any use of farm property for non-farm purposes is subject to the applicable provisions of the Development Services.

CRITERIA

The Gates County Planning and Development Department – is charged with enforcement of the Development Ordinance and is responsible for determining if a property qualifies as a Bona Fide Farm. This determination is separate from any designation made by the County Tax Department, Soil and Water Conservation District or other government entity.

In order to qualify for the bona fide farm exemption under NCGS 153A-340, the land use must meet one of the following three farm classifications:

- 1) Agricultural Land–to qualify for this class, three requirements **must** be fulfilled:
 - a. The tract or tracts, one of which must contain at least ten acres, must be part of a farm unit. Contiguous woodland and wasteland may be counted in making up the ten acres for that agricultural classification. A tract of less than ten acres may qualify where federally regulated crops are grown in keeping with designated acreage allotments.
 - b. The land must constitute an agricultural unit actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. An exception to this active management requirement would be a qualified federal soil bank program.
 - c. Over the period of a year, the gross income from the sale of agricultural products produced on the land must have exceeded \$1,000. Boarding animals does not constitute a farm use.
- 2) Horticultural Land – to qualify for this class, three requirements **must** be fulfilled:
 - a. The tract or tracts, one of which must contain at least five acres must be part of a horticultural unit. Even if contiguous, woodland and wasteland may not be counted in making up the ten acres.
 - b. The land must constitute a horticultural unit actively engaged in the commercial production or growing of fruits, vegetables, nursery, or floral products under a sound management program.
 - c. Over the period of a year, the gross income from the sale of horticultural products produced on the land must have exceeded \$1,000.

- 3) Forest Land – to qualify for this class, only two requirements must be fulfilled:
 - a. The tract or tracts, one of which must contain at least twenty acres, must be part of a forest unit.
 - b. The land must constitute a forest unit engaged in the growing of trees under a sound management program.Forest land contiguous to and part of a qualifying agricultural unit comes within the agricultural land class and need not meet the requirements of the forest unit class to obtain an exemption.

These standards closely parallel NCGS 105-277.2 through 277.7 which designates special classes for the property for as valorem taxation purposes.

EXEMPTIONS

NCGS 153A-340 exempts “bona fide” farm operations and farm related structures from county zoning regulations and some North Carolina State Building Code requirements. Any use of the property for non-farm purposes shall be subject to such regulations. Exemptions include but are not limited to....

1. The number and location of any farm related buildings or structures (i.e. barns, stables, sheds, silos). Such buildings and structures are not required to meet the Building Code Volume I General Construction requirements. If electrical service is planned, an electrical permit is required. Other Volumes of the Building Code may apply, for example Plumbing, Gas, and Mechanical. Buildings and structures used for residential purposes and whose use or occupancy involve the health and safety of the public or can be considered a business shall meet all provisions of the Building Code.
2. The number, location, and type of residential dwelling units for migrant or farm tenant housing. Residential dwelling units used for migrant or tenant housing are subject to zoning and subdivision regulations. Buildings used for sleeping purposes require a building permit and are subject to the requirements of the Building Code.

NON-EXEMPTIONS

The following is a list of uses or activities that **can not** be classified as a Bona Fide Farm. This list is not inclusive and is subject to additions:

1. The boarding of animals, including horses and dogs.
2. Animal Feeder/Breeder Operation
3. Wholesale Trade of Agriculture Products, not grown on site.
4. Nothing exempts farm related activities, including dwelling units, from Gates County Environment Health and other state or federal requirements.



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FUNCTIONAL DEFINITIONS

These definitions apply only with respect to Bona Fide Farms.

Animals - Including, but not limited to, cattle, hogs, sheep, goats, poultry, fur bearing animals, rabbits, equines, finfish, shell fish emus, and ostrich. Feral, exotic, dangerous or nondomestic animals are excluded.

Animal Feeder/Breeder - Defined as a Principal Permitted use in the Permitted Use Schedule of the Gates County Development, Zoning and Subdivision Ordinances. Any operation required to register as an Animal Feedlot Operation with the North Carolina Division of Environmental Management is defined an Animal Feeder/Breeder. Other operations may be classified as an Animal Feeder/Breeder based upon the intensity of the use resulting from the number of animals and the nature of the confinement area(s).

Contiguous - For the purposes of this bulletin, contiguous does not necessarily mean abutting or touching. It can mean "near, though not in contact" or "neighboring," so that, for example, woodland or wasteland separated from the rest of an agricultural unit by a road may still be counted as part of that unit.

Farm building- Any building that is not open to the general public and is used primarily for a bona fide farm purpose. A bona fide farm purpose includes the production or storage of agricultural products or commodities, including crops, fruits, vegetables, ornamental or flowering plants, dairy, timber, livestock, poultry and all other forms of agricultural products. Farm buildings so include such buildings used for purposes of education and research. (2012 NC State Building Code Commentary)

Farm Unit - Under each of the three classifications of bona fide farm, the potentially qualifying land must constitute a management unit. If lands are managed or worked as a single operation, such lands apparently would qualify as a "farm unit." For the agricultural and horticultural classifications management must be active and continuous. Land meeting forest classifications need not be actively managed.

Primary Farm Unit - A tract greater than 10 acres for Agricultural Land and greater than 5 acres for Horticultural Land that contains the majority of the

farm operation as it relates to structures, storage of equipment, and production of crops.

Sound Management Program - This term embraces a program designed to obtain the greatest net return from the land consistent with the particular classification assigned to that land. It means primarily the operation of the land to obtain the greatest net return consistent with its conservation and long-term improvement. The Inspections Director will determine whether the Sound Management test is met.

This document is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official interpretation of the Gates County Development Ordinance in any legal proceeding.