

FORSYTH COUNTY  
ORDINANCE ESTABLISHING  
VOLUNTARY AGRICULTURAL DISTRICTS

ARTICLE I  
TITLE

An ordinance of FORSYTH COUNTY, NORTH CAROLINA, entitled, "Ordinance Establishing Voluntary Agricultural Districts."

ARTICLE II  
AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by Article 61 of Chapter 106 (Sections 106-735 through 106-744) and Chapter 153A of the North Carolina General Statutes.

ARTICLE III  
PURPOSES

The purpose of this ordinance is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; increase protection from nuisance suits; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE IV  
FORSYTH COUNTY AGRICULTURAL ADVISORY BOARD

A. Creation

The Forsyth County Board of Commissioners hereby establishes the Forsyth County Agricultural Advisory Board (hereinafter "Advisory Board") to implement the provisions of this ordinance.

B. Membership

The Advisory Board shall consist of seven (7) members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each member shall be a Forsyth County resident.
2. At least four of the seven members shall be actively engaged in farming in Forsyth County.
3. The members shall be selected for appointment from the names of individuals submitted by the Soil and Water Conservation District, the Cooperative Extension Service, the Farm Service Agency, and the Forsyth County Farm Bureau with an effort to have the broadest geographical representation possible.
4. One member shall be a non-farm member, and one member shall also be County Commissioner who shall serve only so long as he or she is a County Commissioner.

D. Tenure

The initial Advisory Board is to consist of two (2) members for terms of one year; two (2) members for terms of two years; and two (2) members for terms of three (3) years, with reappointment permitted for a maximum of two consecutive terms after which the member must be off the board for at least one year before being eligible for re-appointment. Upon completion of initial terms, members will serve three (3) year terms.

The County Commissioner member will not be subject to the term limits set forth herein.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the duration of the unexpired term and consistent with the capacity in which the vacancy occurs as set forth in Article IV, Section C. of this Ordinance.

F. Funding

The Board of Commissioners may appropriate funds to the Advisory Board to perform its duties.

G. Advisory Board Procedure:

1. Chairperson. The Advisory Board shall elect a chairperson at its first meeting each fiscal year to preside over all regular or special meetings of the Advisory Board and may elect additional officers as needed.

2. Rules of Procedure. The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.
3. Advisory Board Year. The Advisory Board shall use the Forsyth County fiscal year (which is currently July 1 through June 30<sup>th</sup>) as its meeting year.
4. Meetings. Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by the Advisory Board.
5. Majority Vote. The concurring vote of a majority of the members of the Advisory Board shall be necessary to make any decision upon any matter on which it is required to act under this ordinance.
6. Records. The Advisory Board shall keep minutes of the proceedings showing the vote of each member and shall keep records of its examinations and other official actions which shall be filed in the Cooperative Extension Office.
7. Administration

The Cooperative Extension Office shall provide administrative support services to the Advisory Board. Such administrative services shall include record keeping, correspondence, application procedures under this ordinance, and all other services the Board needs to complete its duties.

#### H. Duties

In addition to all duties already conferred, the Advisory Board shall:

1. Review and make decisions on applications for the establishment and modification of qualified voluntary agricultural districts;
2. Pursuant to the provisions of Article IX of this Ordinance entitled, "Public Hearings On Condemnation Of Farmland", conduct public hearings and make appropriate findings and recommendations to any agency requesting condemnation of all or part of any qualifying farm within a Voluntary Agricultural District; and conduct public hearings on any public projects likely to have an impact on agricultural operations in Forsyth County as requested by the Forsyth County Board of Commissioners;
3. Advise the Forsyth County Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county;
4. Review and make recommendations to the Forsyth County Board of Commissioners concerning proposed amendments to this ordinance;
5. Study additional methods of farmland preservation and make recommendations to the Forsyth County Board of Commissioners; and
6. Perform other agricultural related tasks or duties assigned by the Forsyth County Board of Commissioners.

### ARTICLE V ESTABLISHMENT OF VOLUNTARY AGRICULTURAL DISTRICTS

#### A. Implementation

In order to implement the purposes stated in Article III, this program provides for the establishment of Voluntary Agricultural Districts (hereinafter "District") which meet the following standards:

1. Each District, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation: 5 acres for horticulture use, 10 acres for agriculture use, or 20 acres for forestry use. A District may contain two (2) or more qualifying farms located within one (1) mile of each other.
2. In order to form each District, the property owner of the property defined herein shall execute a Conservation Agreement to sustain agriculture in the District in such form as approved by the Advisory Board.

3. Each District shall be represented by the current Advisory Board.

B. Education

The Forsyth County Board of Commissioners may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Voluntary Agricultural District program.

C. Addition and Withdrawal

In the event that one or more participants in the District withdraws and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, the district will be dissolved. A Voluntary Agricultural District will continue to exist so long as there is one qualifying farm as defined in Article V.

**ARTICLE VI  
CERTIFICATION AND QUALIFICATION OF FARMLAND**

Requirements

To secure county certification as qualifying farmland, a farm must:

1. Be a participant in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7, or otherwise be determined by the County Tax Office to meet all the qualifications of this program as set forth in G.S. 105-277.3;
2. Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as a farm on which at least two-thirds of the land is composed of soils that:
  - a. Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops;
  - b. Have good soil qualities;
  - c. Are favorable for all major crops common to the county where the land is located;
  - d. Have a favorable growing season; and
  - e. Receive the available moisture needed to produce high yields for an average of eight out of ten years;

**OR**

Be determined by the Advisory Board that the farm has been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. §105-277.2 (1,2,3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies;

3. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and
4. Be the subject of a Conservation Agreement, as defined in N.C.G.S. §121-35, between Forsyth County and the owner of such land that prohibits non-farm use or development of such land for a period of at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations. The Forsyth County Board of Commissioners hereby assigns the authority to execute the said Conservation Agreements, on behalf of Forsyth County, to the chairperson of the Advisory Board.

**ARTICLE VII  
APPLICATION AND APPROVAL PROCEDURE**

A. Application Procedure

1. A landowner may apply for qualification as a Voluntary Agricultural District by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application for qualification as a District may be filed with the certification for qualifying farmland. The application shall clearly identify the tax parcel or parcels or any portion thereof that is proposed for the District.
2. A Conservation Agreement to sustain, encourage, and promote agriculture must be executed by the landowner and submitted for review as part of the application to the Advisory Board. Permitted uses include agriculture, horticulture, and forestry.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall consider the application within sixty (60) days. The chairperson shall notify the applicant by first class mail of approval or disapproval of qualification as a District.
2. Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments regarding the qualifying status of the property, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
  - a. The Forsyth County Tax Assessor;
  - b. The Forsyth Soil and Water Conservation District staff;
  - c. The Natural Resources Conservation Service; and
  - d. The City-County Planning Board staff

**ARTICLE VIII  
REVOCATION AND RENEWAL OF CONSERVATION AGREEMENT**

A. Revocation

By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner. Absent noncompliance by the landowner, the Advisory Board shall not revoke any Conservation Agreement prior to its expiration.

B. Renewal

Conservation Agreements shall be deemed automatically renewed unless either the Advisory Board or the landowner gives written notice to the contrary no later than thirty (30) days prior to the termination date.

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

A. Condemnation Proceedings

No state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

B. Procedure

1. The Advisory Board shall have 30 days after receiving a request to hold the public hearing and submit its findings and recommendations to the agency requesting the condemnation.
2. During the public hearing provided herein on condemnation, the Advisory Board shall consider the following:

- a. Whether the need for the property has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
  - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Advisory Board shall consult with the County Cooperative Extension Director, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
  4. No condemnation action may be formally initiated while the proposed condemnation is properly before the Advisory Board within the legal time limitations.

**ARTICLE X  
NOTIFICATION**

A. Record Notice of Proximity to Voluntary Agricultural District

1. Procedure

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In that Forsyth County has a computerized land records system, the county shall require that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a Voluntary Agricultural District.

2. Limit of Liability

In no event shall Forsyth County or any of its officers, employees, members of the Advisory Board, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance under the procedures of Article X.A.1.

3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this ordinance.

B. Signage

Signs identifying approved Voluntary Agricultural Districts shall be placed along the rights-of-way of major roads that pass through or next to those Districts. There shall be at least one sign posted for every two (2) miles of such roads or as many as may be deemed appropriate by the Advisory Board, or its administrative agent for the Voluntary Agricultural District program. Placement of signage shall be coordinated with the N.C. Department of Transportation and comply with any local ordinances regarding signs.

→ C. Maps

Upon notification by the Advisory Board of the approval of a District, the City-County Planning Department shall prepare a map of the District and the surrounding 600 foot notification area and provide that map to the following agencies or offices:

- a. Planning Department;
- b. Natural Resources Conservation Service;
- c. North Carolina Cooperative Extension Service;
- d. Soil and Water Conservation District; and

- e. Any other such agency or office the Advisory Board deems appropriate.
- D. Upon approval of the District by the Advisory Board, the Conservation Agreement shall be recorded with the Register of Deeds.
- E. Posting of Notice

The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary:

“Forsyth County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These Districts have been developed and mapped by the County to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying , manure spreading, machinery and truck operation, livestock operations, sawing, and other common farming activities may occur in these Districts any time during the day or night. Maps and information on the location and establishment of these Districts can be obtained from the Forsyth Soil and Water Conservation District office, the North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the City-County Planning Board office, or the Natural Resources Conservation Service office as referenced in Article X.C of Forsyth County’s Ordinance Establishing Voluntary Agricultural Districts. Researchers of titles are advised that they may ascertain the presence of a Voluntary Agricultural District within 600 feet of the property by using the Geo-Data Explorer System and adding the Voluntary Agricultural District layer.”

**ARTICLE XI  
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on final plans that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.

**ARTICLE XII  
DEFERMENT OF WATER AND SEWER ASSESSMENTS**

In that the deferment of water and/or sewer assessments is not within the purview of the Forsyth County Board of Commissioners, the authority for said deferments will be at the discretion of the City-County Utilities Commission.

- A. No Required Connection

A landowner belonging to a Voluntary Agricultural District may not be required to connect to the City-County Utility system.

- B. Deferment

Water and sewer assessments may be held in deferment, for farms in a Voluntary Agricultural District, until improvements on such property are connected to the water or sewer system for which the assessment was made. Such deferments will follow the existing policies of the City-County Utilities Commission.

- C. Termination of Deferment

When the period of deferment ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

- D. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under the provisions of N.C.G.S. §153A-201, or other applicable law.

- E. Conflict with Water and/or Sewer System Construction and Improvements Grants

To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

**ARTICLE XIII  
COUNTY LAND-USE PLANNING**

It shall be the duty of the Advisory Board to inform the Board of Commissioners through the City-County Planning Board of the status, progress, and activities of the county's Voluntary Agricultural District program and to also coordinate the formation and maintenance of Voluntary Agricultural Districts with the county's land use planning activities and the county's adopted land use plans.

**ARTICLE XIV  
CONSULTATION AUTHORITY**

The Advisory Board may consult with the North Carolina Commissioner of Agriculture, the North Carolina Cooperative Extension Service, the Natural Resources Conservation Service, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

**ARTICLE XV  
NORTH CAROLINA AGENCY NOTIFICATION**

Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this Ordinance Establishing Voluntary Agricultural Districts shall be sent to the Office of the North Carolina Commissioner of Agriculture after its adoption. At least annually the Advisory Board shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary Agricultural District program, including the following information:

1. Number of landowners enrolled;
2. Number of acres enrolled;
3. Number of acres certified during the reporting period;
4. Number of acres denied during the reporting period;
5. Number of acres for which applications are pending;
6. Copies of any amendments to the ordinance; and
7. Any other information the Advisory Board deems useful.

**ARTICLE XVI  
LEGAL PROVISIONS**

A. Severability

If any article, section, subsection, clause, phrase, or portion of this Ordinance Establishing Voluntary Agricultural Districts is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

B. Amendments

This Ordinance Establishing Voluntary Agricultural Districts may be amended from time to time by the Forsyth County Board of Commissioners.

Adopted this the 28<sup>th</sup> day of January 2008.