

**GASTON COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of GASTON COUNTY, NORTH CAROLINA, entitled, "**VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.**"

**ARTICLE II
AUTHORITY**

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

**ARTICLE III
PURPOSE**

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; 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
DEFINITIONS**

The following are defined for purposes of this ordinance:

Advisory Board: Gaston County Agricultural Advisory Board.

Chairperson: Chairperson of the Gaston County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Gaston County Board of Commissioners.

Conservation Agreement: Voluntary agreement where landowner agrees to maintain lands in agricultural uses.

S&WCDB: Gaston County Soil and Water Conservation District Board of Supervisors

**ARTICLE V
AGRICULTURAL ADVISORY BOARD**

A. Creation

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

B. Membership

The Gaston County Soil and Water Conservation District Board of Supervisors and the Chairman or his designee from the Gaston County Quality of Natural Resources Commission will serve as the Advisory Board.

C. Funding

The *per diem* compensation, if any, of the members of the Advisory Board may be fixed by the Board of Commissioners and funds may be appropriated to the Advisory Board through the QNRC budget to perform its duties.

D. Advisory Board Procedure

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

2. Jurisdiction

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 Gaston County fiscal year (July 1- June 30) 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 or upon the request of at least a majority of the Advisory Board Membership. 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 all Advisory Board members. Meeting dates and times shall be posted as far in advance as possible on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the Advisory Board Membership. All meetings shall be open to the public.

5. Majority Vote

All issues shall be decided by a majority vote of the members of the Advisory Board, except as otherwise stated herein.

6. Records

The Advisory Board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board and shall be a public record.

7. Administrative

The Gaston County Natural Resources Department will serve the Board for record keeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.

E. Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
2. Conduct public hearings;
3. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
4. Review and make recommendations concerning proposed amendments to this ordinance;

**ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

A. Regions

Gaston County is hereby divided into six (6) regions as defined below:

Cherryville District	Dallas District	River Bend District
South Point District	Gastonia District	Crowder's Mountain District

B. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which meet the following standards:

1. The District shall contain a minimum of 20 contiguous acres of qualified farmland; or
2. The District shall contain two (2) or more qualified farms within areas designated by the Advisory Board.

All land enrolled in a region, defined in section A, above, shall be part of a single district. If a single farm has acreage in two or more regions, the farm shall participate in the district where the largest acreage is found.

C. Education

The county 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 agricultural district program.

D. Addition and Withdrawal

1. Qualifying farmland in a region with an existing district shall be added to the district as herein provided.

2. In the event that one or more participants in the District withdraw and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND

Requirements

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

1. Be participating in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7, or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3 (minimum acreage requirements listed in G.S. 105.277.3 are 10 acres for agricultural lands, 5 acres for horticultural lands and 20 acres for forestland);
2. Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as being 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

Have 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 the 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.

ARTICLE VIII APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. Application Procedure

1. To be included in a voluntary agricultural district, a landowner may apply to the chairman or a designated staff person for such inclusion at the same time he applies for qualifying farmland certification, or at any time subsequent to receiving qualifying farmland certification.
2. A conservation agreement to keep the certified land in agricultural uses for 10 years must be executed and recorded with the Advisory Board. Agricultural uses include, but are not limited to, the production of crops, trees, horticultural specialties, aquaculture, livestock and livestock products. Associated allowable uses are sales and processing necessary and customarily incidental to the agricultural activities on-site which are in keeping with the purpose of the program.

B. Approval Process

1. Upon receipt of an application, S&WCDB staff person will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. The Gaston County tax assessor;
 - b. The North Carolina Cooperative Extension office
 - c. The Natural Resources Conservation Service.
2. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within thirty (30) days to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district.

C. Appeal

If an application is denied by the Advisory Board, the petitioner shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

**ARTICLE IX
REVOCATION OF PRESERVATION AGREEMENT**

By 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, subject to the same provisions as contained in Article VIII for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any preservation agreements prior to its expiration. Conservation Agreements automatically renew for an additional 10 year term unless the landowner notifies the Advisory Board that he will revoke the agreement after the term maturity date.

**ARTICLE X
PUBLIC HEARINGS**

A. Purpose

Pursuant to N.C.G.S. §106-740, which provides that 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. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Gaston County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) days of receipt of the request.
2. The Advisory Board shall meet to review:
 - a. Whether the need for the project 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 Agricultural Extension Agent, 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. Within five (5) days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
6. After the ten (10) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition.
7. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition, shall not exceed thirty (30) days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.
8. Pursuant to N.C.G.S. §106-740, the Board of Commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board.

ARTICLE XI NOTIFICATION

A Record Notice of Proximity to Voluntary Agricultural District

1. Procedure

Upon certification of qualifying farmland and designation of real property as a District, the title to that qualifying farmland and real property, which is contained in the computerized Gaston County Land Records System, shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half (1/2) aerial mile of a voluntary agricultural district.

2. Limit of Liability

In no event shall the County or any of its officers, employees, 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.

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 agricultural districts shall be placed along the rights-of-way of major roads that pass through or next to those districts as may be deemed appropriate by the Advisory Board, or its administrative agent for the county's agricultural district program. Placement of signage shall be coordinated with the N.C. Department of Transportation and local zoning departments.

C. Maps

Maps identifying approved agricultural districts shall be provided to the following agencies or offices:

- a. Register of Deeds;
- b. Natural Resources Conservation Service;
- c. North Carolina Cooperative Extension Service;
- d. Gaston County Natural Resources Department;
- e. Gaston County Land Records
- f. Gaston County Planning and Code Enforcement; and
- g. Any other such agency or office the Advisory Board deems appropriate.

**ARTICLE XII
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within one-half (1/2) aerial mile(s) of the proposed development.

**ARTICLE XIII
WAIVER OF WATER AND SEWER ASSESSMENTS**

A. No Assessment

A landowner belonging to the District shall not be assessed for or be required to connect to Gaston County water and/or sewer systems if and/or when Gaston County constructs, maintains or possesses such infrastructure. The Advisory Board will ask municipalities to grant the same privilege to landowners belonging to the District in areas served by municipal water/sewer infrastructure or areas where municipal water/sewer infrastructure is being expanded.

B. Abeysance

Water and sewer assessments shall be held in abeyance, without interest, for farms in an agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

C. Termination of Abeysance

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

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

E. Other Statutory Abeysance Procedures

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

F. 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 XIV
COUNTY LAND-USE PLANNING**

A. Duty of the Advisory Board

It shall be the duty of the Advisory Board to advise the Board of Commissioners or the agency or office to which the Board of Commissioners delegate authority to oversee county land use planning, on the status, progress, and activities of the county's agricultural district program and to also coordinate the formation and maintenance of agricultural districts with the county's land use planning activities and the county's land use plan.

B. 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:

Gaston County has established 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 Gaston County Natural Resources Department, North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

C. Growth Corridors

At such time as the county might establish designated growth corridors, agricultural districts will not be permitted in the designated growth corridors, as delineated on the official county planning map without the

approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners.

ARTICLE XV CONSULTATION AUTHORITY

The Advisory Board may consult with the Gaston County Natural Resources Department, 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 XVI NORTH CAROLINA AGENCY NOTIFICATION

Annually Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the County Office of the North Carolina Cooperative Extension Service, and the Gaston County Natural Resources Department after adoption. At least annually the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's 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 XVII LEGAL PROVISIONS

A. Severability

If any article, section, subsection, clause, phrase, or portion of this ordinance 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. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Gaston County, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

C. Amendments

This ordinance may be amended from time to time by the Board of Commissioners.

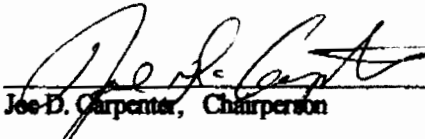
**ARTICLE XVIII
ENACTMENT**

The Gaston County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 22nd day of July, 2004.

Motion for adoption by Comm. Torbett and seconded by Comm. Price.

GASTON COUNTY BOARD OF COMMISSIONERS



Joe D. Carpenter, Chairperson

ATTEST:



Martha M. Jordan, Clerk to Board of Commissioners

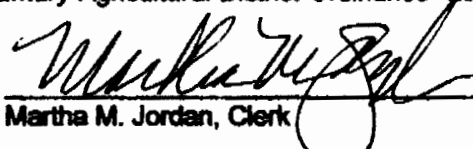
Approved as to form:



Charles L. Moore, County Attorney

Certification/Amendment

I, Martha M. Jordan, Clerk to the Gaston County Board of Commissioners, do hereby certify that the above is a true and accurate copy of *Gaston County Voluntary Agricultural District Ordinance* as adopted by the Board of Commissioners on July 22, 2004.



Martha M. Jordan, Clerk

SEAL

GASTON COUNTY BOARD OF COMMISSIONERS BOARD ACTION

REQUESTED ACTION:

The Gaston County Quality of Natural Resources Commission (QNRC) requests that the Board adopt the Gaston County Voluntary Agricultural District Ordinance at the close of the required public hearing on July 22, 2004.

Staff Contact: Craven F. Hudson, NC Cooperative Extension Service, (704) 922-2119

BACKGROUND:

Craven Hudson gave a presentation to the Board of Commissioners during the January 20, 2004, Work Session on how a Voluntary Agricultural District program would help fulfill Gaston County Comprehensive Plan goals for agricultural land preservation and economic viability. Hudson informed the Board about the joint effort between the QNRC and Gaston County Farm Bureau in drafting an ordinance, and he answered Commissioners' question relating to establishing Voluntary Agricultural Districts.

Craven Hudson appeared before the Board of County Commissioners again during the June 22, 2004 Work Session to request a public hearing on the proposed Voluntary Agricultural District program and answer any questions Board members had about the program.

Policy Impact: The Voluntary Agricultural District program supports the Gaston County Comprehensive Plan. County citizens identified farmland protection as a key to development strategy in four of the five Small Area Planning Meetings during development of the plan. Farmland is an essential part of goals in the Land Use, Natural Resources, Open Space and Quality of Life sections of the plan. Gaston County Comprehensive Plan recommendations in the *Natural Resources & Open Spaces* section lists the development of an agricultural sustainability study to 1) quantify future potential for emerging agricultural markets, vertical integration and agri-tourism and 2) further explore and define potential agricultural preservation areas. The proposed Voluntary Agricultural District program implements recommendation 2).

FISCAL IMPACT ANALYSIS:

Is Item Included in current budget? Yes ___ No ___ N/A ___X_

Recommended sources of funds:

