

**HARNETT COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

An Ordinance of the Board of County Commissioners of HARNETT 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 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: Harnett County Agricultural Advisory Board.

Chairperson: Chairperson of the Harnett County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this Ordinance.

Board of Commissioners: Harnett County Board of Commissioners.

**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 Advisory Board shall consist of one representative from each Commissioner's District plus an additional two at large members. All will be appointed by the Board of Commissioners.

C. Membership Requirements

1. Each Advisory Board member shall be a Harnett County resident or landowner.
2. A minimum of five members shall be actively engaged in farming. The remaining two should be from agribusinesses or agricultural related interests.
3. The members actively engaged in farming, as well as other members, shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.

D. Tenure

The initial board is to consist of 3 appointees for terms of one year; 2 appointees for terms of two years; and 2 appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a two-thirds vote of the Commissioners. No cause for removal shall be required.

G. 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 to perform its duties.

H. 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 Harnett County fiscal year 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 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. All board members must be present.

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 Advisory Board may contract with the Harnett County Cooperative Extension office to serve the Board for record keeping, correspondence, application procedures under this Ordinance, and whatever services the Board needs to complete its duties.

I. 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; and
5. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

The Advisory Board may:

1. Develop a draft county wide farmland protection plan as defined in N.C.G.S. §106-744 (e) (1) for presentation to the Board of Commissioners;
2. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners.

**ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

A. 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 1 or more qualified farms within areas designated by the Advisory Board.

B. 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.

C. Addition

Qualifying farmland in Harnett County with an existing district shall be added to the district as herein provided.

**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 ;
2. 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
3. Be the subject of a preservation 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, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.
4. Be located in the unincorporated area of Harnett County.

**ARTICLE VIII
APPLICATION, APPROVAL, AND APPEAL PROCEDURE**

A. Application Procedure

1. A landowner may apply to participate in the program 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 to participate in a district may be filed with the certification for qualifying farmland.
2. An agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation.

B. Approval Process

1. 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.
2. Upon receipt of an application, the chairperson 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 Harnett County tax assessor and
 - b. The Harnett County Soil and Water Conservation District office.

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 AND RENEWAL OF CONSERVATION AGREEMENT**

A. Revocation

1. By providing 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.

2. Harnett County tax assessor will notify Advisory Board when the farmland is no longer participating in the present-use-value taxation program.

B. Renewal

Conservation Agreements shall be deemed automatically renewed for an additional term of 10 years, unless either the Advisory Board or the landowner gives written notice to the termination date.

**ARTICLE X
CONDEMNATION PUBLIC HEARINGS**

A. Purpose

Pursuant to N.C.G.S. §106-740, 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 Harnett 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 may consult with a County Agricultural Extension Agent, a Soil & Water Conservation District representative, 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.

**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 Harnett 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 aerial mile of a voluntary agricultural district.

2. 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:

Harnett 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 North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

2. Limit of Liability

In no event shall the 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.

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. There shall be at least one sign posted per qualifying farm or as many 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.

C. Maps

The Advisory Board will be responsible for notifying the Harnett County Geographic Information System (GIS) Department for the development of maps.

Maps identifying approved agricultural districts may be displayed at the following agencies or offices:

1. Planning Department
2. Register of Deeds;
3. North Carolina Cooperative Extension Service;
4. Soil and Water Conservation District; and
5. Any other such agency or office the Advisory Board deems appropriate.

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

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

**ARTICLE XIII
COUNTY LAND-USE PLANNING**

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 if one currently exists at the time this ordinance is enacted or when one is formed.

**ARTICLE XIV
CONSULTATION AUTHORITY**

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

**ARTICLE XV
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 Soil and Water Conservation District office after adoption. At least annually the Advisory Board 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 XVI
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 Harnett 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 XVII
ENACTMENT**

The Harnett County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the ____ day of _____, 2007.

Motion for adoption by _____ and seconded by _____.

HARNETT COUNTY BOARD OF COMMISSIONERS

Chairperson

ATTEST:

Clerk to Board of Commissioners

Approved as to form:

County Attorney