

HAYWOOD COUNTY VOLUNTARY FARMLAND PRESERVATION PROGRAM ORDINANCE

ARTICLE I TITLE

This program, adopted by the Board of Commissioners of Haywood County, North Carolina, shall be known as the **Haywood County Farmland Preservation Program Ordinance**.

ARTICLE II AUTHORITY

The articles and sections of this program ordinance are adopted pursuant to the authority conferred by N.C. General Statutes 106-735 through 106-743.

ARTICLE III PURPOSE

The purpose of this program ordinance is to promote the health, safety, rural agricultural values, and 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 farming; increase protection from undesirable, non-farm development; and increase the protection of farms from nuisance suits and other negative impacts on properly managed farms.

ARTICLE IV JURISDICTION

The jurisdiction of the Haywood County Farmland Preservation Program Ordinance shall be the unincorporated areas of Haywood County.

ARTICLE V DEFINITIONS

Advisory Board: The Haywood County Agricultural Advisory Board.

Board of Commissioners: The Board of Commissioners of Haywood County, North Carolina.

Chairman: Chairman of the Haywood County Agricultural Advisory Board.

District: A voluntary agricultural district established under the terms and conditions of this program by the Board of Commissioners.

ARTICLE VI QUALIFICATIONS AND CERTIFICATION OF FARMLAND

Section 600. Requirements

In order for farmland to qualify for participation under the terms of this program, it shall meet the following requirements:

- (1) The farmland shall be real property.
- (2) The farm property shall be participating in the farm present-use-value taxation program established by 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.
- (3) The property is certified by the Soil Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension office and the ASCS, 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, and horticultural crops, including Christmas trees and ornamentals;
 - (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

Soils on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in 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.

- (4) The property, if highly erodible land exists on the farm, is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to said highly erodible land.
- (5) The property is the subject of a conservation agreement, as defined in 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 watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the board in accordance with Article VIII.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the farmland preservation program ordinance shall submit written evidence that the property conforms with the requirements of Section 600 of this program. This written information shall be submitted to the Chairman of the Advisory Board or the designated staff person or forms provided by the board. The certification may be submitted at the same time the owner applies for inclusion in a district.

ARTICLE VII APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY AGRICULTURAL DISTRICTS

Section 700. Creation of Voluntary Agricultural Districts

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, when initially established, shall contain a minimum of 25 contiguous acres of qualified farmland, OR, two or more qualified farms which contain a minimum of 25 acres and are located within a mile of each other.
- (2) The landowner(s) requesting inclusion in the district shall execute an agreement with the county to sustain agriculture in the district in accordance with Section 600 (5) of this program. Said agreement shall be in a form which is reviewed and approved by the advisory board.
- (3) For each district created under the terms of this program, one of the existing advisory board members shall be assigned to represent the district.

Section 701. Application to Participate

(1) A landowner may apply to participate in the program by making application to the chairman 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.

Section 702. Approval Process

Upon review by the staff of the written certification and application submitted by the property owner, the board shall meet within 30 days to approve or disapprove the application. The chairman shall notify the applicants by first class mail of said approval or disapproval of participation in the district.

Section 703. Appeal

If an application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Haywood County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII REVOCATION OF CONSERVATION AGREEMENTS

By written notice to the board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section 600 (5) of this program, or the board may revoke same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and the benefits thereof. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

ARTICLE IX AGRICULTURAL ADVISORY BOARD

Section 900. Creation

In accordance with N.C.G.S. 106-739, the Board of Commissioners hereby establishes an Agricultural Advisory Board to implement the provisions of this program ordinance.

Section 901. Appointments and Membership

The Agricultural Advisory Board shall consist of seven members appointed by the Haywood County Board of Commissioners.

(1) Requirements

- (a) Each board member shall be a county resident and registered to vote in Haywood County.

- (b) Five of the seven members shall be actively engaged in farming.
 - (c) The five members actively engaged in farming 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, the Cooperative Extension Service, the Agricultural Stabilization Conservation Service Committee and the Haywood County Farm Bureau, with an effort to have the broadest geographical representation possible.
- (2) Tenure. The members are to serve for terms of three years, except that the initial board is to consist of two appointee(s) for a term of one year, two appointees for terms of two years, and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted.
 - (3) Vacancies. Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.
 - (4) Removal for Cause. Any member of the Agricultural Advisory Board may be removed for cause by the Board of Commissioners upon written charges and after a public hearing.

Section 902. Procedures

The board shall adopt rules of procedure which are consistent with the enabling legislation and other applicable statutes.

Section 903. Duties

The Agricultural Advisory Board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts.
- (2) Hold public hearings pursuant to Article X of this program.
- (3) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts.
- (4) Perform other related tasks or duties assigned by the Board of Commissioners.

ARTICLE X PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

Section 1000. 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 voluntary agricultural district until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation. This section provides the procedures for such hearings.

Section 1001. Procedures

- (1) Establish Public Hearing. Upon receipt of a request for a public hearing, the Agricultural Advisory Board shall have 30 days to set a date for a public hearing on the proposed condemnation pursuant to N.C.G.S. 106-740. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the board within the time limitations set forth in this section.
- (2) Notice of Public Hearing. The board shall run a notice of the public hearing in a newspaper having general circulation in Haywood County at least 10 days prior to the date established for the hearing. The notice shall contain the date, time and place of the hearing and shall provide the name of the agency requesting the hearing and the purpose of the condemnation.
- (3) Public Hearing. The board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of Haywood County. Additionally, the board shall review the following:
 - (a) Has the need for the project requiring the condemnation been satisfactorily established by the agency requesting the action?
 - (b) Has a financial impact analysis been conducted by the agency seeking the action?
 - (c) Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place?

The board shall consult with the county Cooperative Extension agent, U.S.D.A. Soil Conservation Service District Conservationist, the ASCS, and may consult with any other individuals, agencies or organizations, public or private, necessary to the board's review of the proposed action.

- (4) Findings and Notification. Within 10 days after the public hearing, the board shall make a report containing its findings and recommendations

regarding the proposed action. The report shall be conveyed to the decision-making body of the agency proposing acquisition and made available to the public for comment.

ARTICLE XI LAND USE INCENTIVES TO VOLUNTARY AGRICULTURAL DISTRICT FORMATION

Section 1100. Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

Section 1101. Procedure for Notification

The Advisory Board, in cooperation with the county, shall provide notification to property owners, residents, and other interested persons in and adjacent to any designated agricultural district. The purpose of such notification is to inform all current and potential residents and property owners in and adjacent to an agricultural district, that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities.

(1) Types of Notification

- (a) Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
- (b) Maps identifying approved districts shall be provided to the Register of Deeds office, the Soil Conservation Office, the Cooperative Extension office, the ASCS, the Inspections Department, and the Haywood County Planning Department.

- (c) The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds:

NOTICE TO REAL ESTATE PURCHASERS IN HAYWOOD
COUNTY

HAYWOOD COUNTY AGRICULTURAL DISTRICTS

Haywood 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 activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place 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 Cooperative Extension office, Register of Deeds office, County Planning Office, Soil Conservation Service, and the ASCS (Agricultural Stabilization and Conservation Service) office.

Section 1102. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which would convert land in a voluntary agricultural district to non-farm uses, the county or any other local unit of government shall submit to the Advisory Board that said governmental unit has considered alternatives. Such consideration shall include the criteria listed in Article X, Section 1001 (3), (a) through (c).

Section 1103. No Districts in Designated Growth Corridors

Agricultural districts will not be permitted in 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. Districts located in growth corridors designated after the effective date of this program may expand to include adjoining property purchased by a landowner presently participating in the Haywood County Voluntary Farmland Preservation Program Ordinance. The approval of the Board of Commissioners will be on a case by case basis.

ARTICLE XII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with N.C. Department of Agriculture and Other Agencies

The board shall consult to the degree possible with the Cooperative Extension office, the Haywood County Soil Conservation Service office, the ASCS, the N.C. Department of Agriculture, and any other such agency the board deems necessary to properly conduct its business.

Section 1201. Recording the Program Ordinance

An official copy of this program ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year, the county shall submit a written report to the Commissioner of Agriculture, including the status, progress and activities of the county's farmland preservation program, and voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled.
- (2) Number of acres applied.
- (3) Number of acres certified.
- (4) Number of acres denied.
- (5) Date certified.

ARTICLE XIII
ENACTMENT

The Haywood County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this program.

Adopted this the ____ day of _____, 1994.

Motion for adoption by _____ and seconded by _____

Ed Russell, Chairman
Haywood County Board of
Commissioners

Attest:

Gil Henry, Clerk

Approved as to form:

Chip Killian, County Attorney

AGRICULTURAL DISTRICT FOR FARMLAND PRESERVATION

APPLICANT

NAME _____

ADDRESS _____

CITY _____, NC ZIP CODE _____

PHONE NUMBER _____ TOWNSHIP _____

PROPERTY INFORMATION

NUMBER OF ACRES _____

TAX PIN NO. _____ SHEET _____ LOT _____

PROPERTY ADDRESS _____

WHAT KIND OF AGRICULTURAL USES ARE CURRENTLY IN PLACE ON THIS LAND?

DO YOU KNOW OF ANY NEIGHBORS WHO MAY BE INTERESTED IN THIS PROGRAM?

IS YOUR FARM PRIMARILY FORESTRY PRODUCTS? YES _____ NO _____

DO YOU CURRENTLY HAVE A SOIL CONSERVATION PLAN AND IF NOT, WOULD YOU LIKE THE SOIL CONSERVATION OFFICE TO CONTACT YOU? YES _____ NO _____

AND/OR FOREST SERVICE PLAN (BEST MANAGEMENT PRACTICE) YES _____ NO _____

PRESERVATION AGREEMENT

THE LANDOWNER HEREBY AGREES THAT IF THIS TRACT IS ACCEPTED INTO THE HAYWOOD COUNTY AGRICULTURAL DISTRICT PROGRAM THAT THE TRACT WILL NOT BE CONVERTED TO NON-FARM OR DEVELOPMENT USE FOR A PERIOD OF AT LEAST 10 YEARS (EXCEPT FOR THE CREATION OF IMMEDIATE FAMILY HOME SITES) AND TO PRACTICE NATURAL RESOURCE CONSERVATION ON MY LAND.

THIS PRESERVATION AGREEMENT MAY BE REVOKED BY WRITTEN NOTICE TO THE HAYWOOD COUNTY AGRICULTURAL ADVISOR BOARD.

SIGNATURE FOR PRESERVATION AGREEMENT _____
IF YOU HAVE QUESTIONS, PLEASE CALL DON SMART AT 456-3061

MAIL TO: HAYWOOD COUNTY FARMLAND PRESERVATION ORDINANCE
P.O. BOX 425
WAYNESVILLE, NC 28786

What restrictions will be placed on my farm if I join the program?

The Farmland Preservation Program members will be the subject of a conservation agreement between the County and the landowner that prohibits non-farm use or development of that land for a period of at least 10 years. The conservation agreement, however, will allow the development of up to three lots on participating farms included in a District.

What happens if I want to remove all or part of my land from the program?

A landowner in the Farmland Preservation Program may remove all or a portion of his/her land from the Farmland Preservation Program by giving written notice to the Agricultural Advisory Board. This revocation will result in loss of eligibility for that parcel to participate in a voluntary agricultural district as well as loss of associated benefits. If a portion of the land is removed from the program, the remaining land must meet the program conditions and qualifications for the farm to continue in the program.

FOR MORE INFORMATION PLEASE CONTACT:

Cooperative Extension Service
PO Box 308
Waynesville, NC 28786
Telephone #: 704-456-3575

Natural Resources Conservation Services
Haywood Soil & Water Conservation
PO Box 425
Waynesville, NC 28786
Telephone #: 704-456-5132

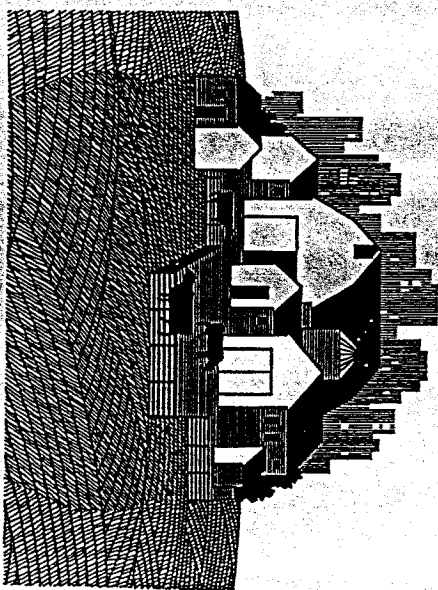
Farm Service Agency
PO Box 168
Waynesville, NC 28786
Telephone #: 704-456-3557

Haywood County Tax Assessor's Office
Courthouse
420 N. Main St.
Waynesville, NC 28786
Telephone #: 704-452-6640

Agricultural Advisory Board Members:

-Robert Hyatt
Telephone #: 704-456-3161
-Johnny James
Telephone #: 704-926-1212
-James Ferguson
Telephone #: 704-627-6458 or 704-627-6404
-Bill McCracken
Telephone #: 704-456-9978
-Steve Sorrells
Telephone #: 704-235-9441
-Don Smart
Telephone #: 704-456-3061
-Wade Francis
Telephone #: 704-456-3166

FARMLAND PRESERVATION PROGRAM



HAYWOOD COUNTY
NORTH CAROLINA



IN COOPERATION WITH:
HAYWOOD COUNTY, NORTH CAROLINA
BOARD OF COMMISSIONERS AND
HAYWOOD SOIL AND WATER
CONSERVATION DISTRICT

What is the Farmland Preservation Program?

The purpose of the Farmland Preservation Program is to encourage the voluntary preservation and protection of farmland from non-farm development. This is in recognition of the importance of agriculture to the economic and cultural life of the county.

The General Assembly of the State of North Carolina authorized counties to undertake a series of programs to encourage the preservation of farmland. This statutory authority is found in Chapter 106, Article 61 of the North Carolina General Statutes. On August 11, 1994, the Haywood County Board of Commissioners adopted the Farmland Preservation Program Ordinance for Haywood County, North Carolina.

The ordinance provides for the creation of an Agricultural Advisory Board to administer this program. The Board will review and approve applications for qualifying farmland as well as establishing voluntary agricultural districts.

Who are the Members of this Agricultural Advisory Board?

The Board is composed of seven County residents. Five of the board members are required to be actively engaged in farming. Members are selected from a list of names submitted to the County Commissioners. The names and

telephone numbers of Board members are listed on the back of this brochure. Assistance is provided by Haywood Soil and Water Conservation District and the Haywood County Tax Assessor's Office.

What are the qualifications to become a member of the program?

The farm must be participating in the farm present-use-value taxation program. The primary qualifications for this present-use-value taxation program are the following: (1) Individually owned agricultural land, consisting of at least ten (10) acres; that have produced an average annual income of one thousand dollars (\$1000) annually over a three-year period, or, (2) Individually owned forest land consisting of at least 10 acres that are in actual production and not included in a farm unit. You must sign up for this program during the month of January each year. The land must be certified by the Natural Resources Conservation Service as appropriate for this Farmland Preservation Program.

An agricultural district will consist of at least 25 acres of qualifying farmland, individually or separately owned, which are located within one mile of each other. Participating landowners will sign an agreement to sustain, encourage and promote agriculture. A complete list of requirements is available from the agencies listed on the back of this brochure.

What will joining the Farmland Preservation Program do for me?

1. As part of the Farmland Preservation Program, public hearings will be required on a proposed condemnation by state or local public agencies.
2. Landowners in certified districts will not be required to connect to water and/or sewer systems, or be assessed water and sewer charges until that property is connected to such services.
3. The program will help increase the identity and pride in the agricultural community and its way of life.
4. Members of Farmland Preservation will have increased protection from nuisance suits and other negative impacts on participating farms.
5. Maps designating participating farms that form Agricultural Districts will be posted in appropriate county offices.

