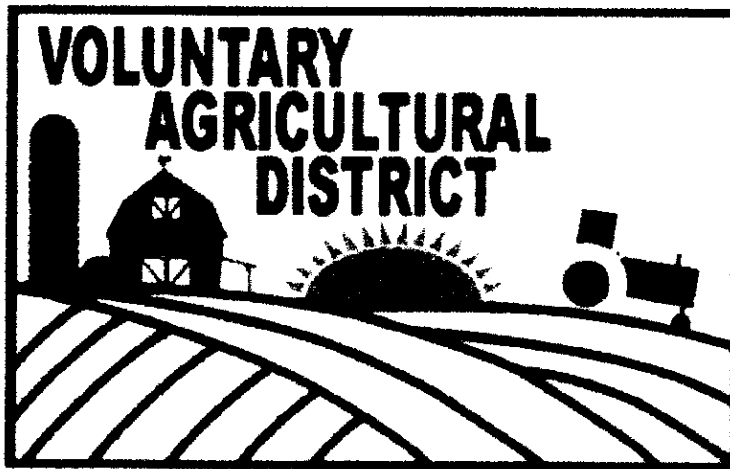


**Johnston County
Voluntary Agricultural District**

ORDINANCE



Adopted by

**Johnston County Board of Commissioners
May 1, 2006**

**JOHNSTON COUNTY
VOLUNTARY AGRICULTURAL DISTRICT
ORDINANCE**

Table of Contents

1. **ARTICLE I TITLE**
2. **ARTICLE II AUTHORITY**
3. **ARTICLE III PURPOSE**
4. **ARTICLE IV DEFINITIONS**
5. **ARTICLE V AGRICULTURAL ADVISORY BOARD**
 - A. Creation
 - B. Membership
 - C. Membership Requirements
 - D. Tenure
 - E. Vacancies
 - F. Removal
 - G. Funding
 - H. Advisory Board Procedures
 - I. Duties
6. **ARTICLE VI CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**
 - A. Implementation
 - B. Education
 - C. Addition and Withdrawal
7. **ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND**
 - A. Requirements
8. **ARTICLE VIII APPLICATION, APPROVAL, AND APPEAL PROCEDURE**
 - A. Application Procedure
 - B. Approval Process
 - C. Appeal
9. **ARTICLE IX REVOCAION AND RENEWAL OF CONSERVATION AGREEMENT**
 - A. Revocation
 - B. Renewal

10. **ARTICLE X PUBLIC HEARINGS**
 - A. Public Hearings
 - B. Procedure

11. **ARTICLE XI NOTIFICATION**
 - A. Record of Proximity to Voluntary Agricultural District
 - B. Signage
 - C. Maps

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

13. **ARTICLE XIII WAIVER OF WATER AND SEWER ASSESSMENTS**
 - A. No Connection Required
 - B. Abeyance
 - C. Termination of Abeyance
 - D. Suspension of Statute of Limitations
 - E. Other Statutory Abeyance Procedures
 - F. Conflict with Water and/or Sewer System Construction and Improvements Grants

14. **ARTICLE XIV COUNTY LAND-USE PLANNING**
 - A. Duty of the Advisory Board
 - B. Posting of Notice
 - C. Growth Corridors

15. **ARTICLE XV CONSULTATION AUTHORITY**

16. **ARTICLE XVI NORTH CAROLINA AGENCY NOTIFICATION**
 - A. Annual Report to the North Carolina Department of Agriculture and Consumer Services

17. **ARTICLE XVII LEGAL PROVISIONS**
 - A. Severability
 - B. Conflict with other Ordinances and Statutes
 - C. Amendments

18. **ARTICLE XVIII ENACTMENT**

**JOHNSTON COUNTY
VOLUNTARY AGRICULTURAL DISTRICT
ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of Johnston 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; and encourage the economic and financial health of agriculture.

This ordinance establishes a Voluntary Agricultural District Program that has the following benefits for participating farmers and other county residents:

- The program creates awareness of agricultural areas within the county.
- The program informs non-farming neighbors and potential land purchasers of the presence of agricultural activities.
- Participation in the program gives the farming community an opportunity to provide input to Johnston County Commissioners in their decisions that may affect agriculture.

- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time.
- The program helps maintain open space and natural resources as the county's population and development expands.
- The program maintains opportunities to produce locally grown food and fiber.

ARTICLE IV DEFINITIONS

The following are defined for purposes of this ordinance:

Advisory Board: Johnston County Voluntary Agricultural District Advisory Board.

Chairperson: Chairperson of the Johnston County Voluntary Agricultural District Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: The Johnston 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 no less than seven (7) and no more than nine (9) members appointed by the Board of Commissioners with an effort to have the broadest geographic representation and commodity interests as possible.

C. Membership Requirements

1. Each Advisory Board member shall be a citizen of Johnston County.
2. At least 5 of the members shall be actively engaged in farming. The five members actively engaged in farming shall meet the eligibility criteria for the Johnston County Voluntary Agricultural District program and be selected for appointment by the Board of Commissioners from the names of individuals recommended to the Board of Commissioners by a representative from the Johnston County Soil and Water Conservation District, the USDA - Natural Resources Conservation Service, the Cooperative Extension Service, the Farm Services Agency County Committee and the Johnston County Farm Bureau. The additional members shall have special interest, experience, or education in agriculture and/or rural land preservation.
3. At least one (1) of the Advisory Board members actively engaged in farming shall be nominated by the Johnston County Soil and Water Conservation District Board of Supervisors.
4. All members shall be selected for appointment by the Johnston County Board of Commissioners as stated above.

D. Tenure

The initial board is to consist of two (2) appointees for terms of one year; two (2) appointees for terms of two years; and three (3) appointees for terms of three years. Members shall serve at the pleasure of the Board of Commissioners. Following the expiration of the initial term, all appointments thereafter shall be for terms of 3 years. Length of tenure shall follow Johnston County policy.

E. Vacancies

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

2. Any Advisory Board member may voluntarily resign by submitting a thirty (30) day written notice to the Advisory Board.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners with cause upon a vote of the Commissioners. The Advisory Board may request in writing to the Board of Commissioners that a member be removed for inefficiency, neglect of duty, or malfeasance in office. The membership of any Advisory Board member who is absent for three (3) consecutive meetings may be subject to removal, unless such absence is excused by the entire Advisory Board for good and sufficient cause.

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 Procedures

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 Johnston County fiscal year as its meeting year, July 1 through June 30.

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. Meetings dates and times shall be posted as far in advance as possible at 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 consistent with meetings law requirement. 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 and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Advisory Board or its administrative agent and shall be a public record.

7. Administrative

The Johnston Soil and Water Conservation District office will serve the Voluntary Agricultural District Advisory 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 pursuant to Article 10 of this ordinance;
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.

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; and
3. Perform other agricultural related tasks or duties assigned by 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 a minimum of twenty-five (25) contiguous acres of qualified farmland; or
2. The District shall contain three (3) or more qualified farms within one-half (1/2) mile of each other.

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 District and to further its purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

C. Addition and Withdrawal

1. Qualifying farmland may be added at any time to the District.
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**

A. 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 certified by the USDA Natural Resources Conservation Service as being a farm on which at least two-thirds ($\frac{2}{3}$) of the land is composed of soils that:
 - a. Are best suited for providing food, seed, fiber forage, timber, forestry products, horticultural crops, oil seed crops, livestock and poultry;
 - 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 (5) previous years, measured from the date on which the determination must be made as to whether the land in questions qualifies:

3. Be managed, if highly erodible land exists on the farm, in accordance with the USDA 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, except for the creation of not more than three (3) lots that meet applicable county zoning and subdivision regulations.

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. A Conservation Agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Johnston County Register of Deeds. Permitted uses include agriculture, horticulture, crops, livestock, forestry and outdoor recreation.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within ninety (90) 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 to vote on the application:
 - a. The Johnston County tax assessor;
 - b. The Johnston Soil and Water Conservation District; and
 - c. The USDA Natural Resources Conservation Service.

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

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, 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 the District. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any conservation agreement prior to its expiration.

B. Renewal

Conservation Agreements shall be deemed automatically renewed for an additional term of ten (10) years, 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 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 the 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 Johnston 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 the Johnston Soil and Water Conservation District, the USDA-Natural Resources Conservation Service, Johnston County Cooperative Extension Service and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
4. Within thirty (30) 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 sixty (60) days. If the agency agreed 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 Johnston County Land Records System shall include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of the Voluntary Agriculture District.

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 Agriculture District as defined in this ordinance.

B. Signage

Signs identifying approved agricultural district membership may be placed along major roads that pass through or next to those districts. Members of the Agricultural District may place signs on their individual farms denoting their Agricultural District membership. Placement of signage shall be coordinated with the N.C. Department of Transportation and in accordance with the Johnston County land development code.

C. Maps

Maps identifying approved Agricultural Districts shall be provided to the following agencies or offices:

1. Planning Department;
2. Register of Deeds;
3. Johnston Soil and Water Conservation District;
4. North Carolina Cooperative Extension Service; 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-half aerial mile of the proposed development.

ARTICLE XIII
WAIVER OF WATER AND SEWER ASSESSMENTS

A. No Connection Required

Parcels belonging to the District shall not be required to connect to Johnston County water and/or sewer systems including but not limited to reclaimed water for agricultural purposes.

B. Abeyance

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 Abeyance

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 Abeyance 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 the Agricultural District 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.

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 agency the Advisory Board deems necessary:

Johnston County has established a Voluntary Agricultural District to increase awareness and help protect agricultural lands and activities. The District has 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 the District any time during the day or night. Maps and information on the location and establishment of the District can be obtained from the Johnston Soil and Water Conservation District office, or the USDA-Natural Resources Conservation Service.

C. Growth Corridors

At such time as the county might establish designated growth corridors, Agricultural District membership 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. District members 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 Johnston Soil and Water Conservation District, the USDA-Natural Resources Conservation Service, the Cooperative Extension 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

A. Annual Report to the North Carolina Department of Agriculture and Consumer Services

Upon adoption of the ordinance and any subsequent amendment, a copy shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services. 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;
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;
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 Johnston 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 Johnston County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 1st day of May, 2006.

Motion for adoption by Commissioner Stewart and seconded by Commissioner Mims.

JOHNSTON COUNTY BOARD OF COMMISSIONERS

Cookie Pope
Chairperson

ATTEST:

Opie M. Byrd
Clerk to Board of Commissioners

Approved as to form:

[Signature]
Johnston County Attorney