

**WILKES COUNTY
VOLUNTARY AGRICULTURAL
DISTRICT ORDINANCE**

Wilkes County, N.C.

April 15, 2008

**WILKES COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

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**WILKES COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

This Ordinance shall be known and may be cited as the Wilkes County Voluntary Agricultural District Ordinance.

**ARTICLE II
AUTHORITY**

The provisions of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes 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 to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture, and forestry; 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: Wilkes County Agricultural Advisory Board.

Chairperson: Chairperson of the Wilkes County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this Ordinance.

Board of
Commissioners: Wilkes 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 nine (9) members appointed by the Board of Commissioners as set forth in this Article V.

C. Membership Requirements and Appointments

1. Each Advisory Board member shall be a Wilkes County resident or landowner.
2. At least seven (7) of the members shall be actively engaged in farming, horticulture, and/or forestry.
3. The Wilkes Soil and Water Conservation District Board of Supervisors, the Wilkes County Office of North Carolina Cooperative Extension, the local U.S. Farm Service Agency County Committee, the local Farm Bureau, and the local office of the North Carolina Forest Service shall each submit one name for appointment by the Board of Commissioners.
4. The five (5) Advisory Board members selected in subsection 3 of this Article V, Section C shall select one (1) member from each agricultural district in Wilkes County for appointment by the Board of Commissioners.

D. Tenure

The initial Advisory Board appointed following the adoption of this Ordinance shall consist of three (3) appointees for terms of one (1) year each, three (3) appointees for terms of two (2) years each, and three (3) appointees for terms of three (3) years each, the same to be respectively designated by the Board of Commissioners upon appointment. Thereafter, all appointments are to be for terms of three (3) years, with reappointment permitted. Terms shall commence upon appointment and shall continue through June 30 of the year of expiration.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term, in the same manner as established under Section C above for the member whose position has been vacated.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a three-fifths (3/5) vote of the Commissioners then in office. 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. Determination of Procedure

The Advisory Board may adopt rules of procedure not inconsistent with this Ordinance or with other provisions of State law.

3. Advisory Board Year

The Advisory Board shall use the Wilkes 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, subject to the requirements in Article VIII, Section B.1. of this Ordinance. 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 and Quorum Requirements

All issues shall be decided by a majority vote of the members of the Advisory Board present, except as otherwise stated herein. A quorum is defined as at least five (5) of the members in attendance. No business may be conducted by the Advisory Board without a quorum 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, or its designee, and shall be a public record.

7. Administrative

The Advisory Board may contract with the Wilkes Soil and Water Conservation District office to serve the Board for record keeping, correspondence, application procedures under this Ordinance, and whatever services the Board needs to complete its duties, except for taking minutes at the Advisory Board meetings. The Wilkes Soil and Water Conservation District Board of Supervisors, the Wilkes County Office of North Carolina Cooperative Extension, the local U.S. Farm Service Agency County Committee, and the local office of the North Carolina Forest Service will also supply one staff person to assist the committee members at large. The designated staff person will have no voting rights and will serve only in an advisory capacity.

I. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland in voluntary agricultural districts;
2. Make recommendations concerning the establishment and modification of agricultural districts;
3. Conduct public hearings;

4. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy and agricultural, horticultural, or forestry activities within the County that will affect agricultural districts;
5. Review and make recommendations concerning proposed amendments to this Ordinance;
6. Develop a draft countywide farmland protection plan as defined in N.C.G.S. §106-744(e) for presentation to the Board of Commissioners;
7. Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners; and
8. Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners.

**ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

A. Regions

Wilkes County is hereby divided into four (4) regions as defined below:

- Region 1: Real property located North of N.C. Highway 268 and East of N.C. Highway 18 North.
- Region 2: Real property located South of N.C. Highway 268 and East of N.C. Highway 16/18 South until it becomes Highway 16 South; then Highway 16 to the Wilkes County/Alexander County line.
- Region 3: Real property located South of N.C. Highway 421 and West of N.C. Highway 16/18 South until it becomes Highway 16 South; then Highway 16 South to the Wilkes County/Alexander County line.
- Region 4: Real property located North of N.C. Highway 421 and West of N.C. Highway 18 North.

Each region shall constitute a separate District under this Ordinance.

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, when initially established, shall contain the minimum amount of land required for taxation based on farm use evaluation:
 - a. 5 acres for horticultural use;
 - b. 10 acres for agricultural use; and
 - c. 20 acres for forestry use.

When considering acreage, leased and/or rented land for the purpose of agriculture will be taken into account.

- 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 Article VII of this program. Said agreement shall be in a form which is reviewed and approved by the Advisory Board.

If a single farm has acreage in two or more regions, the farm shall participate in the District where the largest acreage is situated.

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 within an existing District may be added to the District as herein provided.
2. In the event that one or more participants in a District withdraw and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, the District will continue to exist so long as there is at least one qualifying farm.

**ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND**

To secure County certification as qualifying farmland in a District, a farm must:

1. Be real property;
2. Be participating in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7, or otherwise be determined by the County to meet all the qualifications of this program as set forth in N.C.G.S. §105-277.3;
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 (10) years, except for the creation of not more than three (3) lots that meet applicable County watershed, zoning, and subdivision regulations. The property owner may at any time voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article IX.

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

A. Application Procedure

1. A landowner may apply to participate in the Voluntary Agricultural District program by making application to the chairperson of the Advisory Board or a designated staff person, and must designate the application as being for Voluntary Agricultural District status. The application shall be on forms provided by the Advisory Board. The application to participate in a District may be filed with the application for certification of qualifying farmland.
2. A conservation agreement (required by N.C.G.S. §106-737 and defined in N.C.G.S. §121-35) to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Wilkes County Register of Deeds. 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 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 vote on the application:
 - a. The Wilkes County Tax Assessor, and
 - b. The Wilkes County Soil and Water Conservation District office.

C. Appeal

If an application is denied by the Advisory Board, the landowner may, within fifteen (15) days of notification of disapproval of the application, request in writing that the Advisory Board reconsider its decision. The request for reconsideration shall state the reason(s) therefore. Upon either an initial denial, if no request for reconsideration was made, or denial after reconsideration, the landowner shall have thirty (30) days from the date of notification 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, ENFORCEMENT AND RENEWAL OF CONSERVATION
AGREEMENTS**

A. Revocation and Enforcement

Upon providing written notice to the Advisory Board, a landowner of qualifying farmland within a District 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, Section C 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 conservation agreement prior to its expiration. If the Advisory Board shall revoke a conservation agreement for cause, the landowner shall have the appeal rights set forth in Article VIII, Section C. Transfers of land in a District due to death of the landowner, sale, or gift shall not revoke the conservation agreement unless the land no longer qualifies for the present-use-value taxation program or, in the event that there are water or sewer assessments held in abeyance, the new owner(s) fail(s) to agree in

writing to accept liability for those assessments in the event that the land is withdrawn either voluntarily or involuntarily from the District. Enforcement of the terms of a conservation agreement for land enrolled in a District shall be limited to revocation of the conservation agreement and the benefits derived therefrom.

The Wilkes County Tax Assessor shall notify the Advisory Board when a landowner disqualifies from land-use.

B. Renewal

A conservation agreement for land within a District shall be automatically renewed unless the landowner provides 30-day written notice to the Advisory Board of intent not to renew. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any conservation agreement unless this Ordinance or its authorizing legislation has been repealed.

**ARTICLE X
WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS**

A. No Connection Required

A landowner belonging to a District shall not be required to connect to Wilkes County water and/or sewer systems.

B. Abeyance

Water and sewer assessments shall be held in abeyance, without interest, for farms in a 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. The landowner may be required to sign an acknowledgement (that may be incorporated into the conservation agreement) of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

Nothing in this Article X 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 Article X conflicts with the terms of federal, state, or other grants under which County utility systems are constructed, said Article shall not apply. This Article X shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

**ARTICLE XI
PROPOSED 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 Wilkes 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 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 date that a request for a hearing has been received to the date 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 XII NOTIFICATION

A. Signage

There shall be signage posted at the farm gate or near the entrance of each qualifying farm within a District. If applicable, placement of signage shall be coordinated with the North Carolina Department of Transportation. Farm Bureau will provide signs placed at the farm entrance.

B. Maps

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

1. Wilkes County Planning Department;

2. Wilkes County Register of Deeds;
3. Natural Resources Conservation Service;
4. North Carolina Cooperative Extension;
5. Wilkes Soil and Water Conservation District; and
6. Any other such agency or office the Advisory Board deems appropriate, including maps denoting the location of Districts within the Wilkes County planning jurisdiction.

**ARTICLE XIII
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of subdivisions or planned unit developments requiring approval by the Wilkes County Planning Board under the Wilkes County Subdivision Ordinance shall, upon submission of the preliminary plat for the same to the Wilkes County Planning Department, provide a written statement detailing the existence, location, and ownership of all qualified farmland hereunder which is situated within one-half (1/2) aerial mile of the proposed subdivision or planned unit development.

**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 delegates 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 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.

B. Posting of Notice

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

Wilkes County has established Voluntary Agricultural Districts to protect and preserve agricultural lands and activities. These Districts have been developed and

mapped by the County to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, and other common farming activities may occur in these Districts any time during the day or night. Maps and information on the location and establishment of these Districts can be obtained from the 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, Voluntary Agricultural Districts shall 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 North Carolina Cooperative Extension, 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**

Annual 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 North Carolina Cooperative Extension, and the Wilkes Soil and Water Conservation District office 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 this 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, Statutes, Rules, and Regulations

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

C. Amendments

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

ARTICLE XVIII EFFECTIVE DATE

The effective date of this Ordinance shall be the date of its enactment by the Board of Commissioners.

ON MOTION OF COMMISSIONER FAY BYRD, SECONDED BY COMMISSIONER ZACH HENDERSON, THE FOREGOING ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED ON THE 15th DAY OF APRIL, 2008, BY A VOTE OF 5 IN FAVOR AND 0 OPPOSED.

WILKES COUNTY BOARD OF COMMISSIONERS

By: _____
Charles Sink, Chairman
Wilkes County Board of Commissioners

ATTEST:

Alene E. Faw, Clerk