

FRANKLIN COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE 1 TITLE

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

ARTICLE II AUTHORITY

The articles and sections of this program are adopted pursuant to authority conferred by the Farmland Preservation Enabling Act, Article 61, 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 Franklin 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, and increase protection from nuisance suits.

ARTICLE IV DEFINITIONS

The following are defined for purposes of this ordinance:

Advisory Board: Franklin County Agricultural Advisory Board.

Chairperson: Chairperson of the Franklin County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance and contained within township as defined in this section.

Board of Commissioners: Franklin County Board of Commissioners.

Township: Boundaries currently constituted for the existing ten (10) townships in Franklin County.

Agent: Any person serving the county, either in a voluntary or paid capacity, including members of the Advisory Board and its staff.

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 ten (10) members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each member shall be a Franklin County resident and at least 18 years of age.
2. Each member shall be actively engaged in farming as defined for Franklin county tax use purposes, agribusiness, or a representative of agricultural interest.
3. Members shall be appointed by the Board of Commissioners with the intent of providing a broad representation of the various segments of agriculture such as row crops, cattle, goats, horse, horticulture, forestry, etc... At least 6 of the members shall be actively engaged in farming. The Board of Commissioners are encouraged to consider nominations from private non-profit agricultural associations such as cattlemen's, the goat cooperative, and various other livestock and crop farm associations and those active in farming at large.
4. Each township will be represented by one (1) Advisory Board member designated by the Advisory Board.

D. Tenure

1. The initial board is to consist of three (3) appointees for terms of one year; three (3) appointees for terms of two years; and four (4) appointees for terms of three years. Thereafter, all appointments are to be for terms of three year,

with reappointment to a second full term permitted.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners as nominated as in Article V, Section C (3) for the remainder of the unexpired term.

F. Removal

Any member of the Advisory Board may be formally removed by the Board of Commissioners for cause; any member not attending a minimum of 50% of the called meetings of the Advisory Board shall be considered a resignation.

G Advisory Board Procedure

1. The Advisory Board shall develop procedures for the conduct of its meetings consistent with Robert's Rules of Order or Rules and Procedures for Small Boards. It shall meet at least annually and at such times as the Advisory Board shall provide in its rules or upon the request of a majority of its members.

2. Officers

The Advisory Board shall elect a chairperson, vice-chairperson and secretary 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. Any action to be taken must have a quorum of the full membership present (6 of the 10) and upon a majority vote of those present.

3. Jurisdiction

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

4. Advisory Board Year

The Advisory Board shall use the Franklin County fiscal year as its meeting year.

5. Meetings

Meetings of the Advisory Board shall be held at the call of the chairperson, by agreement of a majority of the Advisory Board, 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 on the door of the meeting site at least seven calendar days in advance of the meeting 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.

6. Majority Vote

All and any action to be taken requires a quorum of the full membership present (6) and upon a majority vote of those present.

7. 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 record of its examinations and other official actions, all of which shall be filed in the County Extension Center with the County Director and shall be public record. Electronic copies shall be provided to the County Clerk.

8. Administrative

The Advisory Board may contract with the County Cooperative Extension Center office or the Soil and Water Conservation District office to serve the Board for record keeping, correspondence, application procedures under this ordinance, and other reasonable services the Board needs to complete its duties.

H. 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. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or way of life within Franklin County.
3. Review and make recommendations concerning proposed amendments to this ordinance;
4. 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;
5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.
7. The Advisory Board shall report at least annually to the Board of Commissioners on the status, progress, and activities of the County's farmland preservation program including the County's voluntary agricultural district program and its finances.

I. Bylaws

1. Article V of this Ordinance shall constitute the By-Laws of the Advisory Board and shall be subject to amendments by a majority vote of the Board of Commissioners.

**ARTICLE VI
CERTIFICATION AS QUALIFYING FARMLAND**

1.A. Requirements

In order to secure certification as qualifying farmland, real property shall:

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 of the qualifications this program set forth in N.C.G.S. 105-277.3;
2. Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:

a.(i) Are best suited for providing food, seed, fiber, forage, timber, and oil seed crops;

(ii)Have good soil qualities;

(iii)Are favorable for all major crops common to Franklin County;

(iv)Have a favorable growing season; and

(v)Receive the available moisture needed to produce high yields for an average of eight out of ten years; or

b. Be one of which at least two-thirds of the land has been actively used in agricultural, horticultural, or forestry operations as defined by N.C.G.S. 105-277.2 (1), (2), and (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;(for purposes of this ordinance applications will be accepted monthly for two years from the date the ordinance is approved and thereafter annually during the month of January.)

3.Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service defined erosion-control practices that are addressed to said highly-erodible land; and

4.Be the subject of or subject to 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 lots that meet applicable county zoning and subdivision regulations.

ARTICLE VII

CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Townships

All agricultural districts created under this ordinance will be created and contained within the ten (10) townships previously defined under this ordinance. All land enrolled in a township shall be part of a single district. If a single farm has acreage in two or more districts, the farm shall participate in the district where the largest acreage is found. No township shall contain more than one voluntary agricultural district as established under this ordinance.

B. Creation

An agricultural district created pursuant to this Ordinance shall generally meet the requirements of N.C.G.S. 105-277.3 as related to Land Use Classification

and consist of acreage as follows: (the guideline for these requirements are those used by the Franklin County tax office in determining tax use valuation.)

1. Agricultural Land – at least 10 acres in actual production and at least \$1,000 annual average gross income for the preceding three years, or
2. Horticultural Land – at least 5 acres in actual production and at least \$1,000 of annual average gross income for the preceding three years, or
3. Forest Land – at least 20 acres in actual production.

The agricultural districts shall otherwise meet the specific requirements as set forth in the above referenced statute.

C. Education

Franklin County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the farm districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.

D. Addition and Withdrawal

1. Qualifying farmland in a township may be added to the existing district in that township as herein provided.

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

A. Application Procedure

The owner of a farm seeking to qualify for participation in the programs authorized hereunder shall submit an application and the then determined processing fee to the Agricultural Advisory Board. The application for certification as a qualifying farm may be made at the same time as a request for designation in a voluntary agricultural district is made. In order to benefit from the programs authorized by this ordinance, a farm must be certified as a qualifying farm by the Advisory Board and designated as a Voluntary Agricultural District as set forth in section VI of this ordinance.

B. Approval Process

- 1. An application for qualifying farm certification and voluntary agricultural district designation shall be made to Franklin County on forms reviewed by the Advisory Board.**
- 2. Once an application is determined to be complete, it will be submitted to the Advisory Board for its review. Within 60 business days thereafter the Advisory Board will give a decision regarding qualifying farm certification and a recommendation regarding voluntary agricultural district designation.**
- 3. An applicant shall be notified of the decision regarding qualifying farm certification and the recommendation for designation as a voluntary agricultural district. Denial of an application for qualifying farm certification may be appealed to the Board of Commissioners within 30 calendar days of receipt of the decision of the Advisory Board.**
- 4. Upon receipt of the recommendation of the Advisory Board, the Board of Commissioners shall consider an application for the creation of a voluntary agricultural district or the inclusion of qualifying farmland to an existing district.**
- 5. Upon approval of the Board of Commissioners the voluntary agricultural district shall become effective upon registration of the conservation agreement to sustain agriculture prepared in accordance with Article VII, Section A(4) hereof in the Franklin County Register of Deeds. The Franklin County Tax Assessor shall be notified and the location of the district shall be reflected on the County's tax maps to the extent practicable.**
- 6. Under no circumstances will an application automatically approved or denied based on the passage of time.**

ARTICLE IX REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board and payment of the then determined processing fee, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation 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. Notice of such revocation shall be

recorded in the office of the Franklin County Register of Deeds. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any preservation agreements prior to its expiration.

ARTICLE X

NOTIFICATION OF PROXIMITY TO A VOLUNTARY AGRICULTURAL DISTRICT

A. Record Notice of Proximity to Voluntary Agricultural Districts

1. Procedure

Upon certification as qualifying farmland and designation of real property as a Voluntary Agricultural District, the Franklin County Land Records System shall be changed to the extent reasonably practicable to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one (1) mile of a voluntary agricultural district when Franklin County Government computerizes its County Land Records System.

2. Notice of the establishment of voluntary agricultural districts and their purposes shall be posted conspicuously in appropriate County offices including the Register of Deeds, Planning Department, and Tax Assessor and at such other places as directed by the Board of Commissioners. To the extent practicable maps locating the voluntary agricultural districts shall also be made available by appropriate County offices.

3. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

4. 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

- 1. Signs identifying voluntary agricultural districts may be placed along the rights-of-way of major roads that pass through or next to those districts. Placement of signage shall be coordinated with the N.C. Department of Transportation and the Franklin County Planning Department with all fees and approvals applying.**
- 2. The following notice, provided through the Advisory Board at no cost to the county, must be displayed in a prominent position in the office of the Franklin County Register of Deeds and the public access area in the Franklin County Tax Department:**

NOTICE TO REAL ESTATE PURCHASERS IN FRANKLIN COUNTY AGRICULTURAL DISTRICTS Franklin County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped 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, hunting and similar activities may take place in these districts any time during the day or night. Maps and/or information on the location and establishment of these districts can be obtained from the Cooperative Extension office, County Planning and Inspections Department, Natural Resources Conservation Service, the Farm Service Agency office, and the County Tax Department.

ARTICLE XI LAND USE DEVELOPMENT

A. Purposes

In order to prevent conflicts between voluntary agricultural districts, farm owners, and nearby non-farmer landowners, land use decisions shall consider the purposes of this ordinance and the proximity of voluntary agricultural districts to any proposed development. It shall be the duty of the Advisory Board to advise the Board of Commissioners and 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 XII
CONSULTATION AND AGENCY NOTIFICATION**

A. Consultation

The Advisory Board may consult with the North Carolina Cooperative ~~Extension Service~~, the Natural Resources Conservation Service office, 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.

B. Notice 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 after adoption. At least annually the Advisory Board shall submit through the county a written report to the Commissioner of Agriculture and Consumer Services on the County's farmland preservation program, which may include the following voluntary agricultural district information:

1. Number of landowners enrolled;
2. Number of acres for which applications are pending;
3. Number of acres enrolled and certified during the reporting period;
4. Number of acres denied during the reporting period;
5. Copies of any amendments to the ordinance; and
6. Any other information the Advisory Board deems useful.

