

ORDINANCE NO. 2008-16

BE IT ORDAINED that the Catawba County Code of Ordinances, is hereby amended by adding a new chapter, to be numbered Chapter 4, which said chapter reads as follows:

CHAPTER 4 AGRICULTURAL DISTRICTS

ARTICLE 1. IN GENERAL

Sec. 4-1. Title

An ordinance of the Board of County Commissioners of CATAWBA COUNTY, NORTH CAROLINA, entitled, "**VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.**"

Sec. 4-2. 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.

Sec. 4-3. Applicability

This ordinance applies only to the unincorporated sections of Catawba County. It does not apply within the corporate boundaries or extraterritorial jurisdiction of any municipality.

Sec. 4-4. Purpose

The purpose of this ordinance is to promote agricultural values and the general welfare of the County, increase identity and pride in the agricultural community and its way of life; support the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

Sec. 4-5. Definitions

The following are defined for purposes of this ordinance:

Advisory Board means the Catawba County Agricultural Advisory Board.

Board of Commissioners means the Catawba County Board of Commissioners.

Chairperson means Chairperson of the Catawba County Agricultural Advisory Board.

Conservation Agreement means an agreement as defined in N.C.G.S. §121-35.

District means Voluntary Agricultural District as established by this ordinance.

Enhanced District means Enhanced Voluntary Agricultural District as established by this ordinance.

Farming means engaged in the production of crops, vegetables, fruits, sod, ornamental or flowering plants, dairy, livestock, poultry, timber and other forms of agricultural products having a domestic or foreign market.

Growth corridor means growth corridors, centers and nodes which are delineated on the County's adopted small area plan maps, which are adopted through a public process by the Board of Commissioners. The adopted small area plan maps are maintained in the County planning office.

Project means water or sewer line infrastructure or other facilities/improvements that may be funded by County government for public benefit.

**ARTICLE II
AGRICULTURAL ADVISORY BOARD**

Sec. 4-6. Creation

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

Sec. 4-7. Membership

The Advisory Board shall consist of no less than five but no more than nine members appointed by the Board of Commissioners.

Sec. 4-8. Membership Requirements

(a) Each Advisory Board member shall be a Catawba County resident and landowner in the County's planning jurisdiction.

(b) A majority of the members shall be actively engaged in farming. Non-farming members are eligible provided they have special interest, experience, or education in agriculture and/or rural preservation and do not represent a majority on the Board.

(c) Members shall be selected to generally represent the agricultural districts in the County to the extent feasible.

(d) Individuals recommended as members may be submitted to the Board of Commissioners by the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency County Committee, County Farm Bureau, Natural Resources Conservation Service, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.

Sec. 4-9. Tenure

The initial board will consist of at least two appointees for terms of one year and at least two appointees for terms of two years and at least one appointee for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted at the end of the term, but members may not serve more than three consecutive full terms.

Sec. 4-10. Vacancies

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

Sec. 4-11. Removal

Any member of the Advisory Board may be removed with or without cause by the Board of Commissioners. All members are subject to Catawba County Code section 2-266 regarding absences of board members.

Sec. 4-12. Board Procedures

The initial Advisory Board will establish its rules and procedures through the adoption of official by-laws. The by-laws may be amended by the Advisory Board in accordance with procedures noted in the adopted by-laws. The by-laws and any amendments will be filed with the Board of Commissioners.

Sec. 4-13. Duties

The Advisory Board will meet as necessary to consider the following work items:

- (a) Review and approve applications for qualified farmland in either a district or enhanced district, including modifications to existing districts;
- (b) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the County that will affect agricultural districts;
- (c) Review and make recommendations concerning proposed amendments to this ordinance;
- (d) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners;
- (e) Perform other agricultural related tasks or duties assigned by the Board of Commissioners; and
- (f) Annually advise the Board of Commissioners and Planning Board on the status, progress, and activities of the County's agricultural district program as noted in Article X.

Sec. 4-14. Administrative

The County will serve the Board for record keeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.

Sec. 4-15. Consultation Authority

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the County Soil & Water Conservation District, 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.

ARTICLE III. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

Sec. 4-16. Implementation

In order to implement the purposes stated in Article I, this program provides for the creation of voluntary or enhanced agricultural districts which meet the following standards:

(a) The district or enhanced district shall contain a minimum of five (5) contiguous acres of horticultural land, ten (10) contiguous acres agricultural land or twenty (20) contiguous acres of forestland; or

(b) The district or enhanced district shall contain two or more qualified farms which contain a minimum of five (5) total acres of horticultural land, ten (10) total acres agricultural land or twenty (20) total acres of forestland which are located within one mile of each other.

Sec. 4-17. Education/Project Notification

(a) 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 enhanced districts and to further the board's purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program

(b) When the County has a project which may go through a district or enhanced district, the Advisory Board will be notified of the project, and may meet to discuss the matter and provide information to the Board of Commissioners.

Sec. 4-18. Withdrawal

In the event that one or more participants in the district or enhanced district withdraw and the acreage in the district or enhanced district becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a district or enhanced district will continue to exist so long as there is one qualifying farm.

ARTICLE IV. CERTIFICATION AND QUALIFICATION OF FARMLAND

Sec. 4-19. Requirements

To secure County certification as qualifying farmland in either a voluntary agricultural district or an enhanced voluntary agricultural district, a farm must:

(a) Be participating in, or otherwise qualify for, the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7; and

(b) Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service's most recent version of the Field Office Technical Guide defined erosion-control practices that are implemented on highly-erodible land; and

(c) 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 lots that meet applicable County zoning and subdivision regulations.

ARTICLE V. APPLICATION, APPROVAL, AND APPEAL PROCEDURE

Sec. 4-20. Application Procedure

(a) A landowner may apply to participate in either the district or enhanced district program by making application to the County or a designated staff person. The application shall be on forms provided by the County. The application to participate in a district or enhanced district may be filed with the certification for qualifying farmland.

(b) A conservation agreement suited to district type (district or enhanced district) to sustain, encourage, and promote agriculture must be executed by the landowner. A conservation agreement for an enhanced district shall be recorded with the Catawba County Register of Deeds.

Sec. 4-21. Approval Process

(a) Upon receipt of a complete application, the County shall forward copies immediately to the following offices which must provide comments to the Advisory Board within thirty (30) days of receipt:

- (1) The Catawba County Tax Assessor;
- (2) The Catawba County Soil and Water Conservation District office; and
- (3) The Natural Resources Conservation Service.

(b) Upon submission of a complete application to the County, the Advisory Board shall meet within sixty (60) days, or as soon thereafter as possible, to approve or disapprove the application. The County shall notify the applicant by first class mail of approval or disapproval of participation in the district. If the application is disapproved, the reasons for disapproval shall be noted in the notification letter.

Sec. 4-22. 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 made in writing and delivered to the County Clerk for a final decision by the Board of Commissioners.

ARTICLE VI. REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENTS

Sec. 4-23. Revocation and Enforcement.

(a) District. Conservation agreements for land within districts shall be enforced for a period of ten years unless revoked by the landowner or the County. By providing sixty (60) days written notice to the Advisory Board and the County, a landowner of qualifying farmland within a district may revoke the conservation agreement or the

Advisory Board may make a recommendation to the Board of Commissioners to revoke the same conservation agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article V 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 agreements prior to its expiration.

(b) **Enhanced District.** Conservation agreements for land within enhanced districts are irrevocable for a period of ten years. Enforcement of the terms of the conservation agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The County may also terminate benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board recommends to the Board of Commissioners to revoke the conservation agreement for cause, the landowner shall have the appeal rights set forth in Article V. The right to terminate program benefits is in addition to any legal rights that the County may have under either this ordinance or the terms of the applicable conservation agreement.

Sec. 4-24. Renewal.

(a) **District.** A conservation agreement for land within a district shall be automatically renewed after the initial ten-year period unless the landowner provides sixty (60) day written notice to the Advisory Board of intent not to renew prior to the termination date of the conservation agreement. The termination date is determined to be the prescribed number of years noted in this section from the date of approval of the district by the Advisory Board. Absent noncompliance by the landowner, the Advisory Board shall make a recommendation to the Board of Commissioners to renew any conservation agreement unless this ordinance or its authorizing legislation has been repealed.

(b) **Enhanced District.** A conservation agreement for the enhanced district shall be deemed automatically renewed for an additional term of three years unless either the Advisory Board or the landowner gives sixty (60) day written notice to the contrary prior to the termination date of the conservation agreement. At the end of each three-year term, the conservation agreement shall automatically renew for an additional three-year term unless notice of termination is given. The termination date is determined to be the prescribed number of years noted in this section from the date of recordation of the conservation agreement.

ARTICLE VII. ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Sec. 4-25. Enhanced District Benefits.

Land enrolled in the enhanced district program is entitled to all the benefits available under the district program and to the following additional benefits:

(a) **Sale of Non-farm Products.** Landowners participating in the enhanced district may receive up to 25% of gross sales from the sale of non-farm products on an annual basis and still qualify as a bona fide farm that is exempt from County zoning regulations as established under N.C.G.S. §153A-340(b). For purposes of N.C.G.S. §153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under N.C.G.S. §106-743.2 is considered a bona fide farm. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed 25% of its gross sales.

(b) **Agricultural Cost Share Program.** Landowners participating in the enhanced district are eligible under N.C.G.S. §143-215.74(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agricultural cost Share Program established pursuant to Part 9 of Article 21 of Chapter 143 of the General Statutes.

(c) **Priority Consideration.** State departments, institutions or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in enhanced districts.

ARTICLE VIII. PUBLIC NOTICE

Sec. 4-26. Public Notice of Proximity to Voluntary and Enhanced Agricultural Districts

(a) **Land Records System.** Farms approved as agricultural districts shall be shown in the County's Geographic Information System (GIS).

(b) **Signage.** Signs, the design of which has been approved in advance by the Advisory Board, may be placed along the rights-of-way of major roads that pass through or next to approved agricultural districts. At least one sign, not to exceed eight square feet in size with either a green or brown background, will be posted along the

roads, the location of which is deemed appropriate by the Advisory Board or its administrative agent for the County's agricultural district program.

(c) Notification. Maps depicting approved agricultural districts shall be posted in the following agencies or offices:

- (1) Register of Deeds; and
- (2) Natural Resources Conservation Service; and
- (3) North Carolina Cooperative Extension Service; and
- (4) Planning & Development Department; and
- (5) Tax Office; and
- (6) Soil and Water Conservation District; and
- (7) Any other such agency or office the Advisory Board deems appropriate.

(d) Posting of Notice. The following notice, printed on a minimum 8½ inch x 11 inch paper, shall be posted in the office of the Register of Deeds.

**“NOTICE TO REAL ESTATE PURCHASERS IN CATAWBA COUNTY –
AGRICULTURAL DISTRICTS “**

Catawba County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been 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, tree harvesting, sawing, and other common farming activities may occur in these districts any time during the day or night. Information on the location and establishment of these districts can be obtained from the North Carolina Cooperative Extension Service – Catawba County office, the office of the Register of Deeds, the County Tax office, the County Planning office, the County Soil & Water Conservation District or the Natural Resources Conservation Service office.”

(e) Subdivision Plat. Developers of all new subdivision lots or planned unit developments outside the cities' planning jurisdictions, including the extraterritorial jurisdictions, which are created after the effective date of this ordinance shall designate

on the preliminary and final development plats, the existence of all approved districts within one-half aerial mile of the proposed development.

Sec. 4-27. 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 for any action made in good faith in connection with the duties or obligations imposed by this ordinance.

Sec. 4-28. 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, district or enhanced district as defined in this ordinance, unless otherwise dictated by law.

ARTICLE IX. COUNTY LAND-USE PLANNING

Sec. 4-29. Growth Corridor

Existing farm operations located within a designated growth corridor at the time of the adoption of this ordinance that meet the district criteria for inclusion into an agricultural district are eligible to apply for a district or enhanced district to be approved by the Advisory Board so long as the farming operation has not ceased for a period of 180 days or more.

Start-up farm operations located within a designated growth corridor that are not already in an established district or enhanced district, may only be added to a district or enhanced district upon approval by the Board of Commissioners, after an application is first presented to the Advisory Board who shall make a recommendation to the Board of Commissioners.

ARTICLE X. NORTH CAROLINA AGENCY NOTIFICATION

Sec. 4-30. Notice

A copy of this adopted ordinance, and any subsequent amendments, shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services. The Advisory Board shall submit an annual written report for the preceding calendar year by March 1 to the Board of Commissioners, Planning Board and the Commissioner of Agriculture and Consumer Services on the County's agricultural district program, which should include the following information:

- (a) Number of landowners enrolled;
- (b) Number of acres enrolled;
- (c) Number of acres certified during the reporting period;
- (d) Number of acres denied during the reporting period;
- (e) Changes occurring over the past year;
- (f) Copies of any amendments to the ordinance; and
- (g) Any other information the Advisory Board deems useful.

ARTICLE XI. LEGAL PROVISIONS

Sec. 4-31. 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.

Sec. 4-32. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Catawba County, the most restrictive 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.

Adopted this the 20th day of October, 2008.

CATAWBA COUNTY BOARD OF COMMISSIONERS



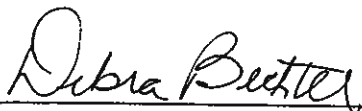
Kitty W. Barnes, Chairman

ATTEST:



Barbara Morris, Clerk to Board of Commissioners

Approved as to form:



County Attorney