

**FRANKLIN COUNTY
VOLUNTARY AGRICULTURAL DISTRICT AND ENHANCED
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

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

**ARTICLE II
AUTHORITY**

The articles and sections of this program are adopted pursuant to authority conferred by The Agricultural Development and Farmland Preservation Enabling Act, Article 61, N.C.G.S. Sections 106-735 through 106-744, and N.C.G.S. Chapter 153A.

**ARTICLE III
PURPOSE**

The purpose of this ordinance is to promote agricultural values and the general welfare of Franklin; to increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; 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 a township as defined in this section.

Enhanced District: Enhanced Voluntary Agricultural District as established by this ordinance and contained within a 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 to serve at the will of the Board.

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 an 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, horses, horticulture, forestry, and etc. At least 6 of the members shall be actively engaged in farming. The Board of Commissioners is encouraged to consider nominations from private non-profit agricultural associations such as the Cattlemen's Association, 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

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 years, 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 pursuant to 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 two consecutive called meetings in one fiscal year shall be deemed to be a probationary member. The said member and the chairman of the Board of Commissioners shall be notified of said status. The County Manager shall contact the member concerning the absences and his/her interest in remaining on the Agriculture Advisory Board. The Chairman of the Board of Commissioners shall determine if removal is warranted or necessary, and report the same to the entire Board of Commissioners. If the Chairman determines that removal is warranted he/she shall place the removal issue on the agenda for the Board of Commissioners; The member shall be given a least ten days advance written notice of the agenda item and he/she shall be given an opportunity to speak and present evidence; The Board shall vote on whether to maintain the member of the Advisory Board or terminate the member.

G. Advisory Board

1. The Advisory Board shall develop procedures for the conduct of its meetings consistent with *Robert's Rules of Order*. 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 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 12 days in advance 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 2/3 of the full membership and all actions require 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 or printed 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 Advisory Board for record keeping, correspondence, application procedures under this ordinance, and other reasonable services the Advisory Board needs to complete its duties.

H. Duties

The Advisory Board shall:

- 1. Review applications for enrollment of qualified farmland, horticultural land, or forestland in either Voluntary Agricultural Districts or Enhanced Voluntary Agricultural Districts and make recommendations concerning the establishment and modification of Voluntary Agricultural Districts and Enhanced Voluntary 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. Maintain the countywide farmland protection plan as defined in N.C.G.S. § 106-744 (e); and present proposed changes 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 Franklin County's farmland preservation program including the Franklin County's District and Enhanced District program and its finances.**

I. By-Laws

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**

A. Requirements

In order to secure certification as qualifying farmland in a District or Enhanced District 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 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;**
- 3. 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; and**
- 4. Be located in the unincorporated area of Franklin County, unless there is an agreement with a municipality through which the county is authorized to exercise the authority of the municipality on its behalf.**

**ARTICLE VII
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND
ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS**

A. Townships

All Districts and Enhanced 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 townships, the

farm shall participate in the township where the largest acreage is found. No township shall contain more than one District or Enhanced District as established under this ordinance. Each District or Enhanced District shall meet any of the minimum acreage requirements as set forth in N.C.G.S. § 105-277.3. The guidelines for these requirements are those used by the Franklin County Tax Department in determining present-use value taxation enrollment qualification.

B. Addition

Qualifying farmland in a township with an existing District or Enhanced District may be added to that District or Enhanced District in that township as herein provided.

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 Districts and Enhanced Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the District and Enhanced program.

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

A. Application Procedure

The owner of a farm seeking to qualify for participation in the District or Enhanced District program authorized hereunder shall submit an application and the application processing fee to the Advisory Board. The application for certification as a qualifying farm may be made at the same time as a request for designation in a District or Enhanced District is made. In order to benefit from the District and Enhanced District program authorized by this ordinance, a farm must be certified as a qualifying farm by the Advisory Board as set forth in Article VI of this ordinance and designated as being in a District or Enhanced District pursuant to this Article.

B. Approval Procedure

1. An application for qualifying farm certification and District and Enhanced District designation shall be made to the Advisory Board on forms provided and reviewed by the Advisory Board.

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 with the Advisory Board, which shall record this agreement with the Franklin County Register of Deeds and Cooperative Extension after approval by the Board of Commissioners. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation.**
3. **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 District or Enhanced District designation. The Advisory Board shall notify the applicant by first class mail of its decision.**
4. **Upon receipt of the recommendation of the Advisory Board, the Board of Commissioners shall consider an application for the creation of a District or Enhanced District or the inclusion of qualifying farmland to an existing District or Enhanced District.**
5. **Upon approval of the Board of Commissioners the District or Enhanced District shall become effective upon recording of the conservation agreement to sustain agriculture with the Franklin County Register of Deeds. The Franklin County Tax Department, the Franklin County GIS Office, the Franklin County Planning Department and any other departments deemed necessary by the Advisory Board 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 be approved or denied based on the passage of time.**

C. Appeal Procedure

1. **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. Revocation of a conservation agreement may be appealed to the Board of Commissioners within 30 days of the receipt of the decision of the Advisory Board to revoke said conservation agreement.**

**ARTICLE IX
REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION
AGREEMENTS**

A. Revocation and Enforcement

1. **District. By providing 30 days advance written notice to the Advisory Board, and payment of the processing fee, a landowner of qualifying farmland within a District may revoke the Conservation Agreement or the Board of Commissioners may revoke the same Conservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Article VIII(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, the Board of Commissioners shall not revoke any Conservation Agreement prior to its expiration. If the Board of Commissioners shall revoke a Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(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) fails 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. A notice of revocation shall be recorded in the office of the Franklin County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Voluntary Agricultural District program.**

2. **Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 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 any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Board of Commissioners shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). 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. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement. A notice of revocation shall be recorded in the office of the Franklin County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program.

ARTICLE X
ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in an Enhanced Voluntary Agricultural District is entitled to all of the benefits available to land enrolled in a Voluntary Agricultural District, and to the following additional benefits:

A. Sale of Non-farm Products

Landowners participating in Enhanced Districts may receive up to twenty-five percent of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from county zoning regulations under N.C.G.S. § 153A-340(b). 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 twenty-five percent of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

B. Agricultural Cost Share Program

Landowners participating in Enhanced Districts 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 Agriculture Cost Share Program established pursuant to Part 9 of Article 21 of Chapter 143 of the North Carolina General Statutes to benefit that farmland.

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 XI
PUBLIC HEARINGS**

A. If the Board of Commissioners decide to condemn any interest in qualifying farmland which is situated within a Voluntary Agricultural District or an Enhanced Voluntary Agricultural District the Board MAY direct the Advisory Board to hold a public hearing to receive public comments on the effects of the proposed condemnation on qualified farmland as protected in this Ordinance.

- (1) Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the Board of Commissioners concerning the proposed condemnation**
- (2) The Advisory Board shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the Board of Commissioners.**
- (3) The Board of Commissioners may not formally initiate the condemnation action during this thirty day period.**

B. Procedure

- 1. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Franklin County within ten (10) 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 fifteen (15) 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 County, 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 or Enhanced District within which the proposed action is to take place.**
- 3. The Advisory Board shall 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 Board of Commissioners.
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 thirty (30) days. If the County agrees to an extension, the County 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 OF PROXIMITY TO A VOLUNTARY
AGRICULTURAL DISTRICT OR ENHANCED VOLUNTARY
AGRICULTURAL DISTRICT**

A. Record Notice of Proximity to Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts

1. Procedure

Upon certification of qualifying farmland and designation of real property as a District or Enhanced District, the Franklin County Land Records System shall to the extent reasonably practicable 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 District or Enhanced District.

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

B. Signage

1. Signs identifying Districts and Enhanced Districts may be placed, with the advance permission of owners of property upon which signs will be placed, adjacent to the rights-of-way of major roads that pass through or next to those Districts or Enhanced Districts. Placement of signage shall be coordinated with the Franklin County Planning Department in accordance with all applicable regulations, fees, and approvals.
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 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 XIII LAND USE DEVELOPMENT

Purposes

In order to prevent conflicts between Districts and Enhanced Districts, farm owners, and nearby non-farmer landowners, land use decisions shall consider the purposes of this Ordinance and the proximity of Districts and Enhanced 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 District and Enhanced District program and to also coordinate the formation and maintenance of Districts and Enhanced 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 XIV SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on the Final Plat, the existence of Districts and Enhanced Districts within one mile of the proposed development.

ARTICLE XV 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 Service, 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 Commission of Agriculture and Consumer Services on the County's farmland preservation program, which may include the following Voluntary Agricultural District and Enhanced 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.

**ARTICLE XVI
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 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 XII
ENACTMENT**

The Franklin County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the 4 day of September, 2012

Motion for adoption by Comm. Lancaster and seconded by Comm. Swanson.

COUNTY BOARD OF COMMISSIONERS

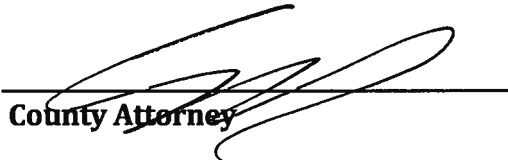

Chairperson

ATTEST:


Clerk to Board of Commissioners



Approved as to form:


County Attorney

Last updated on August 29, 2012