

**IREDELL COUNTY  
ENHANCED  
FARMLAND PRESERVATION ORDINANCE**

ADOPTED December 4<sup>th</sup> 2007

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**IREDELL COUNTY ENHANCED  
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**Article I. Policy And Purpose**

It is the policy of Iredell County to conserve and protect and encourage the development, improvement and preservation of its agricultural land and forestland for the production of food, fiber, and other products. When other land uses extend into agricultural and forest areas, agricultural and forestry operations often become the subject of nuisance suits. It is the purpose of this Ordinance to reduce the loss of available and productive farmland by limiting the circumstances under which an agricultural or forestry operation may be deemed to be a nuisance, and to encourage the preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of the county.

The Enhanced Farmland Preservation Ordinance creates a district that will provide greater benefits to farmers than the current Voluntary Farmland Preservation Ordinance. Participating farms will be allowed to receive up to 25% of their gross sales from the sale of certain types of Non-farm products, as defined herein, and still qualify for agricultural zoning exemptions. In addition, participating farms will be eligible for a higher percentage of cost-share funds under the Agricultural Cost share Program and have priority for other state and local grant programs.

**Article II. Enactment**

Pursuant to authority conferred by North Carolina General Statute 106-735 through 106-744 and Chapter 153A, and for the purpose of promoting the health, safety, morals and general welfare of Iredell County, the Board of Commissioners of Iredell County, North Carolina does enact the following sections, which shall be known as the ENHANCED FARMLAND PRESERVATION ORDINANCE of Iredell County, North Carolina.

**Article III. Definitions**

The following terms are defined for purposes of this ordinance:

**Board** - Iredell County Farmland Preservation Board

**Board of Commissioners** - Iredell County Board of Commissioners

**Farm Use** – The cultivation of soil for production and harvesting of crops; the planting and production of trees and timber; dairying and the raising, management, care and training of livestock; aquaculture; the operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm; the marketing and selling of crops, timber and livestock produced on the farm; agritourism; storage and use of materials for the farm uses outlined herein; packing, treating, processing, sorting, storage, and other activities

customarily performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm and not inconsistent with the purpose of The Agricultural Development and Farmland Preservation Enabling Act. For purposes of G.S. 153A-340(b), the production of any Nonfarm product, that the Department of Agriculture and Consumer Services specifically recognizes as a “Goodness Grows in North Carolina” product, that is produced on a farm subject to a conservation agreement pursuant to this Ordinance, is a Farm Use.

**Chairman** – Chairman of the Farmland Preservation Board

**District** – Enhanced Voluntary Agricultural District

**Nonfarm Products** – Any product that is not produced pursuant to a Farm Use and is recognized by the Department of Agriculture and Consumer Services as a "Goodness Grows in North Carolina" product. For the purposes of this ordinance, the term “non-farm products” shall not include any use that is not directly associated with the operations of the subject farm.

#### **Article IV. Farmland Preservation Board**

##### Section 401. Creation

The Enhanced Farmland Preservation Ordinance will be implemented by the existing Voluntary Farmland Preservation Board as appointed by the Board of Commissioners. This Advisory Board will oversee both county ordinances.

##### Section 402. Membership

(402.1) Each board member shall be a resident of Iredell County.

(402.2) Five (5) of the seven (7) members shall be actively engaged in farming and they may be selected for appointment by the Board of Commissioners from a list of possible candidates submitted to the Board of Commissioners by: the Iredell County Cooperative Extension Service, the Iredell County Soil and Water Conservation District and the U.S. Dept. of Agriculture Farm Service Agency. Appointments should be made with an effort to have the broadest geographical representation possible.

(402.3) All members are to serve for terms of four (4) years, except the initial Board is to consist of two (2) appointees for a term of two (2) years; three (3) appointees for terms of three (3) years, and two (2) appointees for terms of four (4) years. thereafter, all appointments are to be for terms of four (4) years, with reappointments permitted.

(402.4) Any vacancy on the Farmland Preservation Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

(402.5) The Board of Commissioners may remove with or without cause any member of

the Farmland Preservation Board.

- (402.6) The per diem compensation of the members of the Farmland Preservation Board shall be fixed by the Board of Commissioners and funds shall be appropriated to the Farmland Preservation Board to perform its duties.

#### Section 403. Procedure

- (403.1) The Board is to elect a chairman and vice-chairman each year at its first meeting of the fiscal year. The chairman shall preside over all regular or special meetings of the Board. The Board shall adopt its own by-laws and such by-laws or amendments thereto must be approved by the Iredell County Board of Commissioners.
- (403.2) The Board will use the county fiscal year as its meeting year. The meetings of the Board shall be publicized and conducted in accordance with provisions of the North Carolina Open Meetings Law. Such meetings shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify.
- (403.3) The 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. The Board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Iredell County Planning Department office and shall be a public record.
- (403.4) The Iredell County Farmland Preservation Board shall contract with the Iredell County Planning Department, with technical assistance of the Iredell County Cooperative Extension Service, to serve the Board for record keeping, correspondence, maintenance of application procedures, and whatever other services the board needs to complete its duties.
- (403.5) The concurring vote of a majority of the members of the Farmland Preservation Board shall be necessary to; reverse any order, requirement, decision, or determination and to decide in favor of an applicant, or pass upon any other matter on which it is required to set under this ordinance.

#### Section 404. Duties

The Farmland Preservation Board shall:

- (404.1) Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
- (404.2) Hold public hearing pursuant to Article VIII of this ordinance;

- (404.3) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
- (404.4) Perform other related tasks or duties assigned by the Board of Commissioners.
- (404.5) Develop a county wide farmland protection plan as defined in NCGS 106-744 (e) (1) for presentation to board of commissioners;
- (404.6) Each district shall be assigned to a member of the Board who shall monitor and represent that district in all business conducted by the Board. Individual members will represent those districts closest to them geographically. No member will represent more than twenty-five percent (25%) of the total number of districts in the county or twenty-five percent (25%) of total land area.

## **Article V. Application for Enhanced Voluntary Agricultural Districts**

### Section 501. Purpose

In order to implement the purpose stated in Article I, this program provides for the creation of enhanced voluntary agricultural district, which meet the following procedural standards.

### Section 502. Procedure

- (502.1) An enhanced agricultural district shall initially consist of at least 25 or more contiguous acres of qualifying farmland or be within 1-mile of an already existing district or at least two (2) or more qualifying farms, which collectively will create a district. An agriculture district may be enlarged by adding qualifying, contiguous farms.
- (502.2) Upon receipt of an application, the Board will forward copies immediately to:
- (A) The Iredell County Tax Assessors Office and
  - (B) The Natural Resource Conservation Service and
  - (C) The Iredell County Cooperative Extension Service and
  - (C) The Iredell County Soil and Water Conservation District Office for their evaluation pursuant to Article VI. The said offices shall evaluate, complete and return their copies to the Chairman within thirty (30) days of receipt.
- (502.3) Within thirty (30) days of receipt of respective reports from the County Tax Assessor and the Natural Resource Conservation Service, the Board will meet and render a decision regarding the application. The Board will notify the

applicant by mail of its decision.

(502.4) If the application is denied by the Farmland Preservation Board, the petitioner has thirty (30) days to appeal the decision to the Iredell County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

#### Section 503. Public Notice

##### (503.1) Maps

Enhanced voluntary agricultural districts will be marked on official maps maintained by the Iredell County Planning Dept. and displayed for public view in the following county offices:

- (A) Registrar of Deeds
- (B) Planning Department
- (C) Tax Supervisor / GIS Mapping Dept.
- (D) Soil and Water Conservation District/ Natural Resource Conservation Service
- (E) Cooperative Extension Service
- (F) Land Records Office
- (G) Any other office deemed necessary by the Board of Commissioners

##### (503.2) Subdivision Ordinance and Zoning Ordinance Review

Developers of major subdivisions or planned unit developments shall designate on the final plat or development plans, the existence of enhanced agricultural districts within one-half (1/2) mile radius of the proposed development.

##### (503.3) Record Notice of Proximity to Enhanced Voluntary Agricultural District

At such time as Iredell County has a computerized land records system with the associated capability, it shall be required that such records include some form of notice reasonably calculated to alert a person searching the title of a particular tract, that such is located within one-half (1/2) mile of a poultry, swine, or dairy qualifying farm or within six hundred (600) feet of any other qualifying farm or within one-half (1/2) mile of a enhanced agricultural district.

##### (503.4) Limit of Liability

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

##### (503.5) 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 Enhanced Voluntary Agricultural District as defined by this ordinance.

(503.6) Public Information

The County may take such action as it deems appropriate through the Farmland Preservation Board or other body or individual to encourage the formation of enhanced agricultural districts and to further their purposes and objectives, including a public information program to reasonably inform landowners of the farmland preservation programs.

**ARTICLE VI. Certification for Qualifying Farmland**

Section 601. Requirements

To secure County certification as qualifying farmland, a parcel must:

(601.1) Be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or be otherwise qualified by the county to meet all the requirements of this program set forth in G.S. 105-277.3;

Be certified by the Natural Resources Conservation Service of the United States Department of Agriculture as being land on which at least two-thirds (2/3) of the land is composed of soils that:

- (A) Are best suited for providing food, seed, fiber forage, timber, forestry, products, horticultural crops, and oil seed crops,
- (B) Have good soil qualities;
- (C) Have a favorable growing season;
- (D) Are favorable for all major crops common to the county where the land is located,
- (E) Receive the available moisture need to produce high yields for an average of eight out of ten years; or
- (F) Has been actively used in agricultural, horticultural, or forestry operations as defined in G. S. 105-277.2 during each of the five previous years, measured from the date in which the determination must be made as to whether the land in question qualifies.

(601.2) Be managed, if highly erodible land exists on the parcel, in accordance with Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly erodible land; and

(601.3) Be the subject of a Conservation Agreement, as defined in G.S. 121-35, between

the County and the owner of such land that prohibits nonfarm 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 zoning and subdivision regulations.

Qualifying documentation for the term easement shall be attached to the deed by the landowner.

#### Section 602. Application

A landowner may apply to the Board for such certification at the same time he applies for the approval as an agricultural district.

### **ARTICLE VII. Revocation and Renewal of Conservation Agreement**

Enhanced Agricultural Districts require an irrevocable Conservation Agreement between the Agriculture Advisory Board and the landowner that cannot be revoked for ten (10) years.

The Agriculture Advisory Board may revoke the Conservation Agreement based on noncompliance by the landowner, subject to the same provision 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

The Conservation Agreement entered into between the Agriculture Advisory Board and the landowner pursuant to G.S. 106-743.1(a)(2) shall be irrevocable for a period of ten (10) years from the date the agreement is executed. At the end of its term, a Conservation Agreement shall automatically renew for a term three (3) years, unless notice of termination is given in a timely manner by either party as prescribed in this Ordinance. The benefits set forth in Article VIII shall be available to the farmland that is the subject of the Conservation Agreement for the duration of the Conservation Agreement.

### **ARTICLE VIII. Enhanced Voluntary Agricultural Districts; Additional Benefits**

(801.1) The benefits applied to property included in a Voluntary Agricultural District pursuant to G.S. 106-739 through G.S. 106-741 and G.S. 106-743 and the Iredell County Voluntary Agricultural District Ordinance also apply to property included in an Enhanced Voluntary Agricultural District.

(801.2) Property that is subject to an irrevocable Conservation Agreement pursuant to this Ordinance, that remains in effect, may receive up to twenty-five percent (25%) of its gross sales from the sale of Nonfarm Products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b).

(801.3) A person who farms land that is subject to an irrevocable Conservation Agreement pursuant to this Ordinance, that remains in effect, is eligible to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program pursuant to G.S. 143-215.74(b).

(801.4) State departments, institutions, or agencies that award grants to farmers are encouraged pursuant to G.S. 106-743.4(c) to give priority consideration to any person who farms land that is subject to an irrevocable Conservation Agreement that remains in effect.

## **ARTICLE IX. Public Hearings**

### Section 901. Purpose

Pursuant to N.C.G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within an enhanced agricultural district until such agency or unit has requested the Farmland Preservation Board to hold a public hearing on the proposed condemnation, this section provides for such hearings. This ordinance shall not be interpreted or construed to limit the County's authority to acquire land within or outside a voluntary agricultural district for a public purpose, whether by purchase or condemnation.

### Section 902. Procedure

(902.1) Upon receiving a request for condemnation, the Farmland Preservation Board shall, within three (3) days, publish a notice in newspaper having general circulation in Iredell County, describing the proposed condemnation. The notice shall state the time, date, and location of the public hearing on the proposed condemnation. Such hearing shall be held within thirty (30) days of receipt of the request.

(902.2) The Board will meet to review:

(A) If the need for the condemnation 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) Alternatives to the proposed condemnation that are less disruptive and of less impact to the agricultural activities and farm land base of the voluntary agricultural district within which the condemnation action is to take place.

(902.3) The Board will consult with the County Cooperative Extension Service, U.S.D.A. Natural Resources Conservation Service, and may consult with any other individuals, agencies, or organizations, public or private, necessary to the

Board's review of the proposed condemnation.

(902.4) Within ten (10) days after the public hearings, the Board will make a report containing its findings and recommendations regarding the proposed condemnation. The report will be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing condemnation.

(902.5) Pursuant to N.C.G.S. 106-740, the County will not, within its scope of authority, permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the board within these time limitations.

## **ARTICLE X. Special Requirements**

### Section 1001. Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and to prevent conflicts between enhanced agricultural district participants and non-farm landowners in proximity to these established agricultural districts.

### Section 1002. Procedure

(1002.1) Enhanced Voluntary agricultural districts will not be permitted in designated residential or non-residential growth areas, as delineated in the most recently adopted County Land Use Plan, such plan being adopted after the effective date of this ordinance.

(1002.2) The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Soil and Water Conservation Service, Iredell County Cooperative Extension Service and any other entity the Board deems necessary to the proper conduct of its business.

(1002.3) A copy of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the County shall submit a written report to the Commissioner of Agriculture's office indicating the status, progress and activities of the county's farmland preservation program, including voluntary agricultural districting information regarding:

- (A) Number of landowners enrolled
- (B) Number of acres applied
- (C) Number of acres certified
- (D) Number of acres denied
- (E) Date each agricultural district was certified

- (1002.4) Copies of the reports cited in Section 902.3 of this ordinance will be sent to:
- (A) N.C. Commissioner of Agriculture
  - (B) N.C. Department of Transportation
  - (C) N.C. Department of Commerce
  - (D) The Greater Statesville and The South Iredell Chambers of Commerce
  - (E) Any other entities the Board deems appropriate

**ARTICLE XI. Effective Date**

This ordinance shall be effective from the date of its passage, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST: IREDELL COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Acting Clerk Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney