

**ROBESON COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

An Ordinance of the Board of County Commissioners of ROBESON COUNTY, NORTH CAROLINA, entitled, "**VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.**"

**ARTICLE II
AUTHORITY**

The articles and sections 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, 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 nonfarm development and other negative impacts on properly managed farms.

This Ordinance establishes a Voluntary Agricultural District Program, which provides the following benefits:

- Preserves and maintains agricultural areas in the county.
- Informs nonfarming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smell, which may avoid conflicts between neighbors and potential nuisance claims.
- Gives the farming community an enhanced voice in Robeson County Commissioners' decisions affecting farmland and farming and ranching activities. .
- Conserves open space and natural resources as the county's population and development expand.
- Farmer participation in the program is voluntary and the farmer may terminate his/her participation at any time.

**ARTICLE IV
DEFINITIONS**

The following are defined for purposes of this Ordinance:

<u>Advisory Board:</u>	Robeson County Agricultural Advisory Board.
<u>Chairperson:</u>	Chairperson of the Robeson County Agricultural Advisory Board.
<u>District:</u>	Voluntary Agricultural District as established by this Ordinance.
<u>Board of Commissioners:</u>	Robeson County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

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

B. Membership

1. The Advisory Board shall consist of no less than ten (10) members, eight (8) of which shall be appointed by members of the Board of Commissioners; the Director of Robeson County Cooperative Extension; and the President of the Robeson County Farm Bureau.
2. Seven (7) additional members will be appointed to the Board in an *ex officio* capacity, one each from the Robeson County Natural Resources Conservation Service, Robeson County Soil and Water Conservation District, the USDA Farm Service Agency, Robeson County Tax Department/GIS Mapping, Robeson County Planning and Zoning Department, Robeson County Register of Deeds, and Robeson County Board of Realtors. Members serving in an *ex officio* capacity shall neither vote nor count toward quorum requirements.

C. Membership Requirements

1. Each Advisory Board member appointed by members of the Board of Commissioners shall be a Robeson County resident, shall own farmland in Robeson County, and shall be actively engaged in farming, horticulture, and/or forestry.
2. Advisory Board members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District Board, Robeson County Cooperative Extension, the USDA Farm Service Agency County Committee, the North Carolina Forest Service, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and the public at large.

D. Tenure

1. The Director of Robeson County Cooperative Extension and the President of the Robeson County Farm Bureau shall serve on a permanent basis. Each shall be allowed to appoint a designee to serve in their capacity if appropriate.
2. Initially, the representatives from County Commissioner District #1 and County Commissioner District #4 will serve a 1-year term, the representatives from County Commissioner District #5 and County Commissioner District #7 will serve a 2-year term, the representatives from County Commissioner District #2 and County Commissioner District #6 will serve a 3-year term, and the representatives from County Commissioner District #3 and County Commissioner District #8 will serve a 4-year term. Thereafter, all appointments are to serve terms of 4 years, with reappointments permitted.

E. Vacancies

Any vacancy on the Advisory Board is to be selected by the County Commissioner representing that district for the remainder of the unexpired term.

F. Removal

Any member of the Advisory Board may be removed by the Board of Commissioners upon a two-thirds (2/3) vote of the Commissioners. 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 from those members appointed by the commissioners 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 Robeson County fiscal year as its meeting year, which is July 1 - June 30.

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. 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 by any means of public dissemination as may be agreed upon by at least a majority of the Advisory Board Membership. All meetings shall be open to the public.

5. Meeting Location

Meetings shall be held at the Robeson County Cooperative Extension Center. If this facility is unavailable or if the business of the Advisory Board makes it necessary or more convenient to meet at a different location, the chairperson shall determine this location and provide timely notification to all board members and to the public.

6. 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 one-half (1/2) of the members (5). No business may be conducted by the Advisory Board without a quorum 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 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.

8. Administration

The Robeson Soil and Water Conservation District office will serve the Advisory Board for record keeping, correspondence, and whatever services the Board needs in order to complete its duties.

I. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into the Voluntary Agricultural Districts
2. Make recommendations concerning the establishment and modification of Agricultural Districts
3. Conduct public hearings related to agricultural issues
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 these ordinances

The Advisory Board may:

1. Develop a draft countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners
2. Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners
3. 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

Robeson County is hereby divided into eight (8) regions corresponding directly to the established County Commissioner Districts in the county.

B. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of Voluntary Agricultural Districts within each region, which meet the following standards:

1. The District shall contain a minimum of twenty-five (25) contiguous acres of qualified farmland; or
2. The District shall contain three (3) or more qualified farms within one-half (½) mile of each other designated by the Advisory Board.
3. If a single farm has acreage in two (2) or more regions, the farm shall participate in the district where the largest acreage is found.

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 in a region with an existing district shall be added to the district as herein provided.
2. In the event that one (1) or more participants in the District withdraw and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a Voluntary Agricultural District will continue to exist so long as there is one qualifying farm.

**ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND**

Requirements

A. To secure county certification as qualifying farmland in a Voluntary Agricultural District a farm must:

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 the qualifications of this program set forth in G.S. 105-277.3. Should the Voluntary Agricultural District status be removed voluntarily or by transfer of ownership, this will not impact the participation of the present-use tax program.
 2. Be managed, if highly erodible land exists on the farm, in accordance with the Robeson County Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly erodible land.
 3. Be located in the unincorporated area of Robeson County.
- B. The property is the subject of a conservation agreement as defined in G.S. 121-35 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 watershed and subdivision regulations or the regulations of any municipality which apply to the farm property. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Board in accordance with Article X.

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

A. Application Procedure

A landowner may apply to participate in the Voluntary Agricultural District Program by submitting an application to Robeson County Cooperative Extension. The application shall be on forms provided by Robeson County Cooperative Extension and approved by the Advisory Board. The application to participate in a district may be filed with the application for certification of qualifying farmland for Farm Use Value taxation.

B. Approval Process

1. Upon receipt of an application, the County Extension Director will forward copies to the following agencies for their prompt evaluation and response:
 - a. Robeson County Tax Department/GIS Mapping
 - b. Robeson County Planning and Zoning Department
 - c. Robeson County Farm Service Agency
 - d. Robeson County Natural Resources Conservation Service
 - e. Robeson County Forest Service
2. Upon receipt of response from the above listed agencies, 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 within fifteen (15) days.

C. Appeal

If the Advisory Board denies an application, the landowner shall have sixty (60) days to appeal the decision to the Board of Commissioners. Such appeal shall be submitted in writing to the Clerk to the Board of Commissioners. The decision of the Board of Commissioners is final.

**ARTICLE IX
NOTIFICATION**

A. Public Awareness

Upon approval of a Voluntary Agricultural District and notification to the applicant by the County Extension Director, the Robeson County Planning and Zoning Department shall provide notification of said District by the following methods:

1. The Robeson County Tax Department/GIS Mapping shall maintain maps of approved Districts within the Robeson County Geographic Information Mapping System Database. This mapping information may be viewed by accessing the Robeson County website at www.co.robeson.nc.us.
2. The Robeson County Tax Department/GIS Mapping and the Robeson County Register of Deeds shall add a special notice to the GIS database to alert a person researching the title of a particular tract that such tract is located within one-half (1/2) aerial mile of a Voluntary Agricultural District.
3. Notice of these methods of District notification and identification shall be included in all Robeson County Voluntary Agricultural District Program information brochures made available to the public by Robeson County Cooperative Extension, Robeson County Planning and Zoning Department, Robeson County Tax Department/GIS Mapping, Robeson County Register of Deeds, and others.
4. 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 in connection with the duties or obligations imposed by this.
5. 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

Robeson County Parks and Recreation may place signs identifying approved Agricultural Districts along major roads that pass through or next to those districts. Members of the Agricultural Districts have the privilege of posting signs on their individual farms denoting their Agricultural District membership. Placement of signage shall be coordinated with the North Carolina Department of Transportation and in accordance with land development codes.

C. Maps

Maps identifying approved agricultural districts shall be updated at least twice each year and shall be prominently displayed at the following agencies or offices:

1. Robeson County Planning and Zoning Department
2. Robeson County Register of Deeds
3. Robeson County Natural Resources Conservation Service
4. Robeson County Cooperative Extension
5. Robeson County Tax Department/GIS Mapping
6. Robeson County Forest Service
7. Any other such agency or office the Advisory Board deems appropriate

**ARTICLE X
REVOCATION AND ENFORCEMENT, TRANSFER OF LAND, AND RENEWAL OF
CONSERVATION AGREEMENTS**

A. Revocation and Enforcement

By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland may revoke his/her participation in the Voluntary Agricultural District Program formulated pursuant to Article VIII of this ordinance, or the Advisory Board may revoke the same participation based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district.

B. Transfer of Land

Transfers of land in a Voluntary Agricultural 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 Voluntary Agricultural District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom.

C. Renewal of Conservation Agreements

Conservation agreements shall automatically renew for subsequent ten (10) year terms unless either the landowner or the county provides written notice to the contrary at least 30 days prior to the expiration of the conservation agreement.

D. Term

The duration of a conservation agreement shall be for ten (10) years.

ARTICLE XI PUBLIC HEARINGS

A. 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 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 Robeson 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 thirty (30) 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.
 - 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 shall consult with the Cooperative Extension Agricultural Agent(s), 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. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. The Board of Commissioners shall condemn farmland within a District only “as a last resort” if it is considering condemnation for County purposes.
5. 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 for comment prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
6. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
7. 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.
8. 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 ninety (90) 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.

9. 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
SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW**

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the Districts within ½ aerial mile of the proposed development.

**ARTICLE XIII
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 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 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 Robeson County Register of Deeds and any other office or agency the Advisory Board deems necessary:

Robeson County has established 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, prescribed burning, 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 Robeson County Cooperative Extension, Robeson County Register of Deeds, Robeson County Planning and Zoning Department, Robeson County Tax Department/GIS Mapping, Robeson County Forest Service, or Robeson County Natural Resources Conservation Service.

C. Growth Corridors

At such time as the county might establish designated growth corridors, 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 XIV
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 XV
NORTH CAROLINA AGENCY NOTIFICATION**

At least annually, the county shall submit a written report to the Office of 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 this Ordinance
7. Any other information the Advisory Board deems useful

A copy of this report shall also be provided to the Board of Commissioners, Robeson County Cooperative Extension, Robeson County Natural Resource Conservation Service, Robeson County Tax Department/GIS Mapping, Robeson County Register of Deeds, Robeson County Planning and Zoning Department, and Robeson County Forest Service.

**ARTICLE XVI
LEGAL PROVISIONS**

A. Severability

If any article, section, subsection, clause, phrase, or portion of this 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.

B. Conflict with other ordinances and statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Robeson County, this 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.

C. Amendments

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

**ARTICLE XVII
ENACTMENT**

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

Adopted this the 3rd day of January, 2011.

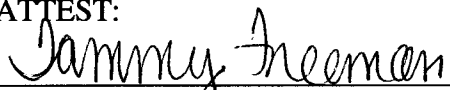
Motion for adoption by Roager Oxendine and seconded by Lance Herndon.

ROBESON COUNTY BOARD OF COMMISSIONERS



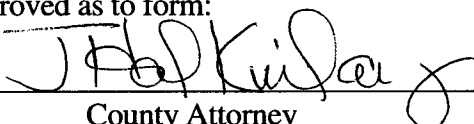
Chairperson

ATTEST:



Clerk to Board of Commissioners

Approved as to form:



County Attorney