

TRANSYLVANIA COUNTY VOLUNTARY
FARMLAND DISTRICT ORDINANCE

ARTICLE I
TITLE

This ordinance shall be known as the Transylvania County Voluntary Farmland District Ordinance.

ARTICLE II
AUTHORITY

The articles and sections of this ordinance are adopted pursuant to the authority conferred by N. C. General Statutes 106-735 through 106-743.

ARTICLE III
PURPOSE

The purpose of this ordinance shall be: to facilitate communications with non-farm Transylvanians; to protect the rural nature and character of Transylvania County; to encourage and protect the economic viability of the agricultural community; to increase the protection of the agricultural community from adverse complaints; to increase the identity and pride in the agricultural community and it's way of life.

ARTICLE IV
JURISDICTION

This Ordinance shall apply to all unincorporated areas of Transylvania County.

ARTICLE V
FARMLAND REQUIREMENT AND CERTIFICATION

Section 500. Requirements

Farmland shall meet the following requirements:

- (1) The farm property shall be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 ~~for at least five (5) years~~
- (2) The farm property is certified by the Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension Office and the Consolidated Farm Service Agency, as being a farm on which at least two-thirds of the land is composed of soils that are best suited for providing food, seed, fiber, forage, and horticultural crops, including Christmas trees and ornamentals, if applicable.

- (3) If highly erodible land exists, the farm property shall be managed in accordance with the Natural Resources Conservation Service Technical Guide of Best Management Practices addressing highly erodible land, if applicable.
- (4) The farm property is the subject of a conservation agreement, as defined in the G.S. 121-35, between the county and the owner for a period of at least five years. The creation of not more than three lots that meet applicable county watershed and subdivision regulations, or the regulations of any municipality which apply to the farm property (e.g., flood damage control ordinance) are permitted, if applicable.

Section 501. Certification

The owner of the farm seeking to qualify his property for participation in the farmland district shall submit written evidence that the property conforms with the requirements of Section 500 of this ordinance. This written information shall be submitted to the Transylvania County Agricultural Advisory Board.

ARTICLE VI APPLICATION, APPROVAL AND APPEAL PROCEDURES FOR VOLUNTARY FARMLAND DISTRICTS

Section 600. Creation of Voluntary Farmland Districts

The farmland district, when initially established, shall contain a minimum of 25 contiguous acres of qualified farmland **OR** two or more qualified farms which contain a minimum of 25 acres and are located within a mile of each other.

Section 601. Application

A landowner may participate in the program by making application to the Agricultural Advisory Board. The application shall be on forms provided by the Advisory Board and submitted by the first day of each month.

Section 602. Approval

The Agricultural Advisory Board shall meet within 30 days to approve, approve with condition or disapprove the application. If the application is disapproved the Agricultural Advisory Board shall indicate the specific reason for such action. The Chairman shall notify the applicant by first class mail of said approval or disapproval.

Section 603. Appeal

If an application is disapproved by the Agricultural Advisory Board, the petitioner shall have 30 days to appeal in writing the decision to the Transylvania County Board of Commissioners. The

decision of the Board of Commissioners is final.

ARTICLE VII
REVOCATION OF CONSERVATION AGREEMENTS

By written notice to the Agricultural Advisory Board, a landowner may remove all or a portion of, the property at any time or the Board may revoke same agreement based on noncompliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently loss of eligibility to participate in a voluntary farmland district. If a portion of a district is removed for any reason after being established by this program, the remaining qualified farms may remain in the program, provided they meet all other requirements except the minimum area requirements of Section 600. The same landowner shall not be allowed to reenter farmland previously removed from a district.

ARTICLE VIII
AGRICULTURAL ADVISORY BOARD

Section 800. Creation

In accordance with N.C.G.S. 106-739, the Board of Commissioners establishes an Agricultural Advisory Board to implement this Ordinance.

Section 801. Membership

The Agricultural Advisory Board shall consist of seven (7) members appointed by the Transylvania County Board of Commissioners. Two (2) members shall be appointed for a one year (1) term; two (2) members shall be appointed for a two (2) year term; and three (3) members shall be appointed for a three (3) year term. Their successors shall be appointed for three (3) year terms. Five of the seven members shall be actively engaged in farming, the others shall be from the non-farm community.

Section 802. Organization; rules; meetings; records; and unexcused absences

- (1) The chairman shall be appointed by the County Commissioners for a term of one (1) year. The vice-chairman shall be elected by the Agricultural Advisory Board.
- (2) The Agricultural Advisory Board may adopt rules for transaction of its business and shall keep for public record its members' attendance and its resolutions, discussions, findings and recommendations. The Agricultural Advisory Board meetings shall be open to the public. There shall be a quorum of four (4) members for the purpose of taking official action.
- (3) If an appointee has unexcused absences which constitute more than twenty-five (25) percent of the scheduled board meetings in any year in which he/she is required to attend,

he/she is obligated to resign. Excused absences are defined as absences in which notification was made prior to the meeting to either the Agricultural Advisory Board Chairman or the committee secretary.

Section 803. Duties

The Agricultural Advisory Board shall:

- (1) Review and approve or disapprove applications for qualified farmland and voluntary farmland districts.
- (2) Hold public hearings pursuant to Article IX of this program.
- (3) Advise the Board of Commissioners and the Planning Board on projects, programs, or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts.
- (4) Perform other related tasks or duties assigned by the Board of Commissioners.

ARTICLE IX PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

Section 900. Purpose

Pursuant to N.C.G.S. 106-740, no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary farmland district until such agency or unit has requested the Agricultural Advisory Board to hold a public hearing on the proposed condemnation.

Section 901. Procedures

- (1) Establish Public Hearing. Upon receipt of a request for a public hearing, the Agricultural Advisory Board shall have 30 days to set a date for a public hearing on the proposed condemnation.
- (2) Notice of Public Hearing. The Agricultural Advisory Board shall publish a notice of the public hearing in a newspaper having general circulation in Transylvania County at least 10 days prior to the hearing. The notice shall contain the date, time, and place of the hearing and shall provide the name of the agency requesting the hearing and the purpose of the condemnation.
- (3) Public Hearing. The Agricultural Advisory Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the general public. The Board shall consider the following:

- (a) Has the need for the project requiring the condemnation been satisfactorily established by the agency requesting the action?
- (b) Has a financial impact analysis been conducted by the agency seeking the action?
- (c) Have alternatives been considered to the proposed action that are less disruptive to the agricultural activities and farmland located within the voluntary farmland district?

The Board shall consult with the County Cooperative Extension Agent, U.S.D.A. Natural Resources Conservation Service, Transylvania County Soil and Water District, the Consolidated Farm Service Agency, and may consult with any other individuals, agencies or organizations, public or private, necessary to adequately review the proposed condemnation.

- (4) Findings and Notification. Within 10 days after the public hearing, the Board shall make a report containing its findings and recommendations regarding the proposed condemnation. The report shall be conveyed to the decision-making body of the agency proposing the condemnation.

ARTICLE X FARMLAND DISTRICT FORMATION, UTILITY ASSESSMENT, AND DESIGNATED GROWTH AREAS

Section 1000. Notification Procedure

The Agricultural Advisory Board shall provide notification to property owners, residents, and other interested persons in and adjacent to any designated agricultural district. The notification is to inform all current and potential residents and property owners in and adjacent to an agricultural district, that farming and agricultural activities may take place in this district at any time. These activities may include, but are not limited to, the following: pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities.

Notification Types:

- (1) Signs identifying approved agricultural districts may be placed adjacent to road right-of-ways.
- (2) Maps prepared by the Agricultural Advisory Board identifying approved districts shall be provided to the Register of Deeds Office, the Natural Resources Conservation Service Office, the Cooperative Extension Office, the Consolidated Farm Service Agency, the Inspections Department, Tax Assessors Office, and the Transylvania County Planning Department.

- (3) The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds; and shall be posted in the Health, Planning, and Inspections Departments:

NOTICE TO REAL ESTATE PURCHASERS IN TRANSYLVANIA COUNTY
TRANSYLVANIA COUNTY FARMLAND DISTRICTS

Transylvania County has established farmland districts to identify agricultural lands and activities. These farmland districts have been developed and mapped to inform all purchasers of real property that agricultural activities, including, but not limited to, pesticide spraying, manure spreading, machinery and truck operations, livestock operations, sawing, and similar activities may take place in these districts at any time. Maps and information on the location and establishment of these districts can be obtained from the Cooperative Extension Office, Register of Deeds Office, County Planning Department, Natural Resources Conservation Service, and the Consolidated Farm Service Agency Office.

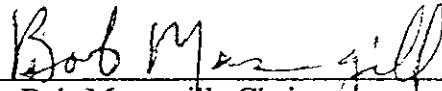
Section 1001. Waiver of Water & Sewer Assessments

Land owners in a Farmland District shall not be assessed for or required to connect to a water and/or sewer system when those improvements are made to the property. If the landowner voluntarily connects to the water and/or sewer system, the assessment will be payable in accordance with the terms set out in the assessment resolution.

Section 1002. No Districts in Designated Growth Areas


Farmland Districts will not be permitted in designated growth areas, as identified by the Board of Commissioners. Districts located in growth areas designated after the effective date of this program may remain, but shall not be expanded within the growth areas without the approval of the Board of Commissioners. Districts located in designated growth areas designated after the effective date of this program may expand to include adjoining property purchased by a landowner presently participating in the Transylvania County Voluntary Farmland District Ordinance. The approval of the Board of Commissioners will be on a case by case basis.

Adopted this 11th day of March, 1996.



Bob Masengill, Chairman
Transylvania County
Board of Commissioners

Attest:



Sandra Jameson, Clerk

APPLICATION FOR
TRANSYLVANIA COUNTY
VOLUNTARY FARMLAND DISTRICT
ORDINANCE

APPLICANT:

NAME: _____

ADDRESS: _____

CITY: _____ ZIP _____

TELEPHONE: _____

PROPERTY INFORMATION:

NUMBER OF ACRES: _____

LOCATION OF PROPERTY: _____

- Is this land registered for present-use-value (Farm) taxation with the Transylvania County Tax Assessor Yes _____ No _____

- Is at least 2/3 of the land suitable for growing food, seed, fiber, forage, Christmas trees or horticultural crops?
Yes _____ No _____

- Do you have a NRCS Management Plan? Yes _____ No _____

CONSERVATION AGREEMENT

If certified by the Agricultural Advisory Board, I agree to sustain, promote and encourage agriculture in the district, support protection against nuisance suits, undesired nonfarm development and other negative impacts on participating farms, and I agree to prohibit nonfarm use of the land under this program for a period of five years from the date certified by the Agricultural Advisory Board. This agreement may be revoked by the landowner by written notice to the board, or the board may revoke such agreement based on noncompliance by the landowner.

Signed _____ Date _____
(landowner)

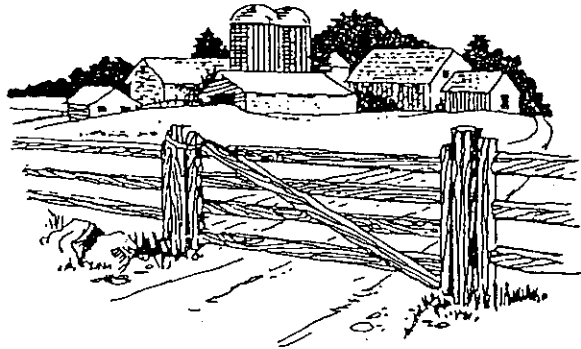
MAIL TO: Transylvania Soil & Water Conservation District
203 E. Morgan St., Brevard, NC 28712

WHAT RESTRICTIONS WILL BE
PLACED ON MY FARM IF I JOIN
THE PROGRAM???

The Farmland Preservation Program members will be subject to a conservation agreement between the County and the landowner that prohibits non-farm use or development of that land for a period of at least 5 years. The conservation agreement, however, will allow the development of up to three lots on participating farms included in a District.

WHAT HAPPENS IF I WANT TO
REMOVE ALL OF PART OF MY LAND
FROM THE PROGRAM?

A landowner in the Farmland Preservation Program may remove all or a portion of his/her land from the Farmland Preservation Program by giving written notice to the Agricultural Advisory Board. If a portion of the land is removed from the program, the remaining land must meet the program conditions and qualification for the farm to continue in the program.



AGRICULTURAL ADVISORY
BOARD MEMBERS

Charles Bryson, Chairman
Carl Bryson Barbara Ingram
Jeffrey Owen Frank Summey
George Wilson John E. King

FOR MORE INFORMATION
PLEASE CONTACT:

Transylvania County Soil and Water
Conservation District
203 E. Morgan St.
Brevard, NC 28712
Telephone #: 884-3230

Transylvania County Planning
Department
203 E. Morgan St.
Brevard, NC 28712
Telephone #: 884-3205

NC Cooperative Extension Service
203 E. Morgan St.
Brevard, NC 28712
Telephone #: 884-3109

USDA, Farm Service Agency (FSA)
P. O. Box 568
Hendersonville, NC 28793
Telephone #: 693-1406

FARMLAND
PRESERVATION
PROGRAM



TRANSYLVANIA COUNTY
NORTH CAROLINA

WHAT IS THE FARMLAND PRESERVATION PROGRAM?

The purpose of the Preservation Program is to encourage the voluntary preservation and protection of farmland from non-farm development. This is in recognition of the importance of agriculture to the economic and social well being of the county.

The General Assembly of the State of North Carolina authorized counties to undertake a series of programs to encourage the preservation of farmland. This statutory authority is found in Chapter 106. Article 61 of the North Carolina General Statutes. On March 11, 1996, the Transylvania County Board of Commissioners adopted a Volunteer Farmland District Ordinance.

The ordinance provides for the creation of an Agricultural Advisory Board of administer this program. The Board reviews and approves applications for qualifying farmland as well as establishing voluntary agricultural districts.

WHO ARE THE MEMBERS OF THIS AGRICULTURAL ADVISORY BOARD?

The Board is composed of seven County residents. Five of the Board members are selected from a list of names submitted to County Commissioners of persons actively engaged in farming. The names of Board members are listed on the back of this brochure.

WHAT ARE THE QUALIFICATIONS TO BECOME A MEMBER OF THE FARMLAND PRESERVATION PROGRAM?

The farm must be participating in the farm PRESENT-USE-VALUE taxation program. The primary qualifications for this taxation program are the following: (1) Individually owned agricultural land, consisting of at least ten (10) acres, that has produced an average annual income of one thousand dollars (\$1,000) over a three-year period, or (2) Individually owned horticultural land, consisting of at least five (5) acres, producing an average income of one thousand dollars (\$1,000) per year, or (3) individually owned forest land consisting of at least 20 acres that are in actual production and not included in a farm unit. The land must be certified by the Natural Resource Conservation Service as appropriate for this Volunteer Farmland District Program.

An agricultural district will consist of at least 25 acres of qualifying farmland, individually or separately owned, which are located within one mile of each other. Participating landowners will sign an agreement to sustain, encourage and promote agriculture. A complete list of requirements is available from the agencies listed on the back of this brochure.

WHAT WILL JOINING THE FARMLAND PRESERVATION PROGRAM DO FOR ME?

Members of Farmland Districts will have increased protection from nuisance suits and other negative impacts on participating farms. As part of the Program, public hearings will be required on proposed condemnation by state or local public agencies. Landowners in certified districts will not be required to connect to water and/or sewer systems nor to be assessed water and sewer charges until that property is connected to such services.

Maps designating participating farms that form agricultural districts will be posted in the Register of Deeds Office, Soil & Water Conservation District, NC Cooperative Extension Office, and the County Planning Office.

