

YADKIN COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I TITLE

This Ordinance, adopted by the Board of Commissioners of Yadkin County, North Carolina, shall be known as the Yadkin County Voluntary Agricultural District Ordinance.

ARTICLE II AUTHORITY

The articles and sections of this Ordinance are adopted pursuant to authority conferred by NC General Statute 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 non-farm development and other negative impacts on properly managed farms.

ARTICLE IV JURISDICTION

The jurisdiction of the Yadkin County Voluntary Agricultural District Ordinance shall be all unincorporated areas of Yadkin 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 V DEFINITIONS

The following are defined for the purpose of this Ordinance:

Advisory Board: The Yadkin County Agricultural Advisory Board.

Board of Commissioners: The Board of Commissioners of Yadkin County.

Chairperson: The Chairperson of the Yadkin County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this Ordinance.

**ARTICLE VI
QUALIFICATIONS AND CERTIFICATION OF FARMLAND**

Section 600. Requirements

In order for farmland to qualify for participation under the terms of this Ordinance, it shall meet the following requirements:

1. The farmland shall be real property.
2. The property shall be engaged in agriculture as that word is defined in N.C.G.S. 106-581.1.
3. The property shall be managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to highly erodible land.
4. The property is the subject of a conservation agreement, as defined in N.C.G.S. 121-35 between the county and the owner of such land that prohibits non-farm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations. The property owner may voluntarily revoke this conservation agreement by submitting a written request to the Advisory Board in accordance with Article VIII.

Section 601. Certification

The owner of the farm seeking to qualify his property for participation in the Voluntary Agricultural District shall submit written evidence that the property conforms with the requirements of Section 600 of this Ordinance. This written information shall be submitted to the Chairperson of the Advisory Board or the designated staff person on forms provided by the Advisory Board. The certification may be submitted at the same time the owner applies for inclusion in a District.

**ARTICLE VII
APPLICATION, APPROVAL, AND APPEAL PROCEDURES
FOR VOLUNTARY AGRICULTURAL DISTRICTS**

Section 700. Creation of Voluntary Agricultural Districts

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

1. The District, when initially established, shall contain a minimum of 1.5 contiguous acres of qualified farmland.
2. The landowner(s) requesting inclusion in the District shall execute an agreement with the county to sustain agriculture in the District in accordance with Section 600 (4) of this Ordinance. Said agreement shall be in a form, which is reviewed and approved

by the Advisory Board.

Section 701. Application to Participate

A landowner may apply to participate in the District by making application to the chairperson of the Advisory Board or to a designated staff person. The application shall be on forms provided by the Advisory Board. The application to participate in a District may be filed with the certification of qualifying farmland. This application is separate and distinct from the application for present use value taxation.

Section 702. Approval Process

1. Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, prior to the date set for the Advisory Board to vote on the application:
 - a. The Yadkin County Farm Service Agency;
 - b. The Yadkin County Soil and Water Conservation District;
 - c. The Natural Resources Conservation Service;
 - d. The Yadkin County Planning and Development Department; and
 - e. The Yadkin County Center of North Carolina Cooperative Extension.
2. Upon review of the written certification and application submitted by the property owner, the Advisory Board shall meet within 60 days if possible to approve or disapprove the application. The chairperson shall notify the applicants by first class mail of said approval or disapproval of participation in the District.

Section 703. Appeal

If an application is denied by the Advisory Board, the petitioner has 30 days to appeal the decision to the Yadkin County Board of Commissioners. The request shall state the reason(s) for the appeal, and shall be signed, dated, and presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII REVOCATION, ENFORCEMENT, AND RENEWAL OF CONSERVATION AGREEMENTS

Section 800. Revocation and Enforcement

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the agreement formulated pursuant to Section 600 (4) of this Ordinance, or the Advisory 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 District and the benefits thereof. Revocation by the landowner of an agreement and the

resulting loss of qualifying farmland status for the purpose of participation in a District shall in no way affect the eligibility of the land to be taxed at its present use value as provided in N.C.G.S. 105-277.2 through N.C.G.S. 105-277.7. If a portion of a District is removed for any reason after being established by this Ordinance, the remaining qualified farms may remain in the District, provided they meet all other requirements except the minimum area requirements of Section 700 (1).

Section 801. Renewal

A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed after the initial or subsequent 10 year period unless the landowner provides a 30 day written notice to the Advisory Board of intent not to renew. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its authorizing legislation has been repealed.

ARTICLE IX AGRICULTURAL ADVISORY BOARD

Section 900. Creation

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

Section 901. Appointments and Membership

The Agricultural Advisory Board shall consist of 7 members appointed by the Yadkin County Board of Commissioners, and ex officio members as needed in addition to the 4 outlined in Section 901 (1) (d).

1. Requirements

- a. Each Advisory Board member, except those serving in an ex officio capacity, shall be a Yadkin County resident and registered to vote in Yadkin County.
- b. At least 5 of the 7 members shall be actively engaged in farming.
- c. The members actively engaged in farming shall meet the eligibility criteria for the Voluntary Agricultural District and be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Yadkin Soil and Water Conservation District, North Carolina Cooperation Extension, Farm Service Agency, and Yadkin County Farm Bureau, with an effort to have the broadest geographical representation possible. Nonfarming members shall have special interest, experience, or education in agriculture and/or rural land preservation.

- d. Ex officio members shall be the President of the County Farm Bureau or his/her designate, the County Cooperative Extension Director or his/her designate, the director of the County FSA Office or his/her designate, and the Chairman of the County Soil and Water Board or his/her designate. Each of these members shall be full and participating members of the Advisory Board.

2. Tenure

All appointments are to be for terms of three years, with reappointments permitted but shall not exceed three consecutive three year terms.

3. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term following the same procedure as for the initial appointment.

4. Removal for Cause

Any member of the Advisory Board may be removed for cause by the Board of Commissioners upon written charges. An Advisory Board member shall forfeit membership if three consecutive unexcused board meetings are missed.

5. Funding

- a. Compensation. The per meeting compensation of the members of the Advisory Board shall be fixed by the Board of Commissioners.
- b. Appropriations for performance of duties. Funds shall be appropriated by the Board of Commissioners to the Advisory Board to perform its duties. The Advisory Board shall request a budget to be presented to the County Commissioners annually.

Section 902. Procedures

The Advisory Board shall adopt rules of procedure, which are consistent with the enabling legislation and other applicable statutes.

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the fiscal year. The chairperson shall preside over all regular or special meetings of the board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.

2. Jurisdiction and Procedures, Supplementary Rules

The jurisdiction and procedures of the Advisory Board are set out in these articles, except that the Advisory Board may adopt supplementary rules of procedure not inconsistent with these articles or with other provisions of law.

3. Advisory Board Year

The Advisory Board shall use the county fiscal year as its meeting year.

4. Meetings

Meetings of the Advisory Board, following such notice as required by these articles, shall be held at the call of the chairperson and at such other times as the Advisory Board in its rules of procedure may specify. A called meeting shall be held at least quarterly. A quorum shall consist of a majority of the members of the Advisory Board.

5. Voting

The concurring vote of a majority of the members of the Advisory Board present shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under these articles.

6. 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 immediately filed in the office of the Advisory Board and shall be a public record.

7. Administrative Services

North Carolina Cooperative Extension shall serve the Advisory Board for record keeping, correspondence, and application procedures under these articles together with such other services the Advisory Board needs to complete its duties.

Section 903. Duties

The Agricultural Advisory Board shall:

1. Review and approve applications for qualified farmland and Voluntary Agricultural Districts;
2. Make recommendations concerning the establishment and modification of Districts;
3. Hold public hearings pursuant to Article X of this Ordinance;
4. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy, activities, or way of life within the county;

5. Review and make amendments concerning proposed amendments to this Ordinance;
6. Develop and maintain a draft countywide farmland protection plan as defined in N.C.G.S. 106-744(e) for presentation to the Board of Commissioners; and
7. Perform other agricultural, horticultural, and forestry related tasks or duties assigned by the Board of Commissioners.

ARTICLE X PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

Section 1000. 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 District until such agency or unit has requested the Advisory Board, established under N.C.G.S. 106-739, to hold a public hearing on the proposed condemnation. The procedures for such hearings shall be as set forth below.

Section 1001. Procedures

1. Establish Public Hearing

Upon receipt of a request for a public hearing, the Advisory Board shall have 30 days to set a date for a public hearing on the proposed condemnation pursuant to N.C.G.S. 106-740. No formal initiation of condemnation shall be initiated while the proposed condemnation is properly before the Advisory Board within the time limitations set forth in this section.

2. Notice of Public Hearing

The Advisory Board shall run a notice of the public hearing in a newspaper having general circulation in Yadkin County at least 10 days prior to the date established for 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 for the purpose of then condemnation.

3. Public Hearing

The Board shall conduct the public hearing and receive information and comments from the agency requesting the condemnation action and the citizens of Yadkin County. Additionally, the Board shall review the following:

- a. Has the need for the project requiring the condemnation been satisfactorily shown 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 base of the District within which the proposed action is to take place?

The Board shall invite and allow input by the County Cooperative Extension Agent, U.S.D.A. Natural Resources Conservationist, the Farm Service Agency, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed action.

4. Findings and Notification

Within 30 days after the public hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action to the Board of County Commissioners. The report shall be conveyed to the decision-making body of the agency proposing acquisition and made available to the public for comment.

5. Pursuant to N.C.G.S. Section 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 within these time limitations.

ARTICLE XI

LAND USE INCENTIVES TO AGRICULTURAL DISTRICT FORMATION

Section 1100. Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and to prevent conflicts between District participants and non-farm landowners in proximity to Districts.

Section 1101. Public Notification

1. The Advisory Board, in cooperation with the county, shall take measures as set forth below to provide notification to property owners, residents, and other interested persons in and adjacent to a designated District with a goal of informing all current and potential residents and property owners in and adjacent to an District, that farming and other agricultural activities may occur within the District any time during the day or night:
 - a. Signs identifying approved Districts may be placed along the right-of-ways of major roads.
 - b. Information identifying approved Districts shall be provided to the office of Register of Deeds, Soil and Water Conservation District, North Carolina Cooperative Extension, Farm Service Agency, Yadkin County Planning and Development, and the Yadkin County Tax Office.
 - c. Maps and the following notice shall be prominently displayed in the public access areas of the:

- 1.) Yadkin County Planning and Development Department;
- 2.) Yadkin County Register of Deeds Office;
- 3.) Yadkin County Tax Office;
- 4.) Yadkin County Soil and Water Conservation District;
- 5.) Yadkin County Farm Service Agency; and
- 6.) Yadkin County Center of North Carolina Cooperative Extension.

NOTICE TO REAL ESTATE PURCHASERS IN YADKIN COUNTY
YADKIN COUNTY AGRICULTURAL DISTRICTS

The following notice shall be attached to and be a part of all building permits issued for tracts of land outside incorporated areas. Yadkin 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 included within said Districts that there may be expected certain agricultural and horticultural activities, including, but not limited to, applications of pesticides; field applications of animal manures, industrial or agricultural sludge; large machinery, truck or tractor operations; livestock and poultry movement; timber harvests; and other similar activities that may produce noise, dust, and objectionable odors and that these activities may occur during all hours of the day or night. Maps and/or information as to the location and establishment of these Districts can be obtained from the Yadkin County Planning and Development Department, North Carolina Cooperative Extension, and the County Tax Office.

- d. Developers of all new subdivision lots or planned unit developments in all unincorporated areas of the county, including the extraterritorial jurisdictions, which are created after the effective date of this Ordinance shall designate on the preliminary and final development plats, the existence of all approved Districts within one-half aerial mile of the proposed development.
 - e. The computerized land records system shall include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a District. 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 District as defined in N.C.G.S. 106-737 and 106-741.
2. **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, nor shall the establishment or non-establishment of any District preclude such agricultural activities as listed above in and about agricultural enterprises throughout the county.

Section 1102. Expenditure of County Funds for Non-Farm Uses

Prior to expending any monies which convert land in an Agricultural District to non-farm uses, the County or any other local unit of government shall submit to the Advisory Board detailed

information showing that said governmental unit has considered alternatives. Such consideration shall include the criteria listed in Article X, Section 1001 (3), (a) through (c).

Section 1103. Waiver of Water and Sewer Assessments

1. Purpose of Section

The purpose of this section is to help mitigate the financial impacts on farmers by some local and state capital investments unused by such farmers.

2. Procedure

The waiver procedure shall be as follows:

- a. Landowners belonging to Agricultural Districts shall not be assessed for, or required to connect to, water and/or sewer systems.
- b. Water and sewer assessments shall be held in abeyance, without interest, for farms inside a District, until improvements on such property are connected to the water and sewer system for which the assessment was made.
- c. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
- d. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
- e. Assessment procedures followed under N.C.G.S. 153A, Article 9, or N.C.G.S. 160A, Article 10, shall conform to the terms of these articles with respect to qualifying farms that entered into conservation agreements while such article was in effect.
- f. Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under N.C.G.S. 153A-201 or N.C.G.S. 160A-237.

ARTICLE XII COUNTY LAND-USE PLANNING

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 Voluntary Agricultural District program and to also coordinate the formation and maintenance of 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.

ARTICLE XIII
NORTH CAROLINA AGENCY NOTIFICATION

Section 1200. Consultation with North Carolina Department of Agriculture & Consumer Services and Other Agencies.

The Board may consult with North Carolina Cooperative Extension, the Natural Resources Conservation Service, Farm Service Agency, the North Carolina Department of Agriculture and Consumer Services, and any other agency the Board deems necessary to properly conduct its business.

Section 1201. Annual Report 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, the Yadkin County Board of Commissioners, the Yadkin County Center of North Carolina Cooperative Extension, and the Soil and Water Conservation District office after adoption. At least annually, the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary 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. Municipalities with which Memorandums of Understanding have been signed;
7. Municipalities that have adopted this Ordinance for the purpose of the county enforcing this Ordinance within their corporate boundaries;
8. Copies of any amendments to this Ordinance or Memorandums of Understanding signed with municipalities; and
9. Any other information the Advisory Board deems useful.

ARTICLE XIV

In addition to its other duties, the Advisory Board shall have authority and encouragement to pursue any and all opportunities to purchase, lease, or otherwise obtain Agricultural Conservation Easements, development rights, or other restricting land use covenants as set out by N.C.G.S. 106- 744. This authority shall include application for grants, gifts, donations or

other revenue sources necessary to carry out said duties. Furthermore, the Advisory Board shall have the authority and duty to propose the criteria by which such funds obtained may be expended and the conditions upon which such covenants are accepted.

**ARTICLE XV
LEGAL PROVISIONS**

Section 1300. Severability, Conflict with Other Ordinances, Statutes, and Amendments

1. Severability

If any article, section, subsection, clause, phrase, or portion of this Ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

2. Conflict with Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Yadkin 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.

3. Amendments

This Ordinance may be amended after a public hearing, notice of which shall be sent to program participants by first class mail thirty days prior to the hearing, and in consultation with the Agricultural Advisory Board to the Board of County Commissioners. The Board of Commissioners will make the final decision.

**ARTICLE XVI
ENACTMENT**

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

Adopted this 20 day of May, 2013

Effective date:

ATTEST:

Clerk to the Board

Chairman, Yadkin County Board of
Commissioners