

NORTH CAROLINA
BEAUFORT COUNTY

VOLUNTEER AGRICULTURAL DISTRICTS ORDINANCE

On motion by Commissioner Cayton, seconded by Commissioner Klemm, the Board voted to adopt the following Volunteer Agricultural Districts Ordinance after a second reading.

The motion passed and the following Volunteer Agricultural District Ordinance was adopted.

VOTING YES VOTING NO

Cayton	Deatherage
Langley	Richardson
McRoy	
Klemm	
Booth	

**BEAUFORT COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of BEAUFORT COUNTY, NORTH CAROLINA, entitled, "**BEAUFORT COUNTY 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 non-farm development and other negative impacts on properly managed farms.

ARTICLE IV DEFINITIONS

The following are defined for purposes of this Ordinance:

Advisory Board: Beaufort County Agricultural Advisory Board.

Ordinance: Beaufort County Voluntary Agricultural District Ordinance.

Chairperson: Chairperson of the Beaufort County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this ordinance.

Board of Commissioners: Beaufort County Board of Commissioners.

ARTICLE V AGRICULTURAL ADVISORY BOARD

A. Creation

The Board of Commissioners shall establish the Beaufort County Agricultural Advisory Board to implement the provisions of this program in accordance with NCGS 106-739.

B. Membership

The Advisory Board shall consist of no less than seven members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each Advisory Board member, except those serving in an *ex officio* capacity, shall be a Beaufort County resident or landowner.
2. At least six of the members shall be actively engaged in farming, horticulture and/or forestry, or related industry. Of the members actively engaged in farming, horticulture and/or forestry there shall be at least one such member from each township in Beaufort County. There will be one board member selected at large. This determination shall be made without reference to *ex officio* members.
3. The members actively engaged in farming, horticulture and/or forestry as well as other members, shall be selected for appointment by the Board of Commissioners

from the names of individuals submitted to the Board of Commissioners by the County Office of North Carolina Cooperative Extension, Beaufort County Soil and Water Conservation District Board of Supervisors, nonprofit agricultural organizations, conservation organizations, agribusinesses, horticultural businesses, forestry businesses, and the public at large.

4. Additional members may be appointed to the Board in an *ex officio* capacity from the North Carolina Cooperative Extension, or the Beaufort County Soil and Water Conservation District Board of Supervisors. Members serving in an *ex officio* capacity shall neither vote nor count toward quorum requirements.

D. Tenure

The initial board is to consist of two appointees for terms of one year; two appointees for terms of two years; and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted up to three (3) consecutive terms. Reappointment is permitted after three terms is permitted after a full year off the Board. The terms for the appointment of the initial Advisory Board will be determined by lottery.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners 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 vote of the Commissioners. No cause for removal shall be required.

G. Funding

The Board of Commissioners may appropriate funds for the Agricultural Advisory Board to perform its duties. A budget request will be presented to the Board of Commissioners.

H. Advisory Board Procedure

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 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 Beaufort County fiscal year as its meeting year.

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 on the door of the meeting site 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.

5. 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 two-thirds of the members in attendance. No business may be conducted by the Advisory Board without a quorum present.

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 filed in the office of the Advisory Board, or its designee, and shall be a public record.

7. Administrative

The Advisory Board may contract with the N.C. Cooperative Extension office to serve the Advisory Board for record keeping, correspondence, application procedures under this Ordinance, and whatever services the Board needs to complete its duties.

8. Jurisdiction

The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.

I. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland in voluntary agricultural districts;
2. Make recommendations concerning the establishment and modification of voluntary agricultural districts;
3. Conduct public hearings;
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 this Ordinance;
6. Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners;
7. Develop a draft countywide farmland protection plan as defined in N.C.G.S. 106-744(e) for presentation to the Board of Commissioners;
8. Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners.

**ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

A. Regions

Beaufort County is hereby divided into six regions as defined below:

1. Bath Township.
2. Chocowinity Township.
3. Long Acre Township.
4. Pantego Township.
5. Richland Township.
6. Washington Township.

B. Implementation

In order to implement the purposes stated in Article III, this program provides for the creation of voluntary agricultural districts which meet the following standards:

1. The District shall meet the requirements necessary to qualify for enrollment in the farm present use value taxation program.
2. The District shall contain one or more qualified farms within areas designated by the Advisory Board.

All land enrolled in a region (township), defined in section A, above, shall be part of a single district. If a single farm has acreage in two or more regions, the farm shall participate in the district where the largest acreage is found. All land in a region as defined in section A, above, shall be treated as a single district.

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 voluntary 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 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 District continues to exist so long as there is one qualifying farm.

ARTICLE VII CERTIFICATION AND QUALIFICATION OF FARMLAND

Requirements

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, and the farm, or farms, will be identified by Parcel Identification Number (PIN) ;
2. Be the subject of a conservation agreement 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 building and subdivision regulations. Permitted land use in the conservation agreement include agriculture, aquaculture, agritourism, forestry, horticulture, outside recreation, packing, processing, storage, marketing of agricultural products, and maintenance of drainage ditches and roads. Prohibited uses include any or all construction or placing buildings, roads, signs, billboards or other advertising, utilities (excluding utilities in the public interest) or other structures on or above the ground that does not support permitted land use, dumping or placing of soil, or other substance or materials as landfill, or dumping or placing of trash, waste or unsightly or offensive materials. A conservation agreement designated by the landowner to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Beaufort County Register of Deeds. The landowner will be given at least a twenty-four hour prior notice by the Agricultural Advisory Board before a compliance inspection of the land enrolled in the conservation agreement.
3. Be located in the unincorporated area of Beaufort County.

ARTICLE VIII APPLICATION, APPROVAL, AND APPEAL PROCEDURE

A. Application Procedure

1. A landowner may apply to participate in the Voluntary Agricultural District program by making application to the chairperson of the Advisory Board or a

designated staff person. The application shall be on forms provided by the Advisory Board. A nonrefundable application fee of \$50.00 is due when the application is submitted. The application to participate in a district may be filed with the application for certification of qualifying farmland by Parcel Identification Number (PIN).

2. A conservation agreement (required by N.C.G.S. §106-737) to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Beaufort County Register of Deeds. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation.

B. Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within sixty (60) days to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district.
2. Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. The Beaufort County tax assessor;
 - b. The Beaufort County Center of N.C. Cooperative Extension,
 - c. The Beaufort County Soil and Water Conservation District,
 - d. The County Manager,
 - e. The County Planning Board.

C. Appeal

If an application is denied by the Advisory Board, the petitioner shall have thirty (30) days to appeal the decision to the Beaufort County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE IX

REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENTS

A. Revocation and Enforcement

1. District. By providing written notice to the Advisory Board, a landowner of qualifying farmland within a Voluntary Agricultural District may revoke the Conservation Agreement or the Advisory Board 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, neither the Advisory Board nor the Board of Commissioners shall revoke any Conservation Agreement prior to its expiration. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). 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.

B. Renewal

1. District. A Conservation Agreements for land within a Voluntary Agricultural District shall be automatically renewed unless the landowner provides thirty (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 X

WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to the District shall not be required to connect to Beaufort County or municipal water and/or sewer systems. This section shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

B. Abeyance

1. Water and sewer assessments shall be held in abeyance, without interest, for farms in a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.

C. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner may be required to sign an acknowledgement (that may be incorporated into the Conservation Agreement) of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. Other Statutory Abeyance Procedures

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 other applicable law.

F. Conflict with Water and/or Sewer System Construction and Improvements Grants

To the extent that this section conflicts with the terms of federal, state, or other grants under which county utility systems are constructed this section shall not apply.

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 Beaufort County within five (5) 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 ten (10) 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; 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 within which the proposed action is to take place.
3. The Advisory Board shall consult with the County Agricultural Extension Agent 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 decision-making body of the agency proposing the acquisition.
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 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.
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

A Record Notice of Proximity to Voluntary Agricultural District

1. Procedure for Notification

When Beaufort County computerizes its County Land Records System the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District, the title to that qualifying farmland and real property, which is contained in the Beaufort County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a voluntary agricultural district. The purpose of such notification is to inform current and potential residents and property owners in and adjacent to a Voluntary Agricultural District, that farming and agricultural activities may take place in this District any time during the day or night. The activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery and truck operations, burning, livestock operations, logging, and other common farming and forestry activities.

2. The following notice shall be made available to everyone recording a deed or plat with the Register of Deeds.

NOTICE TO REAL ESTATE PURCHASERS IN BEAUFORT COUNTY. BEAUFORT COUNTY AGRICULTURAL DISTRICTS

Beaufort 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 within one-half aerial mile of a Voluntary Agricultural District that certain agricultural activities, including but not limited to the following: pesticide spraying, manure spreading, machinery and truck operations, burning, livestock operations, logging and other common farming and forestry activities may take place in these districts any time during the day or night. Maps of the location of Voluntary Agricultural Districts can be obtained through the overlay system provided to all county offices and the general public through internet access by the Tax Assessor's Office.

3. 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 in connection with the duties or obligations imposed by this .

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 Voluntary Agricultural District.

B. Signage

Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads that pass through or next to those districts. There shall also be signage posted at the farm entrance of each qualifying farm. Placement of signage shall be coordinated with the North Carolina Department of Transportation. The costs of the signs are the responsibility of the landowner.

C. Maps

Maps identifying approved Voluntary Agricultural Districts can be obtained through the overlay system provided to all county offices and the general public through internet access by the Tax Assessor's Office.

**ARTICLE XIII
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 one-half aerial mile of the proposed development.

**ARTICLE XIV
BUILDING PERMIT REGISTRATION**

Beaufort County shall require persons applying for a building permit within one-half aerial mile of a Voluntary Agricultural District to sign the following statement, which shall be maintained at the office of the agency administering the ordinance on behalf of the Advisory Board: "I have reviewed the most current Beaufort County Voluntary Agricultural District Map and I understand that agricultural activities include, but are not limited to the following: pesticide spraying, manure spreading, machinery operations, livestock operations, burning, logging and other common farming and forestry activities may take place in these districts any time during the day or night."

**ARTICLE XV
CONSULTATION AUTHORITY**

The Advisory Board may consult with North Carolina Cooperative Extension, Beaufort County Soil and Water Conservation District, 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 XVI NORTH CAROLINA AGENCY NOTIFICATION

Annually Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the County Office 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 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 the this Ordinance; and
7. Any other information the Advisory Board deems useful.

ARTICLE XVII 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 ordinance .

B. Conflict with other ordinances and statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Beaufort 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

After notification and in consultation with the Agricultural District Advisory Board this Ordinance may be amended from time to time by the Beaufort County Board of Commissioners, subject to a public hearing, notice given thirty (30) days prior, and in consultation with the Agricultural Advisory Board.

**ARTICLE XVIII
ENACTMENT**

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

Adopted this the 6th day of August, 2007.

Motion for adoption by Commissioner Robert Cayton, and seconded by Commissioner Al Klemm, with a vote of five (5) yes and two (2) no.

**Beaufort County
Voluntary Agricultural District Program**

Conservation Agreement

Having been approved by the Beaufort County Agricultural Advisory Board and approved by the Beaufort County Board of Commissioners, I/we agree to sustain, promote, and encourage agriculture in the voluntary agricultural district, support protection against nuisance suits, undesired non-farm development, and other negative impacts on participating farms. I/we agree not to engage in any uses not permitted by the Beaufort County Voluntary Agricultural District Ordinance on land enrolled in the program.

I/we agree to voluntarily preserve and protect the conservation values of my/our property more completely described in the attachments hereto by prohibiting non-farm uses of the property for a period of ten (10) years from the date of signing of this Agreement, except for the creation of not more than three (3) lots that meet applicable zoning and/or subdivision regulations.

This Agreement may be revoked by written notice to the Beaufort County Agricultural Advisory Board, or the Beaufort County Agricultural Advisory Board may revoke the Agreement based on non-compliance by the Landowner. The landowner will be given at least twenty-four (24) hour prior notice by the Agricultural Advisory Board before a compliance inspection of the land enrolled in the conservation agreement.

Signature of Owner(s)/Applicant _____ Date _____



BEAUFORT COUNTY BOARD OF COMMISSIONERS

Jay McRoy
Jay McRoy, Chairman

ATTEST:

Sharon C. Singleton
Sharon C. Singleton, Clerk to Board

William P. Mayo
William P. Mayo, County Attorney

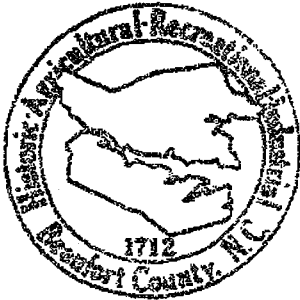
Signature of Chairman of Beaufort County Voluntary Agricultural District Board

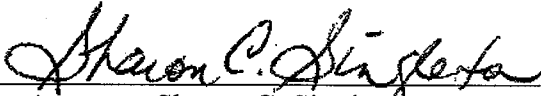
_____ Date _____

MONDAY, AUGUST 6, 2007, 5:00 PM
REGULAR MEETING

NORTH CAROLINA
BEAUFORT COUNTY

I, Sharon C. Singleton, Clerk to the Board of County Commissioners, do hereby certify that the above is a true and verified copy of a resolution adopted by the Beaufort County Board of Commissioners in regular session on Monday, August 6, 2007.




Sharon C. Singleton
Clerk to the Board