

**CUMBERLAND COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

ARTICLE I – AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by N.C.G.S. Chapter 153A and Chapter 106, Article 61, Farmland Preservation Enabling Act, as amended.

ARTICLE II – PURPOSE

The purpose of this ordinance is to promote agricultural and environmental 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 health of agriculture, and increase protection from non-farm 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 non-farming 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 Cumberland County Commissioners' decisions affecting farmland.
- 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 III - CERTIFICATION AND QUALIFICATION OF FARMLAND

In order for farmland to qualify under this Article, it must be real property that:

- A. Is participating in the land present-use value taxation program established by N.C.G.S. 105-277.7 or is otherwise determined by the County to meet all qualifications of this program set forth in N.C.G.S. 105-277.3;

- B. Is certified by the North Carolina Forest Service and/or Natural Resources Conservation Service of the United States Department of Agriculture, in consultation with the Cooperative Extension, as being a farm on which at least two-thirds of the land is composed of soils that (i) are best suited for providing food, seed, fiber, forage, timber, oil seed crops, and horticultural crops, including Christmas trees and ornamentals; (ii) have good soil qualities; (iii) are favorable for all major crops common to the County where the land is located; (iv) have a favorable growing season; and (v) receive the available moisture needed to produce high yields an average eight out of ten years; or on which at least two-thirds of the land has been actively used in agricultural, horticultural or forestry operations as defined in N.C.G.S. 105-277.2 (1), (2), and (3) during each of the five previous years, measured from the date on which the determination must be made as to whether the land in question qualifies.
- C. Is managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service-defined erosion control practices that are addressed to highly erodible land.
- D. 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-farming use or development of such land for a period of at least ten years, except for the creation on not more than three lots that meet applicable zoning and subdivision regulations. This conservation agreement will become null and void if the land is removed from the Voluntary Agricultural District Program.

ARTICLE IV– CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

- A. Implementation
Any agricultural district shall initially consist of at least 10 acres of agricultural land, or 5 acres of horticultural land, or 20 acres of forest land, as set forth in the land present-use value taxation program, of qualifying farmland. An agricultural district may be enlarged by adding qualifying, contiguous farmland and by application by non-farm landowners contiguous to qualifying agricultural district.
- B. Education
The County may take such action as it deems appropriate through the Farm 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.
- C. Withdrawal
In the event that one or more participants in a District withdraws or loses eligibility to participate and the acreage becomes less than the minimum or

results in land being noncontiguous, a District will continue to exist so long as there is at least one (1) remaining qualifying farm.

ARTICLE V – 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 the Cooperative Extension Office. The application shall be on forms provided by Cooperative Extension and approved by the Farm Advisory Board.

B. Approval Process

1. Upon receipt of an application, the Cooperative Extension Director will forward copies to the following agencies for their prompt evaluation and response:
 - a. The Cumberland County Tax Department,
 - b. The Natural Resources Conservation Service office for Cumberland County,
 - c. The Cumberland County Soil and Water Conservation District office, and/or
 - d. The North Carolina Forest Service.
2. Upon receipt of the responses from the Cumberland County Tax Department, the Natural Resources Conservation Service, the Cumberland County Soil and Water Conservation District, and the North Carolina Forest Service, the Farm Advisory Board shall consider the application at its next regularly scheduled meeting. The Cooperative Extension Director shall notify the applicant by first-class mail of the Farm Advisory Board's decision within 15 days.

C. Appeal

If the Farm Advisory Board denies an application, the petitioner shall have 30 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 VI – NOTIFICATION

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

- A. Signs approved by the Farm Advisory Board shall be installed along the right-of-way of major roads adjoining the District in a manner so that current and potential residents and property owners may be made aware that farming and agricultural activities may take place at any time. Specific location of the signs, including number of signs necessary to provide adequate notice of the specific District, shall be approved by the Cumberland County Planning and Inspections Director.
- B. The Cumberland County Planning and Inspections Department shall maintain maps of approved Districts within the Cumberland County Geographic Information Mapping System Database. This mapping information may be viewed by accessing the Cumberland County website at www.co.cumberland.nc.us, or at the following County offices and other agencies: Register of Deeds, Tax Administration/GIS Mapping and Planning and Inspections, Cooperative Extension Service, Natural Resources Conservation Service, Cumberland County Soil and Water Conservation District, and the North Carolina Forest Service.
- C. The Cumberland County Tax Department and the Register of Deeds Office shall add a special notice to the GIS database so that anyone conducting title or real estate record searches, or general research on parcels of land, will be advised of the location of and participation in Voluntary Agricultural Districts, in relation to the subject parcel(s).
- D. Notice of these methods of District notification and identification shall be included in all Cumberland County Voluntary Agricultural District Program information brochures made available to the public by the Cooperative Extension Service, County Planning and Inspections Department, or the County Tax Department.

ARTICLE VII– REVOCATION OF PARTICIPATION IN THE PROGRAM

- A. By written notice to the Farm Advisory Board, a landowner of qualifying farmland may revoke his/her participation in the Voluntary Agricultural District Program formulated pursuant to Article V of this ordinance, or the Farm Advisory Board may revoke same participation based on non-compliance by the landowner. Such revocation shall result in loss of eligibility to receive benefits as set forth in this ordinance.

ARTICLE VIII– PUBLIC HEARINGS ON PROPOSED CONDEMNATION

- A. 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 Farm Advisory Board hold a public hearing on the proposed condemnation. This ordinance requires and provides for such hearing.

B. Procedure

1. Upon receiving a notice of proposed condemnation, the Farm Advisory Board shall direct the Cooperative Extension Director to publish notice describing the proposed action in a newspaper of general circulation in Cumberland County within five (5) business days of the request, and in the same notice shall notify the public of a public hearing before the Farm Advisory Board on the proposed condemnation to be held within ten (10) days of receipt of the notice.
2. The Farm Advisory Board shall meet to review
 - a. If 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. 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 Farm Advisory Board shall consult with the Cooperative Extension Director, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies or organizations deemed by the Farm 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 Cumberland County 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 public hearing, the Farm 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 Farm Advisory Board.
7. After the ten (10) day period for public comment has expired, the Farm 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 condemnation.

8. The total time period, from the day that a notice requiring 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 Farm Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.
9. No state or local agency may formally initiate a condemnation action while the proposed condemnation is properly before the Farm Advisory Board within these time limits.

ARTICLE IX – NORTH CAROLINA AGENCY NOTIFICATION

A. Adoption

Upon adoption of this ordinance and any subsequent amendment, the Clerk to the Board of Commissioners shall record this ordinance with the North Carolina Commissioner of Agriculture and Consumer Services.

B. Annual Report

The Cooperative Extension Director, on behalf of the Farm Advisory Board, shall make an annual report each January to the North Carolina Commissioner of Agriculture and Consumer Services as specified in N.C.G.S. 106-743.

ARTICLE X– LEGAL PROVISIONS

A. 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 of obligation imposed by this ordinance.

B. 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 District as defined in this ordinance.

C. Severability

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

D. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Cumberland County, this ordinance shall govern to the extent allowed by law. Whenever the provisions of any federal or state statute require restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

ARTICLE XI
ENACTMENT

The Cumberland County Board of Commissioners hereby adopts and enacts the preceding ordinance.

Adopted this the _____ day of _____, ____.

Motion for adoption by _____ and seconded by _____.

CUMBERLAND COUNTY BOARD OF COMMISSIONERS

Chairperson

ATTEST:

Clerk to the Board of Commissioners

Approval as to form:

County Attorney

APPLICANT INFORMATION:

PROPERTY INFORMATION:

OWNER'S CERTIFICATION:

Witness my hand and official seal, this _____ day of _____, 20_____.