

## **PITT COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

### **Section 1. Authority**

This Ordinance is made pursuant to the general ordinance making power contained in Chapter 153A of the North Carolina General Statutes, as well as the specific enabling legislation contained in North Carolina General Statute Chapter 106, Article 61, known as "The Agricultural Development and Farmland Preservation Enabling Act".

### **Section 2. Purpose**

The purpose of this Ordinance is to promote agricultural values and the general welfare of the county; and more specifically, to 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.

This Ordinance establishes a Voluntary Agricultural District Program that has the following benefits for participating landowners and other county residents:

- The program preserves the agricultural areas while creating awareness of these areas within the county.
- The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells, along with a varying range for hours of operation.
- Participation in the program opens a line of communication between landowners, municipalities, other units of local government, and the Pitt County Board of Commissioners for input on decisions that could affect the county's agriculture.
- Landowner participation in the program is voluntary and the landowner may terminate his/her participation in writing at any time.
- The program supports green space and natural resource protection as the county's population and development expands.
- The program maintains and promotes opportunities to produce locally grown food and fiber.
- Participants in Voluntary Agricultural Districts may get higher ranking for qualification in various grants and programs.

### **Section 3. Title**

This Ordinance shall be known as the "Pitt County Voluntary Agricultural District Ordinance".

#### **Section 4. Jurisdiction**

This Ordinance is effective within the unincorporated areas of Pitt County. Jurisdiction may be extended to areas within the planning jurisdiction of a municipality only upon the resolution or written agreement of the municipality authorizing the same.

#### **Section 5: Definitions**

**Advisory Board:** Pitt County Agricultural Advisory Board.

**Chairperson:** Chairperson of the Pitt County Agricultural Advisory Board.

**District:** Voluntary Agricultural District as established by this Ordinance.

**Board of Commissioners:** Pitt County Board of Commissioners.

#### **Section 6: Agricultural Advisory Board**

A. *Creation.* The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

B. *Membership.* The Advisory Board shall consist of five (5) members appointed by the Board of Commissioners. There shall be one member from each of the four (4) districts created in Pitt County, and one (1) member at large. The four (4) members representing each district shall be actively engaged in farming, horticulture, and/or forestry.

Partners such as the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension, the United States Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and others in the public at large may identify and encourage individuals to apply to serve on the Advisory Board.

C. *Appointment.* Appointments to the Advisory Board shall be made in accordance with the procedures set forth in the Pitt County Board of Commissioners General Policy for Appointment to Boards, Commissions and Committees, and the provisions of this Appointment Policy shall be applicable to all members of the Advisory Board.

D. *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.

E. *Advisory Board Procedures.*

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. *Rules.* 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 Pitt County fiscal year as its meeting year, July 1 through 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. 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 in accordance to the N.C. Public Meetings law. 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 three (3) members. 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 Pitt Soil and Water Conservation District, or its designee, and shall be a public record.
7. *Administrative.* The Pitt County Soil and Water Conservation District office will serve the Agricultural Advisory Board for record keeping, correspondence, and application procedures under this Ordinance, and whatever services the Board requests to complete its duties.

F. *Duties.* The Advisory Board shall:

1. Review and approve or disapprove applications for enrollment of qualified farmland, horticultural land, or forestland into a District;
2. Make recommendations concerning the establishment and modification of Districts;
3. Receive public comment or 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 Districts;
5. Review and make recommendations concerning proposed amendments to this Ordinance;
6. Develop and maintain a countywide farmland protection plan as defined in NCGS §106-744(e);
7. Study additional methods of protection for farming, horticulture, forestry and the attendant land base, and make recommendations to the Board of Commissioners; and
8. Perform other agricultural, horticultural and forestry-related tasks or duties assigned by the Board of Commissioners.

## **Section 7. Creation of Voluntary Agricultural Districts**

A. *Regions.* Pitt County is hereby divided into four (4) regions as defined below (map attached):

1. Northeast Pitt County. being east of NC 11 North and north of Tar River;
2. Northwest Pitt County. being west of NC 11 North and north of Tar River;

3. Southeast Pitt County. being east of NC 11 South and south of Tar River;
  4. Southwest Pitt County. being west of NC 11 South and South of Tar River;
- B. *Implementation.* In order to implement the purposes stated in Section 2, this program provides for the creation of Voluntary Agricultural Districts, which meet the following standards:
1. Agriculture defined. For purposes of this Article, the terms "agriculture", "agricultural", and "farming" refer to all of the following:
    - a. The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
    - b. The planting and production of trees and timber.
    - c. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
    - d. Aquaculture as defined in G.S. 106-758.
    - e. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
    - f. When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm. (1991, c. 81, s. 1; 2005-390, s. 18; 2006-255, s. 6.)
  2. All land enrolled in a region, 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.* Qualifying farmland in a region with an existing District shall be added to the District as herein provided.

#### **Section 8. Certification and Qualification of Farmland**

*Requirements.* To secure county certification as qualifying farmland in a Voluntary Agricultural District, in accordance with NCGS §106-737, the farm must be real property that:

- A. Be engaged in agricultural as defined in NCGS §106-581.1;
- B. Be managed by in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodible land; and

- C. Be the subject of a conservation agreement, as defined in NCGS §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 ten (10) years, except for the creation of not more than three (3) lots that meet applicable county zoning and subdivision regulations.

## **Section 9. 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.
2. A Conservation Agreement required by NCGS §106-737 and defined in NCGS §121-35, signed by the landowner, shall accompany the application form submitted.

### **B. Approval Process**

1. Upon receipt of an application and Conservation Agreement, the chairperson will forward copies immediately to the following offices, or any others, which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board to vote on the application:
    - a. The Pitt Soil and Water Conservation District office;
    - b. The Pitt County Office of N.C. Cooperative Extension;
    - c. The Natural Resources Conservation Service; and
    - d. The Pitt County Planning Department.
  2. Upon submission of the application and Conservation Agreement 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 a District. Upon approval, the County shall execute and record the conservation agreement.
- C. *Appeal.* If an application is denied by the Advisory Board, the landowner may, within fifteen (15) days of notification of disapproval of the application, request in writing that the Advisory Board reconsider its decision. The request for reconsideration shall state the reason(s) therefore. Upon either an initial denial, if no request for reconsideration was made, or denial after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

## **Section 10. Revocation, Enforcement 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 within a District may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on non-compliance by the landowner, subject to the same provisions as contained in Section 9(C) for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District. Transfers of land in a District due to death of the landowner, sale or gift shall not revoke the Conservation Agreement unless the land no longer qualifies. Enforcement of the terms of a Conservation Agreement for land enrolled in a District shall be

limited to revocation of the Conservation Agreement and the benefits derived therefrom. Enrolled properties will be evaluated at least once every five (5) years to ensure qualification according to this Ordinance.

B. *Renewal.* A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed unless the landowner provides thirty (30) days written notice to the Advisory Board of intent not to renew.

## **Section 11. Public Hearings on Condemnation of Farmland**

- A. *Purpose.* NCGS §106-740 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. This provision ensures that the condemning agency or unit considers the impact of its actions upon agriculture, forestry and/or horticulture prior to taking action that is not reversible. This provision is not intended to, and does not prohibit, the condemning agency or unit from taking action authorized by law.
- B. *Procedure.* Public hearings shall be held in accordance with the procedures and timelines set forth in NCGS §106-740.

## **Section 12. Notification**

- A. *Record Notice of Proximity to a Voluntary Agricultural District*
1. *Procedure.* Upon certification of qualifying farmland and designation of real property as a District, the Pitt County Online Parcel Information System (OPIS) shall contain some form of notice reasonably calculated to allow a person researching a particular tract to determine that such tract is located within one-half (1/2) mile of a District. Other forms of notification within the County may be made in cooperation with the Register of Deeds or other county officials.
  2. *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 Ordinance.
  3. *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.
- B. *Signage.* Signs identifying approved Districts shall be placed outside the rights-of-way of roads that pass through or next to those Districts. There shall be signage posted as deemed appropriate by the Advisory Board, or its administrative agent for the county's District program. Placement of signage outside of right-of-ways may be coordinated with the North Carolina Department of Transportation.

C. *Maps*

Maps identifying approved Districts shall be provided to the following agencies or offices:

1. Planning Department;
2. Register of Deeds;

3. Natural Resources Conservation Service;
4. North Carolina Cooperative Extension;
5. Pitt Soil and Water Conservation District; and
6. Any other such agency or office the Advisory Board deems appropriate.

### **Section 13. 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 (1/2) mile of the proposed development.

### **Section 14. 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 delegates authority on county land use planning as it pertains to the countywide farmland protection plan, the county's comprehensive plan, impacts on agricultural, forestry and horticultural lands, and on the status, progress, and activities of the county's Voluntary Agricultural District program. It shall be the duty of the Advisory Board to coordinate the formation and maintenance of Districts with the county's land use planning activities and the county's land use plans.
- B. *Posting of Notice.* The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary:

**Pitt County has established 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, 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 the Pitt County Soil and Water Conservation District office, North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office or the Natural Resources Conservation Service office or online through the Pitt County Geographic Information System.**

### **Section 15. Consultation Authority**

The Advisory Board may consult with North Carolina Cooperative Extension, the Natural Resources Conservation Service, the Pitt 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.

### **Section 16. North Carolina Agency Notifications**

*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 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 and the Pitt County Board of

County Commissioners on Pitt County's Voluntary Agricultural District program, including the following information:

- A. Number of landowners enrolled;
- B. Number of acres enrolled;
- C. Number of acres certified during the reporting period;
- D. Number of acres denied during the reporting period;
- E. Number of acres for which applications are pending;
- F. Municipalities with which Memorandums of Understanding have been signed;
- G. Municipalities that have adopted this Ordinance for the purpose of the county enforcing this Ordinance within their corporate boundaries;
- H. Copies of any amendments to this Ordinance or Memorandums of Understanding signed with municipalities; and
- I. Any other information the Advisory Board deems useful.

#### Section 17. Legal Provisions

- A. *Severability.* If any article, section, subsection, clause, phrase or portion of this Ordinance 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 Pitt County, the Commissioners will rule on governing ordinance. 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.

#### Section 18. Enactment

The Pitt County Board of Commissioners hereby adopts the preceding sections and provisions of this Ordinance for enactment on March 1, 2013.

Adopted this the 20 day of August, 2012.

Pitt County Board of Commissioners

Beth Ward  
Chairperson

ATTEST:

Kimberly W. Hines  
Clerk to the Board of Commissioners

