

**TRANSYLVANIA COUNTY  
VOLUNTARY AGRICULTURAL DISTRICT &  
ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I**

**TITLE**

This Ordinance shall be known and cited as the **TRANSYLVANIA VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**.

**ARTICLE II**

**AUTHORITY AND ENACTMENT CLAUSE**

Pursuant to the authority and provision conferred by the General Statutes of the State of North Carolina (Sections 106-735 through 106-744 and Chapter 153A), the Board of Commissioners hereby ordain and enact into law these Articles and Sections.

**ARTICLE III**

**PURPOSE**

The purpose of this Ordinance shall be to:

1. 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;
2. encourage the economic and financial health of agriculture, horticulture and forestry; and
3. increase protection from non-farm development and other negative impacts on properly managed farms.

**ARTICLE IV**

**JURISDICTION**

This Ordinance shall apply to all areas of Transylvania County located outside the boundaries of any incorporated city or town or extraterritorial jurisdiction. Municipalities within Transylvania County may elect to allow this Ordinance to be effective within their corporate or extraterritorial jurisdiction.

**ARTICLE V**

**DEFINITION OF TERMS**

**SECTION 1: Agriculture Defined** – In accordance to NCGC § 106-581.1), the terms "agriculture", "agricultural", and "farming" refer to all of the following:

- 1.1 The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- 1.2 The planting and production of trees and timber.
- 1.3 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.
- 1.4 Aquaculture as defined in G.S. 106-758.
- 1.5 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.
- 1.6 When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agri-tourism, 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 a farm, and similar activities incident to the operation of a farm.
- 1.7 A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain. (1991, c. 81, s. 1; 2005-390, s. 18; 2006-255, s. 6; 2013-347, s. 2; 2017-108, s. 8.1.)

**SECTION 2: Other Definitions** – For the purpose of this Ordinance, certain words or terms used herein are defined as follows:

- 2.1 **Advisory Board** - The Transylvania County Agriculture Advisory Board.
- 2.2 **Conservation agreement** - An agreement, in this case, between the land owner and Transylvania County in which the landowner agrees to prohibit all non-farm uses of his or her land.
- 2.3 **Enhanced Voluntary Agriculture District (EVAD)** - A single or group of approved parcels of land within a predetermined region in which the owner of that land has voluntarily agreed to only utilize the land for farming for a ten (10) year period. This agreement is irrevocable for the ten (10) year term.
- 2.4 **“Ex-officio” board member**- A board member serving in a staff or advisory capacity. Such members do not have voting privileges.
- 2.5 **Natural Resources Conservation Service (NRCS) Plan** – An individualized plan of action in which farming practices can meet a mutually agreed upon list of land conservation goals.

- 2.6 **Region** - A predefined area of a county (or the county in its entirety) in which a group of approved farms participate in a common Voluntary Agriculture District.
- 2.7 **Voluntary Agriculture District (VAD)** - A single, or group, of approved parcels of land within a predetermined region in which the owner of that land has voluntarily agreed to only utilize the land for farming for a ten (10) year period.
- 2.8 **Water and Sewer Assessment** - An evaluation done by an approved entity in which water and sewer utilities could be provided to a landowner.

## ARTICLE VI

### **AGRICULTURAL ADVISORY BOARD**

**SECTION 3: Creation** - The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this program.

**SECTION 4: Membership** - The Advisory Board shall consist of no less than seven (7) members appointed by the Board of Commissioners. Membership requirements shall include:

- 4.1 Advisory Board members, except those serving in an *ex officio* capacity, shall be a Transylvania County resident or landowner.
- 4.2 At least three (3) of the members shall be actively engaged in agriculture as defined in N.C.G.S. § 106-581.1. This determination shall be made without reference to ex officio members.
- 4.3 Transylvania County is being treated as one ag district, but every effort should be made to ensure geographic diversity among members in compliance with NCGS 106-738 and NCGS 106-743.1.
- 4.4 The members actively engaged in agriculture as defined in N.C.G.S. § 106-581.1, 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 Soil and Water Conservation District Board of Supervisors, the County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency County Committee, nonprofit agricultural organizations, conservation organizations, agribusiness, horticultural businesses, forestry businesses, and the public at large.

**SECTION 5: Tenure** - The initial board is to consist of two (2) appointees for terms of one year; two (2) appointees for terms of two years; and three (3) appointees for terms of three (3) years. Thereafter, all appointments are to be for terms of three (3) years, with reappointment permitted.

**SECTION 6: Vacancies** - Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

**SECTION 7: 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.

**SECTION 8: 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.

**SECTION 9: Election of Officers** - 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.

**SECTION 10: Advisory Board Procedure** - The Advisory Board may adopt rules of procedure consistent with this Ordinance or with other provisions of county or state law.

- 10.1 **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 as required by County open meeting regulations. All meetings shall be open to the public.
- 10.2 **Majority Vote and Quorum Requirement** - 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 a majority of the members in attendance. No business may be conducted by the Advisory Board without a quorum present.
- 10.3 **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. The Advisory Board 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. All records are public records open to the public.
- 10.4 **Advisory Board Year** - The Advisory Board shall use the Transylvania County fiscal year as its meeting year.
- 10.5 **Administrative** - The Advisory Board may contract with the NC Cooperative Extension Transylvania County Center office or Transylvania Soil and Water Conservation District to serve the Board for record keeping, correspondence, application procedures under this Ordinance, and any other services the Board needs to complete its duties.

**SECTION 11: Advisory Board Duties**

- 11.1 Review applications of landowners for enrollment of qualified farmland, horticultural land, or forestland into a District for compliance with this Ordinance;

- 11.2 Make recommendations concerning the establishment and modification of Districts;
- 11.3 Conduct public hearings;
- 11.4 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;
- 11.5 Review and make recommendations concerning proposed amendments to this Ordinance;
- 11.6 Develop and maintain a countywide farmland protection plan as defined in N.C.G.S. § 106-744 (e);
- 11.7 Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners;
- 11.8 File annual report in compliance with NCGS 106-743; and
- 11.9 Perform other related tasks or duties assigned by the Board of Commissioners.

## **ARTICLE VII**

### **CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS**

#### **Section 12: Regions and Districts**

- 12.1 Transylvania County will be treated as one region. All VADs and EVADs in Transylvania County will be part of the Transylvania County Agricultural District.

## **ARTICLE VIII**

### **CERTIFICATION AND QUALIFICATION OF FARMLAND**

**SECTION 13:** To secure county certification as qualifying farmland in either a District or Enhanced District, a farm must:

- 13.1 Be real property that is engaged in agriculture as defined in N.C.G.S. § 106-581.1;
- 13.2 Have, or be in the process of obtaining a NRCS soil conservation plan if the land is highly erodible as defined by NRCS, and the property is not in Present Use Tax Valuation Program.
- 13.3 Have a current NRCS Conservation plan on file prior to approval of an Enhanced Voluntary District designation.

- 13.4 Be 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 ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.

## **ARTICLE VIII**

### **APPLICATION, REVIEW, AND APPEAL**

#### **SECTION 14: Application Procedure**

- 14.1 A landowner, or landowners, may apply to participate in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District program by making application, for qualifying farmland to be included in a District or Enhanced District, to the chairperson of the Advisory Board or a designated staff person. The landowner, or landowners, must designate the application as for either Voluntary Agricultural District status or Enhanced Voluntary Agricultural District status. The application shall be on forms provided by the Advisory Board.
- 14.2 A Conservation Agreement, required by N.C.G.S. § 106-737 and N.C.G.S. § 106-743.3, and defined in N.C.G.S. § 121-35, suited to district type, must be executed by the landowner(s) with the Advisory Board [The Conservation Agreement for the Enhanced Voluntary Agricultural District must be recorded with the County Register of Deeds Office as required under N.C.G.S. § 121-41 (c)].

#### **SECTION 15: Review Process**

- 15.1 Upon receipt of an application, the chairperson will forward copies immediately to the following offices, which shall be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board to review the application:
- 15.1.1 The Transylvania County Tax Office;
  - 15.1.2 The Transylvania Soil and Water Conservation District Office;
  - 15.1.3 The Transylvania County Cooperative Extension Office; and
  - 15.1.4 The Natural Resources Conservation Service;
  - 15.1.5 Any other such agency or office the Advisory Board deems appropriate.
- 15.2 The Advisory Board or its administrative designees prior to, or at, the next regularly scheduled board meeting shall review an application for certification of qualifying farmland to determine if the application is compliant with all requirements of this Ordinance.
- 15.3 Any application not containing all information and not meeting specifications set forth in this Ordinance shall be rejected and returned to the applicant together with the reason(s) for rejection. The Advisory Board or its administrative designees may allow the applicant thirty (30) calendar

days or a reasonable time period agreed upon by both parties in writing, to cure any deficiencies in the application, which if cured, would make the application complete.

**SECTION 16: Appeal** - If an application is determined to be noncompliant with this Ordinance by the Advisory Board, the landowner may, within fifteen (15) days of notification of noncompliance of the application, request in writing that the Advisory Board reconsider its determination. The request for reconsideration shall state the reason(s) therefore. The Advisory Board shall meet at the next regularly scheduled board meeting for reconsideration of the application and shall notify the applicant of its determination, and the reason(s) therefore, within fifteen (15) days of the reconsideration of the application. Upon either an initial negative determination, if no request for reconsideration was made, or a negative determination after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the determination to the Board of Commissioners. Such appeal shall be presented in writing and shall state the reason(s) therefore. The decision of the Board of Commissioners is final.

## **ARTICLE IX**

### **REVOCATION, TRANSFER, RENEWAL, AND ENFORCEMENT OF CONSERVATION AGREEMENTS**

#### **SECTION 17: Revocation**

- 17.1 District. 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 noncompliance by the landowner with the provisions of Article VII, 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). If the VAD agreement has been recorded with the Register of Deeds or County GIS, a notice of revocation shall be recorded in the Register of Deeds Office, pursuant to N.C.G.S. § 121-41(b), sufficient to provide notice that the qualifying farmland land has been withdrawn from the Voluntary Agricultural District program and the qualifying farmland shall be removed from the Voluntary Agricultural District Program database and map in the county Geographic Information System.”
- 17.2 Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 years. At the end of the term, a notice of revocation shall be recorded in the Register of Deeds Office sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program if the agreement is not automatically renewed, or renewed voluntary by the landowner(s).

#### **SECTION 18: Transfer**

- 18.1 District. Transfers of land in a District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement, if all new landowner(s) affirm the Conservation Agreement

and affirm, on a supplemental application, updated information demonstrating that the enrolled land still qualifies for enrollment under Article VII of this Ordinance. In the event that there are water or sewer assessments held in abeyance by this Ordinance, and where the new owner(s) fail(s) to agree in writing to accept liability for those assessments when land is withdrawn either voluntarily or involuntarily from the District, the Conservation Agreement shall be revoked. Revocation shall be undertaken pursuant to the provisions of Section A of this Article.

- 18.2 Enhanced District. Transfers of land in a District due to death of the landowner(s), sale, or gift shall not revoke the Conservation Agreement. The Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Conservation Agreement.

## **SECTION 19: Renewal**

- 19.1 District. A Conservation Agreement for land within a Voluntary Agricultural District, that continues to qualify under all provisions of Article VII, shall be automatically renewed for a period of ten (10) years 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.
- 19.2 Enhanced District. A Conservation Agreement for land within an Enhanced Voluntary Agricultural District, that continues to qualify under all provisions of Article VII, shall be deemed automatically renewed for an additional term of three (3) years, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement. At the end of the three (3) year term, the Conservation Agreement for land within an Enhanced Voluntary Agricultural District that continues to qualify under all provisions of Article VII shall thereafter automatically renew for successive one (1) year terms, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement.

## **SECTION 20: Enforcement**

- 20.1 District. 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. Revocation shall be undertaken pursuant to the provisions of Section A of this Article.
- 20.2 Enhanced District. Conservation Agreements for the Enhanced Agricultural District program may, at the election of the parties, include provisions requiring that any disputes between the county and the landowner be resolved through arbitration or mediation, and, in the event of litigation, that the prevailing party be awarded costs, including reasonable attorney fees. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The County may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). The



right to terminate program benefits is in addition to any legal rights that the County may have under either this Ordinance or the terms of the applicable Conservation Agreement. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement.

## **ARTICLE X**

### **WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS**

#### **SECTION 21: No Connection Required**

- 21.1 District. A landowner belonging to a District shall not be required to connect to Transylvania County, City of Rosman or City of Brevard water and/or sewer systems.
- 21.2 Enhanced District. A landowner belonging to an Enhanced District shall not be required to connect to Transylvania County, City of Brevard or city of Rosman utility systems.

#### **SECTION 21: Abeyance**

- 22.1 District. 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.
- 22.2 Enhanced District. Utility assessments shall be held in abeyance, without interest, for farms in an Enhanced District, until improvements on such property are connected to the utility system for which the assessment was made.

**SECTION 23: Termination of Abeyance** - When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

**SECTION 24: Suspension of Statute of Limitations** - Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner shall be required to sign an acknowledgement, which shall be incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

**SECTION 25: 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.

**SECTION 26: 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. 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.

## **ARTICLE XI**

### **ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS**

**SECTION 27:** Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program, and to the following additional benefits under this Article:

- 27.1 Agricultural Cost Share Program - Landowners participating in Enhanced Districts are eligible under N.C.G.S. § 106-850 (b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to Chapter 106, Article 72, of the North Carolina General Statutes.
- 27.2 Priority Consideration - State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.
- 27.3 Utility Assessment Waiver - As provided in Article X, waiver of all county utility assessments, in addition to waiver of water and sewer assessments, is available to all participants in Enhanced Districts.

## **ARTICLE XII**

### **PUBLIC HEARINGS**

**SECTION 28: Purpose** - N.C.G.S. § 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 or Enhanced District until such agency or unit has requested that the Advisory Board hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agricultural, forested, and/or horticultural land 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 that is authorized by law.

### **SECTION 29: Procedure**

- 29.1 Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Transylvania 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.
- 29.2 The Advisory Board shall meet to review:
  - 29.2.1 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

- 29.2.2 Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District or Enhanced District within which the proposed action is to take place.
- 29.3 The Advisory Board shall consult with the Cooperative Extension Service Office, the Soil and Water Conservation District Office, the Natural Resources Conservation Service, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
- 29.4 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.
- 29.5 There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
- 29.6 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 within five (5) days.
- 29.7 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.
- 29.8 Pursuant to N.C.G.S. § 106-740, the condemning agency may not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

### **ARTICLE XIII**

#### **NOTIFICATION**

#### **SECTION 30: Record Notice of Proximity to a Voluntary or an Enhanced Voluntary Agricultural District**

- 30.1 Procedure - Pursuant to N.C.G.S. § 106-741, when Transylvania 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 or Enhanced District, Transylvania County shall provide in its computerized land records system 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 that District or Enhanced District. [Note: a VAD Conservation Agreement is not required to be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act.

An EVAD Conservation Agreement must be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act.]

- 30.2 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 Article.
- 30.3 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 or Enhanced District as defined in this Ordinance.

**SECTION 31: Geographic Information System** - Voluntary Districts and Enhanced Districts shall be mapped in the County Geographic Information System maintained by the Transylvania County Tax Administration Office. Once completed, this information should be made available publically and to any agency or office the Advisory Board deems appropriate.

**SECTION 32: Posting of Notice** - The following notice, of a size and form suitable for posting, shall be posted in the Register of Deeds Office, and any other office or agency the Advisory Board deems necessary:

“Transylvania County has established Districts and Enhanced 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, burning, and other common farming activities may occur in these Districts and Enhanced Districts any time during the day or night. Maps and information on the location and establishment of these Districts and Enhanced Districts can be obtained from the North Carolina Cooperative Extension Service Office, the Soil and Water Conservation District Office, the Register of Deeds Office, the Transylvania County Planning Office, or the Natural Resources Conservation Service Office.”

**SECTION 33: Signage** - Signs identifying parcels enrolled in an agricultural district may be placed on enrolled parcels at the discretion of the owners. Signs shall not be placed along the right-of-way of any state maintained road and must be in conformance to the Transylvania County Sign Control Ordinance.

## **ARTICLE XIV**

### **CONSULTATION AUTHORITY**

**SECTION 34:** The Advisory Board may consult with North Carolina Cooperative Extension Office, the Soil and Water Conservation District Office, the Natural Resources Conservation Service Office, the Farm Service Agency Office, 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 XV

### LEGAL PROVISIONS

**SECTION 35: 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.

**SECTION 36: Conflict with Other Ordinances and Statutes** - Whenever the provisions of this Ordinance conflict with other ordinances of Transylvania County, the provisions of those other ordinances shall govern. Whenever the provisions of any federal or state statute conflict with this Ordinance, the provisions of such federal or state statute shall govern. The sole remedy for a land use not complying with this Ordinance shall be revocation of the Conservation Agreement and removal of the non-qualifying land from the Transylvania County Voluntary Agricultural District and Enhanced Voluntary Agricultural District Program. Recreational use of land that does not interfere with agricultural uses as defined in N.C.G.S. § 106-581.1 shall not be considered non-compliant with this Ordinance.

**SECTION 37: Amendments** - This Ordinance may be amended from time to time by the Board of Commissioners.

**SECTION 38: Effective Date** – This Ordinance shall take effect and be enforced on and after the date of its adoption by the Board of Commissioner of Transylvania County, 11<sup>th</sup> day of March, 1996. Amended January 28, 2019.

/s/ \_\_\_\_\_ Mike Hawkins, Chair, Transylvania County Board of Commissioners

Attest: \_\_\_\_\_ Trisha Hogan, Clerk to Board of Commissioners