

**WAYNE COUNTY
VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE**

**ARTICLE I
TITLE**

An ordinance of the Board of County Commissioners of WAYNE COUNTY, NORTH CAROLINA, entitled, “**VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE.**”

**ARTICLE II
AUTHORITY**

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. 106-735 through 106-744 and Chapter 153A of the North Carolina General Statutes.

**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 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:

<u>Advisory Board:</u>	Wayne County Agricultural Advisory Board.
<u>Chairperson:</u>	Chairperson of the Wayne County Agricultural Advisory Board.
<u>District:</u>	Voluntary Agricultural District as established under the terms and conditions of this program by the Board of Commissioners.
<u>Board of Commissioners:</u>	Wayne County Board of Commissioners.

**ARTICLE V
AGRICULTURAL ADVISORY BOARD**

- A. Creation:
The Board of Commissioners, in accordance with NCGS 106-739, hereby establishes an Agricultural Advisory Board to implement the provisions of this program.
- B. Membership:
The Advisory Board shall consist of no less than seven (7) voting members appointed by the Board of Commissioners. One each shall be selected to represent each of the six districts in the regions set out in Article VI Section A. There shall also be one at large member.
- C. Membership Requirements:
1. Each Advisory Board member shall be a Wayne County resident or landowner.
 2. At least 5 of the members shall be actively engaged in farming.
 3. The Board of Commissioners shall select the members actively engaged in farming, as well as other members, for appointment to the Advisory Board. The Board of Commissioners may consider names submitted 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, and the public at large.
- D. 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 years. Thereafter all appointments are to be for terms of three years, with reappointment up to three (3) consecutive terms permitted. Reappointment to additional terms is permitted after a full year off the board.

- 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:
The Board of Commissioners may remove any member of the Advisory Board for cause.
- 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. 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.
 2. Jurisdiction:
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 Wayne 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 quarterly.
 5. Majority Vote:
All issues shall be decided by a majority vote of the members of the Advisory Board, except as otherwise stated herein.
 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 and shall be a public record.
 7. Administration:
The Advisory Board may contract for record keeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.
- I. Duties:
The Advisory Board shall:
1. Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;
 2. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
 3. Review and make recommendations concerning proposed amendments to this ordinance provided however that the Board of Commissioners may revise and/or amend this ordinance without the Advisory Board review or advice.
- The Advisory Board may:
1. Develop a draft countywide farmland protection plan as defined in N.C.G.S. 106-744(e)(1) for presentation to the Board of Commissioners.
 2. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and
 3. Perform other agricultural related tasks or duties assigned by the Board of Commissioners including but not limited to conducting public hearings.

**ARTICLE VI
CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS**

- A. Regions:
Wayne County is hereby divided into 6 regions as defined below:
1. Great Swamp, Buck Swamp, Fork townships
 2. Nahunta, Pikeville, Stoney Creek townships
 3. Goldsboro, Saulston, New Hope townships
 4. Indian Springs township
 5. Brogden township
 6. Grantham 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 when initially established shall contain a minimum of 100 contiguous acres of qualified farmland; or shall contain 3 or more qualified tracts of land within one-half miles of each other which contain a total of at least 100 acres.
 2. The County Tax Office identifies the tract(s) of land as agriculture.
- 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.
- 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 to reasonably inform landowners of the 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 results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is at a minimum one hundred remaining acres.

**ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND**

Requirements

To secure county certification as qualifying farmland, a farm must meet the following criteria:

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 for in G.S. 105-277.3; and
2. Be certified by the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture as being a farm on which at least two-thirds of the land is composed of soils that:
 - a. Are best suited for providing food, seed, fiber, forage, timber, forestry products, horticultural crops and oil seed crops; and
 - b. Have good soil qualities; and
 - c. Are favorable for all major crops common to the county where the land is located; and
 - d. Receive the available moisture needed to produce high yields for an average of eight out of ten years; and
 - e. Have been actively used in agricultural, horticultural or forestry operations as defined by N.C.G.S. 105-277.2 (1,2,3) 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; and
3. Be 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 said highly-erodible land; and
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 the 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, APPROVAL, AND APPEAL PROCEDURE

- A. Application Procedure:
1. A landowner may apply to participate in the 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. The application to participate in a district may be filed with the certification for qualifying farmland
 2. A conservation agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Wayne County Register of Deeds.
 3. The Board of County Commissioners will set the fee for participation in Voluntary Agriculture Districts.
 4. Fees for participation must accompany the application
- B. Approval Process:
1. Upon submission of the application to the Advisory Board, the Advisory Board shall meet within sixty (60) days, but not before the end of the comment period set out below, 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, within thirty (30) days to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. Cooperative Extension Office;
 - b. Wayne County Tax Assessor;
 - c. Natural Resources Conservation Service;
 - d. County Manager
 - e. County Planning Department
 3. Prior to establishment or enlargement of any district a public hearing shall be held by the Advisory Board to receive comments from adjoining property owners and others. Notice of date, time and place of public hearing shall be published in a newspaper of general circulation within Wayne County at a minimum of once per week for two consecutive weeks.
- C. Appeal:
- If the Advisory Board denies an application, the petitioner shall have thirty (30) days after the mailing of the notice 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.

ARTICLE IX

REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Preservation Agreement or the Advisory Board may revoke the same Preservation Agreement based on noncompliance by the landowner. Notice of a meeting to consider revocation shall be sent to the landowner at least ten days prior to the meeting at which such revocation will be considered. Notice is sufficient if mailed to address of the owner, which is maintained in the Wayne County Tax Department. Revocation by the Advisory Board shall be appealed to the Board of Commissioners within thirty days of the mailing of such notice. The decision of the Board of Commissioners is final. 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 preservation agreements prior to its expiration.

ARTICLE X

PUBLIC HEARINGS

- A. Purpose:
- 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 Wayne 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 twenty (20) 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 may consult with Cooperative Extension, Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
 4. The Advisory Board shall respond to the requesting agency within thirty days of the Advisory Board receiving a request for condemnation.
 5. 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 XI NOTIFICATION

- A. Record Notice of Proximity to Voluntary Agricultural District:
1. Procedure:
When Wayne 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 qualifying farmland and real property, which is contained in the Wayne County Land Records System shall be indicated on an overlay, if possible, to give notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one- fourth aerial mile of a voluntary agricultural district.
 2. Limit of Liability:
In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.
 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 voluntary agricultural district as defined in this ordinance.
- B. Signage:
Signs identifying approved agricultural districts may be placed along the rights-of-way of major roads that pass through or next to those districts. Members of the Agricultural District may place signs on their individual farms denoting their agricultural district membership. Placement of signage shall be coordinated with the N.C. Department of Transportation.
- C. Maps:
Maps identifying approved agricultural districts shall be provided to the following agencies or offices:
- a. Register of Deeds;
 - b. Natural Resources Conservation Service;
 - c. North Carolina Cooperative Extension Service;
 - d. County Planning;
 - e. County Tax; and
 - f. Any other such agency or office the Advisory Board deems appropriate.

ARTICLE XII

SUBDIVISION ORDINANCE AND ZONING ORDINANCE REVIEW

Developers of subdivisions or planned unit developments shall designate on preliminary and final development plans, the existence of the Districts within one-fourth aerial mile of the proposed development.

ARTICLE XIII

WAIVER OF WATER AND SEWER ASSESSMENTS

- A. No Assessment:
A landowner belonging to the Agricultural District shall not be assessed for or be required to connect to Wayne County water and/or sewer system on enrolled land unless the enrolled land is located within a designated growth corridor.
- B. Abeyance:
County of Wayne water and sewer assessments shall be held in abeyance, without interest, for farms in an agricultural 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.
- 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 Construction and Improvement Grants:
To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.

ARTICLE XIV

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 delegate authority to oversee county land use planning, on the status, progress, and activities of the county's agricultural district program and to also coordinate the formation and maintenance of agricultural districts with the county's land use planning activities and the county's land use plan if one currently exists at the time this ordinance is enacted or when one is formed.
- 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"
Wayne 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 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 County Planning office.

Growth Corridors:

At such time as the county might establish designated growth corridors, agricultural districts will not be permitted in the designated growth corridors, as delineated on the official county planning map without the approval of the Board of Commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without Planning Board review and the approval of the Board of Commissioners.

**ARTICLE XV
CONSULTATION AUTHORITY**

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the Natural Resources Conservation Service 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 XVI
NORTH CAROLINA AGENCY NOTIFICATION**

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 the 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 ordinance; and
7. Any other information the Advisory Board deems useful.

**ARTICLE XVII
MISCELLANEOUS 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 Ordinance and Statutes:
Whenever the provisions of this ordinance conflict with other ordinances of Wayne 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:
This ordinance may be amended from time to time after a public hearing, a notice of which shall be sent to program participants thirty (30) days prior to the hearing and in consultation with the Advisory Board and voted on by the County Commissioners.

**ARTICLE XVIII
ENACTMENT**

The Wayne County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this ordinance.

Adopted this the 3rd day of August, 2004.

WAYNE COUNTY BOARD OF COMMISSIONERS

J.E. Evans
Chairperson

ATTEST:
Marcia Wilson
Clerk to Board of Commissioners