

**WAKE COUNTY VOLUNTARY
AGRICULTURAL DISTRICT PROGRAM ORDINANCE**

Section I. PURPOSE

The purpose of this ordinance is to encourage the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of the county.

Section II. ENACTMENT

An ordinance of the Wake County Board of Commissioners entitled "VOLUNTARY AGRICULTURAL DISTRICT PROGRAM ORDINANCE".

Pursuant to authority conferred by N.C.G.S. 106-735 through 106-743 (Farmland Preservation Enabling Act), and for the purpose of promoting the health, safety, and general welfare of Wake County, North Carolina, the Wake County Board of Commissioners does enact the following sections, which shall be known as the Voluntary Agricultural District Program Ordinance of Wake County, North Carolina.

Section III. DEFINITIONS

GLOSSARY: The following are defined for purposes of this ordinance:

- Board: County Agricultural Advisory Board
- Chair: Chair of the Agricultural Advisory Board
- District: Voluntary Agricultural District

Section IV. AGRICULTURAL ADVISORY BOARD

A. CREATION

The Board of Commissioners appoints the Wake Soil and Water Conservation District (Wake SWCD) Board of Supervisors to serve as the Agricultural Advisory Board. The Chair of the Wake SWCD will also serve as Chair of the Agricultural Advisory Board.

B. FUNDING

Funds shall be appropriated to the Board to perform its duties.

C. PROCEDURE

The business of the Board will be conducted according to the same procedures guiding the operations of Wake Soil and Water Conservation District. Minutes will be kept of all meetings.

D. DUTIES

The Agricultural 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 County Commissioners on projects, programs or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts; and
3. Perform other related tasks or duties assigned by the County Commissioners.

Section V. APPLICATION AND CERTIFICATION OF QUALIFYING FARMLAND AND VOLUNTARY AGRICULTURAL DISTRICTS

A. REQUIREMENTS

1. To secure county certification as qualifying farmland, a farm must:
 - a. be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 (provisions of the State Revenue Act) or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3;

- b. be certified by the Natural Resources 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:
 - i. are best suited for providing food, seed, fiber, timber, and oil seed crops,
 - 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 for an average of eight out of ten years;

OR

has been actively used in agricultural, horticultural or forestry operations as defined in 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;

- c. 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;
 - d. be the subject of a conservation agreement, as defined in G.S. 121-35 (Historic Preservation and Conservation Agreements Act), 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.
 - e.
2. To form or be included in a voluntary agricultural district, a landowner may apply to the chair for such inclusion at the same time he/she applies for qualifying farmland certification, or at any time subsequent to receiving farmland certification.
- a. The purpose of agricultural districts formed by landowners shall be to encourage the economic and financial health of farming areas, to increase protection from nuisance suits,

undesired non-farm development and other negative impacts on participating farm and to increase the identity and pride in the agricultural community and its way of life.

b. Requirements to participate:

i. An agricultural district shall consist of: at least 100 contiguous acres or more of qualifying farmland.

OR

two or more qualifying farms consisting of a total of at least 100 acres and lying within one mile of each other.

ii. An agreement to sustain, encourage and promote agriculture must be executed by the landowners in the district with the county and recorded therein.

c. Landowners may apply to participate in existing districts and are encouraged to do so.

B. PROCEDURE

1. To secure county certification as a qualifying farm, and if so desired by the applicant, as an agricultural district, a landowner for such certification will apply to the chair of the Agricultural Advisory Board. Application forms may be obtained from the chair.
2. Upon receipt of an application, the chair will forward copies immediately to:
 - a. County Revenue Department
 - b. Wake Soil and Water Conservation District and the USDA - Natural Resource Conservation Service (NRCS) office. The said offices shall evaluate, complete and return their copies to the chair within 30 days of receipt. The evaluation by the District and the NRCS may be made jointly.
3. Within 60 days of receipt of the evaluations, the Board shall meet and render a decision regarding the application. The chair shall notify the applicant by mail if the real property for which certification is sought satisfies the criteria established in Section IV and if the land

has been certified as qualifying farmland, and also as a voluntary agricultural district, if application was so sought.

4. Appeal. If the application is denied by the Agriculture Advisory Board, the petitioner has 30 days to appeal the decision to the County Commissioners. Such appeal shall be presented in writing. The decision of the County Commissioners is final.

C. Voluntary agricultural districts shall be marked on county maps “which shall be available for public inspection in the following county offices”:

1. Register of Deeds
2. Planning Department
3. Soil and Water Conservation District
4. Revenue Department
5. Any other office deemed necessary by the Board

D. The county may take such action as it deems appropriate through the Agricultural Advisory Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including at a minimum a public information program to reasonably inform landowners of the farmland preservation program.

Section VI. REVOCATION OF PRESERVATION AGREEMENT

By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Section V of this ordinance, or the Board may revoke same preservation agreement based on non-compliance by the landowner. Such revocation shall result in loss of qualifying farm status, and consequently, loss of eligibility to participate in a voluntary agricultural district and benefits thereof.

Section VII. ADVISORY RESPONSIBILITIES

The Board will advise the County Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts. The Board will consult with Cooperative Extension, the Natural Resources Conservation Service, the Wake County Planning Department, and any other individuals, agencies or organizations, public or private, in its evaluation of said projects, programs, or issues.

Section VIII. WAIVER OF WATER AND SEWER ASSESSMENT

A. PURPOSE

The purpose of this section is to help mitigate the financial impacts on farmers of some local and state capital investments unused by said farmers. This section shall apply only to those voluntary agricultural districts located in jurisdictions that have formally agreed to abide by its provisions.

B. PROCEDURE

1. Landowner(s) belonging to voluntary agricultural districts shall not be assessed for, or required to connect to water and/or sewer systems operated by participating units of government.
2. Water and sewer assessments shall be held in abeyance, with or without interest, for farms inside a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.
3. When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
4. Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
5. Assessment procedures followed under Article 9 of Chapter 153A and Article 10 of Chapter 160A (statutes allowing counties, cities, and towns to levy special assessments) shall conform to the terms of this ordinance with respect to qualifying farms that entered into preservation agreements while such ordinance was in effect.
6. Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201 and G.S. 160A-237 (statutes allowing counties, cities and towns to hold special assessments in abeyance under certain conditions).

Section IX. LAND-USE NOTIFICATION FOR VOLUNTARY AGRICULTURAL DISTRICT FORMATION

A. PURPOSE

The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to districts.

B. PROCEDURE

1. The Agricultural Advisory Board, in cooperation with the County, shall provide notification to property owners, residents and other interested persons in and adjacent to any designated agricultural district. The purpose of such notification is to inform all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this district any time during the day or night. These activities may include, but are not limited to the following: pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities.

TYPES OF NOTIFICATION

- a. Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads.
- b. Maps identifying approved districts shall be provided to the Register of Deeds, Planning Department, the Soil and Water Conservation Office, the Cooperative Extension Office, and the Revenue Department.
- c. The following notice shall be available for public inspection in the Register of Deeds Office:

NOTICE OF REAL ESTATE PURCHASERS IN WAKE COUNTY VOLUNTARY AGRICULTURAL DISTRICTS FOR FARMLAND PRESERVATION

Wake County has established voluntary agricultural districts for farmland preservation 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 activities, including, but not limited to,

pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities may take place 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 Wake County Planning Department.

2. Voluntary agricultural districts will not be permitted in extraterritorial jurisdiction (ETJ) or short-range urban service (SRUSA) areas, as delineated on the official county planning map as of the date this ordinance is adopted. Exceptions to this provision may be granted with the permission of the jurisdiction involved. Districts located in ETJ or SRUSA areas designated after the effective date of this program may remain, but shall not be expanded without the permission of the affected jurisdiction.

Section X. NORTH CAROLINA AGENCY NOTIFICATION

- A. The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Soil and Water and any other entity the Board deems necessary to the proper conduct of its business.
- B. A record of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the Board shall submit a written report to the Commissioner of Agriculture, including the status, progress and activities of the county's farmland preservation program, including voluntary agricultural districting information regarding:
 1. Number of landowners enrolled
 2. Number of acres applied
 3. Number of acres certified
 4. Number of acres denied
 5. Date certified
- C. Copies of the reports cited in this Section will be sent to:
 1. NC Department of Transportation
 2. Secretary, NC Department of Commerce
 3. Area Chamber of Commerce
 4. Any other entities the board deems appropriate.

ADOPTED this the _____ day of _____, 2002.

ATTEST

WAKE COUNTY BOARD OF COMMISSIONERS

CLERK TO THE BOARD

by: _____
CHAIR

APPROVED AS TO FORM

COUNTY ATTORNEY