

## ORDINANCE 2022- 26

**BE IT ORDAINED**, that the Catawba County Code of Ordinances, Chapter 4, Agricultural Districts, be amended in its entirety to read as follows:

### **Chapter 4 Agricultural Districts**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 4-1. – Title.**

An ordinance of the Board of County Commissioners of Catawba County, North Carolina, entitled "Voluntary Agricultural District and Enhanced Voluntary Agricultural District Ordinance."  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

##### **Sec. 4-2. Authority.**

The articles and sections of this Ordinance are adopted pursuant to authority conferred by North Carolina General Statutes (NCGS) sections 106-735 through 106-744 and NCGS 153A.  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

##### **Sec. 4-3. Applicability.**

This Chapter applies only to the unincorporated areas of Catawba County. It does not apply within the corporate boundaries or extraterritorial jurisdiction of any municipality unless otherwise agreed to in writing by the County and municipality.  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

##### **Sec. 4-4. Purpose.**

The purpose of the Chapter is to promote agricultural values and the general welfare of the County; increase identity and pride in the agricultural community and its way of life; support the economic and financial health of agriculture; increase protection from nonfarm development and other negative impacts on properly managed farms; and decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors.  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

##### **Sec. 4-5. Definitions.**

The following are defined for purposes of this Chapter:

Advisory Board means the Catawba County Agricultural Advisory Board.

Agricultural Land means land devoted to Agriculture.

Agriculture means the production of crops, vegetables, fruits, sod, ornamental or flowering plants, dairy, livestock, poultry, timber and other forms of agricultural products having a domestic or foreign market.

Board of Commissioners means the Board of County Commissioners of Catawba County, North Carolina.

Bona Fide Farm Purposes includes the production of and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined by this Chapter.

Chairperson means chairperson of the Catawba County Agricultural Advisory Board.

Conservation Agreement means an agreement as defined in NCGS 121-35.

County means Catawba County, North Carolina.

County Clerk means the clerk to the Board of Commissioners.

District or Agricultural District means voluntary agricultural district as established by this Chapter.

Enhanced District means enhanced voluntary agricultural district as established by this Chapter.

Extension Director means the Director of the Catawba County Cooperative Extension.

Farm or Farm Land means land used for Bona Fide Farm Purposes, as defined by this Chapter.

Farming means engaged in the production of crops, vegetables, fruits, sod, ornamental or flowering plants, dairy, livestock, poultry, timber and other forms of agricultural products having a domestic or foreign market.

Forestland means land covered with forest or set aside for the cultivation of forests or timber.

Horticultural Land means land commercially used for the cultivation of a garden, orchard, or the raising of fruit or nuts, vegetables, flowers or ornamental plants.

Project means water or sewer line infrastructure or other facilities/improvements that may be funded by county government for public benefit.

Qualifying Farm or Farmland means farmland which contain a minimum of five (5) total acres of Horticultural Land, ten (10) total acres of Agricultural Land or twenty (20) total acres of Forestland.

Voluntary Agricultural District Program or Program means any program established by the Board of Commissioners designed to accomplish the purposes set out in section 4-4 of this Chapter. (Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-6 – 4-24. Reserved.**

## **ARTICLE II. AGRICULTURAL ADVISORY BOARD**

### **Sec. 4-25. Creation.**

The Board of Commissioners shall establish an Agricultural Advisory Board to implement the provisions of this Chapter, as authorized pursuant to NCGS 106.739(a). (Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

### **Sec. 4-26 Membership.**

The Advisory Board shall consist of no less than five but no more than nine members appointed by the Board of Commissioners. (Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

### **Sec. 4-27. Membership Requirements.**

- (1) Each Advisory Board member shall be a Catawba County resident and landowner in the County's planning jurisdiction.
- (2) A majority of the members of the Advisory Board shall be actively engaged in Farming. Members not actively engaged in Farming are eligible provided they have special interest, experience, or education in Farming, Agriculture, and/or rural preservation and do not represent a majority on the Advisory Board.

- (3) Members shall be selected to provide the broadest possible representation of the geographical regions of the County and, to the extent possible, all segments of agricultural production existing within the County.
  - (4) Individuals recommended as members of the Advisory Board may be submitted to the Board of Commissioners by the Soil and Water Conservation District Board of Supervisors, the County Office of the North Carolina Cooperative Extension Service, the U.S. Farm Service Agency County Committee, County Farm Bureau, Natural Resources Conservation Service, nonprofit agricultural organizations, conservation organizations, agribusiness, or the public at large.
- (Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-28. Tenure.**

The initial Advisory Board will consist of at least two (2) appointees for terms of one (1) year and at least two (2) appointees for terms of two (2) years and at least one (1) appointee for terms of three (3) years. Thereafter, all appointments are to be for terms of three years, with reappointments permitted at the end of each term. No member may serve more than three (3) consecutive full terms.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-29. Vacancies.**

Any vacancy on the Advisory Board must be filled by the Board of Commissioners for the remainder of the unexpired term.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-30. Removal.**

Any member of the Advisory Board may be removed with or without cause by the Board of Commissioners. All members are subject to Catawba County Code section 2-266 regarding absences of board members.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-31. Board Procedures.**

The initial Advisory Board will establish its rules and procedures the adoption of official bylaws. The bylaws may be amended by the Advisory Board in accordance with procedures noted in the adopted bylaws. The bylaws and any amendments will be filed with the Board of Commissioners.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022).

**Sec. 4-32. Duties.**

The Advisory Board will meet as necessary to consider the following work items:

- (1) Review and approve applications for Qualified Farmland in either a District or Enhanced District, including modifications to existing Districts;
- (2) Execute Agreements with landowners necessary for enrollment of land in a District or Enhanced District;
- (3) Advise the Board of Commissioners on Projects, programs, or issues affecting the agricultural economy or activities within the County that will affect Agricultural Districts;
- (4) Review and make recommendations concerning proposed amendments to this Chapter;
- (5) Study additional methods of farmland preservation and make recommendations to the Board of Commissioners;
- (6) Annually advise the Board of Commissioners on the status, progress, and activities of the County's Agricultural District Program as noted in sec. 4-155 of this Chapter; and
- (7) Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-33. Administrative.**

The County's Cooperative Extension Office will serve the Advisory Board for recordkeeping, correspondence, application procedures under this Chapter and whatever services the Advisory Board needs to complete its duties. An employee of Cooperative Extension will serve as Clerk to the Advisory Board.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-34. Consultation Authority.**

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the County Soil and Water Conservation District, 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.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-35 – 4-49. Reserved.**

**ARTICLE III. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS AND ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS**

**Sec. 4-50. Implementation.**

In order to implement the purposes stated in Article I, this Voluntary Agricultural District Program provides for the creation of Districts or Enhanced Districts which meet the following standards:

- (1) The District or Enhanced District is established upon the execution of a valid Conservation Agreement pursuant to sec. 4-65 of this Chapter; and
- (2) The District or Enhanced District shall contain a minimum of five (5) contiguous acres of Horticultural Land, ten (10) contiguous acres of Agricultural Land or twenty (20) contiguous acres of Forestland; or
- (3) The District or Enhanced District shall contain two or more qualified farms which contain a minimum of five (5) total acres of Horticultural Land, ten (10) total acres of Agricultural Land or twenty (20) total acres of Forestland which are located within one mile of each other.

(Ord. No. 208-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-51. Education/Project Notification.**

- (1) 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 Enhanced Districts and to further the Board's purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Voluntary Agricultural District Program.
- (2) When the County has a Project which may impact agricultural operations within an established District or Enhanced District, the Advisory Board will be notified of the Project, and may meet to discuss the matter and provide information to the Board of Commissioners.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-52. Withdrawal.**

In the event that one or more participants in the District or Enhanced District withdraws and the acreage in the District or Enhanced District becomes less than the minimum acreage required for the establishment of the District or Enhanced District or results in the remaining land being noncontiguous, A District or Enhanced District will continue to exist so long as there is one (1) Qualifying Farm.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-53 - 04-64. Reserved.**

**ARTICLE IV. CERTIFICATION AND QUALIFICATION OF FARMLAND**

**Sec. 4-65. Requirements.**

To secure certification as a Qualifying Farm in either District or Enhanced District pursuant to this Chapter, the Qualifying Farm must be real property meeting the requirements of a Qualifying Farm pursuant to section 4-50 of this Chapter that:

- (1) Is used for Bona Fide Farm Purposes, as that term is defined in NCGS 106-743.4(a) and NCGS 160D-903;
- (2) Is managed, if highly-erodible land exists on the Farm, in accordance with Natural Resources Conservation Service's most recent version of the Field Office Technical Guide defined erosion-control practices that are implemented on highly-erodible land; and
- (3) Is the subject of a Conservation Agreement, as defined in NCGS 121-35, between the County and the owner of such land, that prohibits nonfarm 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. The form of the Conservation Agreement shall be approved by the Advisory Board created under sec. 4-25 of this Chapter.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-66 – 4-79. Reserved.**

**ARTICLE V. APPLICATION, APPROVAL, AND APPEAL PROCEDURE**

**Sec. 4-80. Application Procedure.**

- (1) A landowner may apply to participate in either the District or Enhanced District Program by making application, on forms provided by the County, to the County's Cooperative Extension Services Director. The application shall include a certification for Qualifying Farmland.
- (2) If the application is approved by the Advisory Board, a conservation Agreement suited to district type (District or Enhanced District) to sustain, encourage, and promote agriculture must be executed by the landowner.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-81. Approval Process.**

- (1) Within thirty (30) days of receipt of a complete application, the County Extension Director or their designee shall verify the landowner's real property:
  - (a) Is being used for Bona Fide Farm Purposes and, if highly-erodible land exists on the farm, is managed in accordance with the Natural Resources Conservation Service's most recent version of the Field Office Technical Guide defined erosion-control practices that are implemented on highly-erodible land, pursuant to section 4-65 of this Chapter; and
  - (b) Conforms with the requirements of a Qualifying Farm pursuant to section 4-50 of this Chapter.
- (2) Once verified, the County Extension Director or their designee shall forward the complete application to the Advisory Board. The Advisory Board shall meet within sixty (60) days, or as soon thereafter as possible, to approve or disapprove the application. The County shall notify the landowner by first class mail of approval or disapproval of participation in the District. If the application is disapproved, the reasons for disapproval shall be noted in the notification letter. The landowner has the right to appeal a disapproval pursuant to section 4-82 of this Chapter.
- (3) Upon approval of a complete application by the Advisory Board, the landowner and the Advisory Board shall enter into a Conservation Agreement that is signed by both parties and recorded in the Catawba County Register of Deeds' Office.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-82. Appeal.**

If an application is denied by the Advisory Board, the landowner shall have thirty (30) days to appeal the decision to the Board of Commissioners. Such appeal shall be made in writing and delivered to the County Clerk for a final decision by the Board of Commissioners.  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-83 – 4-94. Reserved.**

## **ARTICLE VI. REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENTS**

### **Sec. 4-95. Revocation and enforcement.**

- (a) District. Conservation Agreements for land within Districts shall be enforced for a period of ten (10) years unless revoked by the landowner or the county. A landowner may revoke a Conservation Agreement by providing sixty (60) days' written notice to the advisory Board. The Advisory Board may revoke Conservation Agreement based on noncompliance by the landowner. A decision to revoke a Conservation Agreement by the Advisory Board shall be, subject to the appeal provisions contained in section 4-82. 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 Agreements prior to its expiration.
- (b) Enhanced District. Conservation Agreements for land within Enhanced Districts are irrevocable by a landowner for a period of ten (10) years. 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 benefits to the owner under this Program, either permanently or during the period of violation, as appropriate. The Advisory Board may revoke a Conservation Agreement for land within an Enhanced District based on noncompliance by the landowner. A decision to revoke a Conservation Agreement by the Advisory Board pursuant to this section shall be subject to the appeal provisions contained in section 4-82. The right to terminate Program benefits is in addition to any legal rights that the County may have under either this Chapter or the terms of the applicable Conservation Agreement.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

### **Sec. 4-96. Renewal.**

- (a) District. A Conservation Agreement for land within a District shall be automatically renewed after the initial ten (10)-year period unless the landowner provides a sixty (60)-day written notice to the Advisory Board of intent not to renew prior to the termination date of the Conservation Agreement. The termination date is determined to be the prescribed number of years noted in this section from the date of execution of the Conservation Agreement.
- (b) Enhanced District. A Conservation Agreement for land within an Enhanced District shall automatically renew for additional three (3)-year terms unless the Advisory Board or the landowner gives written notice to the other of intent not to renew at least sixty (60) days prior to the termination date of the Conservation Agreement. The termination date is determined to be the prescribed number of years noted in this section from the date of execution of the Conservation Agreement.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-97 – 4-109. Reserved.**

## **ARTICLE VII. ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS**

### **Sec. 4-110. Enhanced District Benefits.**

Land enrolled in the Enhanced District Program is entitled to all the benefits available under the District Program and to the following additional benefits:

- (1) Sale of nonfarm products. Landowners participating in the Enhanced District may receive up to twenty-five percent (25%) of gross sales from the sale of nonfarm products on an annual basis and still qualify as a Bona Fide Farm that is exempt from County zoning regulations as defined pursuant to NCGS 160D-903(a). For purposes of NCGS 160D-903(a), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a Farm that is subject to a Conservation Agreement under NCGS 106-743.2 is a Bona Fide Farm Purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five (25%) percent of its gross sales.
- (2) Agricultural cost share program. Landowners participating in the Enhanced District are eligible under NCGS 106-850(b)(9). State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars (\$100,000) per year to each applicant.
- (3) Priority consideration. State departments, institutions or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts. (Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-111 – 4-124.Reserved.**

## **ARTICLE VIII. PUBLIC NOTICE**

### **Sec. 4-125. Public notice of proximity to voluntary and enhanced agricultural districts.**

- (a) Land Records System. Farms approved as Agricultural Districts must be shown in the County's geographic information System (GIS) and designated as such.
- (b) Signage. Signs, the design of which has been approved in advance by the Advisory Board, may be placed along the rights-of way of major roads that pass through or next to approved Agricultural Districts. At least one sign, not to exceed eight (8) square feet in size with either a green or brown background, will be posted along the roads, the location of which is deemed appropriate by the Advisory Board or its administrative agent for the County's Agricultural District Program.
- (c) Notification. Maps depicting approved Agricultural Districts shall be posted in the following agencies or offices:
  - (1) Register of Deeds;
  - (2) Natural Resources Conservation Service
  - (3) North Carolina State Cooperative Extension Office
  - (4) Planning Department
  - (5) Tax office
  - (6) Soil and water conservation district; and
  - (7) Any other such agency or office the Advisory Board deems appropriate.
- (d) Posting of notice. The following notice, printed on a minimum 8.5-inch x 11-inch paper, shall be posted in the office of the County Register of Deeds.

"NOTICE TO REAL ESTATE PURCHASERS IN CATAWBA COUNTY – AGRICULTURAL DISTRICTS" Catawba County has established Agricultural districts to protect and preserve agricultural lands and activities. These Districts have been 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 operations, livestock operations, tree harvesting, sawing, and other common farming activities may occur in these Districts any time during the day or night. Information on the location and establishment of these Districts can be obtained from the North Carolina Cooperative Extension Services-Catawba County office, the office of the Register of Deeds, the County Tax office, the County

Planning office, the County Soil & Water Conservation District or the Natural Resources Conservation Service office.”

- (e) Subdivision plat. Developers of all new subdivision lots or planned unit developments outside the cities' planning jurisdictions, including the extraterritorial jurisdictions, which are created after the effective date of this Chapter shall designate on the preliminary and final development plats, the existence of all approved Districts and Enhanced Districts within one-half aerial mile of the proposed development.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-126. Limits 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 for any action made in good faith in connection with the duties or obligations imposed by this Chapter.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Sec. 4-127. 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 Qualifying Farm, District or Enhanced District as defined in this Chapter, unless otherwise dictated by law.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**Secs. 4-128 – 4-139. Reserved.**

**ARTICLE IX. RESERVED**

**Sec. 4-141 – 4-154. Reserved.**

**ARTICLE X. NORTH CAROLINA AGENCY NOTIFICATION**

**Sec. 4-155. Notice.**

A copy of this adopted ordinance, and any subsequent amendments, shall be sent to the office of the State Commissioner of Agriculture and Consumer Services. The Advisory Board shall submit an annual written report for the preceding calendar year by March 1 to the Board of Commissioners, Planning Board, and the State Commissioner of Agriculture and Consumer Services pursuant to NCGS 106-743 on the County's Agricultural District Program, which should include the following information:

- (1) Number of landowners and farms 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) Changes occurring over the past year;
- (6) Copies of any amendments to the ordinance; and
- (7) Any other information the Advisory Board deems useful.

(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

**ARTICLE XI. LEGAL PROVISIONS**

**Sec. 4-156. Severability.**

If any article, section, subsection, clause, phrase, or portion of this Chapter 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 Chapter.

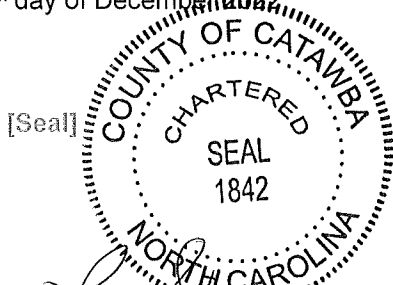
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)



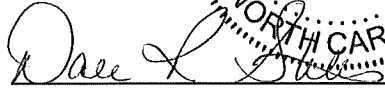
**Sec. 4-157. Conflict with other ordinances and statutes.**


Whenever the provisions of this Chapter conflict with other ordinances of the County, the most-restrictive ordinance shall govern. Whenever the provisions of any federal or state statute require more-restrictive provisions than are required by this Chapter, the provisions of such statute shall govern.  
(Ord. No. 2008-16, 10-20-2008; Ord. No. 2022-26, 12-19-2022)

The 19<sup>th</sup> day of December 2022



Attest:

  
\_\_\_\_\_  
Dale R. Stiles, Clerk to the Board  
Catawba County Board of Commissioners



\_\_\_\_\_  
C. Randall Isenhower, Chairman  
Catawba County Board of Commissioners

