

ORDINANCE TO AMEND

THE ONSLOW COUNTY VOLUNTARY AGRICULTURAL DISTRICTS ORDINANCE

WHEREAS, the Onslow County Board of Commissioners adopted The Onslow County Voluntary Agriculture Districts Ordinance on April 21, 2008; and

WHEREAS, said Ordinance is in need of revisions;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

A. Deleting the language contained Article V(C) and inserting the following in its stead:

A. Membership Requirements

1. *Each Board member shall be a registered voter in Onslow County.*
2. *A majority of the members shall be actively engaged in agriculture.*
3. *In selecting members actively engaged in farming, and to have the broadest geographical and commodity representation possible, the Board of Commissioners may consider names submitted by the Onslow County Soil and Water Conservation District Board of Supervisors, the Onslow County office of North Carolina Cooperative Extension Service, the Onslow County Farm Service Agency, the Onslow County Farm Bureau, nonprofit agricultural organizations, conservation organizations, and agribusiness.*

B. Deleting the language contained in Article V(D) and inserting the following in its stead:

B. Tenure

The initial Advisory Board shall consist of two (2) appointees serving an initial term of one (1) year, two (2) appointees serving an initial term of two (2) years, and three (3) appointees serving an initial term of three (3) years.

The terms for all seats occupied as of July 31, 2024 shall expire as of July 31, 2024. For each appointee appointed to a seat on or after August 1, 2024, the seats' term shall end on the date indicated below. Thereafter, each seat shall expire every three years. For example, those seats that will expire on July 31, 2025, will thereafter expire on July 31, 2028, July 31, 2031, July 31, 2034, etc., while those seats that will expire on July 31, 2026, will thereafter expire on July 31, 2029, July 31, 2032, July 31, 2035, etc.

Seat 1- July 31, 2025

Seat 2- July 31, 2025

Seat 3- July 31, 2026

Seat 4- July 31, 2026

Seat 5- July 31, 2027

Seat 6- July 31, 2027

Seat 7- July 31, 2027

C. Deleting the language contained in Article VI(A)(1), and inserting the following in its stead:

- I. *A voluntary agricultural district, when initially created, shall contain either:*
- a. *At least ten (10) contiguous acres of qualified farmland, as defined in B. below; or*
 - b. *Two (2) or more qualified farms, as defined in B. below, that contain at least ten (10) acres combined.*

D. Deleting the language contained in Article VI(B), and inserting the following in its stead:

B. Qualified Farmland/Farms

Farmland or a farm shall be qualified for inclusion in a voluntary agricultural district if it:

1. *Is real property and participating in farm present-use-value taxation program established by G.S. §105-277.2 through §105-277.7 or is otherwise determined by the County as meeting all the qualifications of that program set forth in G.S. §105-277.3;*
2. *Is certified by the Natural Resources Conservation Service of the U.S. Department of Agriculture, in consultation with the North Carolina Cooperative Extension Service and the Farm Service Agency, as being farmland or a farm on which two-thirds (2/3) of the land either:*
 - a. *Is composed of soils that*
 - i. *Are best suited for providing food, seed, fiber, forage, timber, and horticulture crops, including Christmas trees and ornamentals,*
 - ii. *Have good soil qualities,*
 - iii. *Are favorable for major crops common to the County,*
 - iv. *Have a favorable growing season, and*
 - v. *Receive the available moisture needed to produce high yields for an average of eight (8) out of ten (10) years; or*
 - b. *Has been actively used in agricultural, horticultural, or forestry operations as defined in G.S. 105-277.2 during each of the five (5) years previous to the date on which the Advisory Board must decide on whether to include the land in a voluntary agricultural district under Article VI; or*
3. *Is the subject of a conservation agreement, as defined in G.S. §121-35, between the County and the owner of such land that prohibits nonfarm use or development of the land for a period of at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable zoning and subdivision regulations.*

E. Deleting Article VIII in its entirety, and inserting the following in its stead:

ARTICLE VIII
REMOVAL FROM DISTRICT, TRANSFER OF LAND, AND RENEWAL OF CONSERVATION
AGREEMENTS

A. Revocation and Enforcement

By providing 30 days advanced written notice to the Advisory Board, a landowner of qualifying farmland within a voluntary agricultural district may revoke the conservation agreement submitted pursuant to Article VI.C.3 of this ordinance. At the recommendation of the Advisory Board, the Board of Commissioners may revoke a conservation agreement based on noncompliance by the landowner. Revocation of the conservation agreement shall result in loss of qualifying farm status, and consequently, automatic removal from the district and loss of eligibility to participate in the benefits associated with district inclusion. Revocation of a

conservation agreement and removal from a voluntary agricultural district does not affect the eligibility of the land to be taxed at its present use value as provided in G.S. §105-277.2 through §105-277.7.

B. Transfer of Land

Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless the land no longer meets the requirements contained in Article VI.

C. Renewal of Conservation Agreements

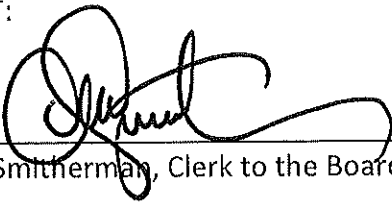
Conservation agreements shall automatically renew for subsequent ten (10) year terms unless either the landowner or the county provides written notice prior to the expiration of the conservation agreement.

The amendment is effective upon adoption of this ordinance.

Adopted this 06 day of May, 2024

ONSLOW COUNTY
BOARD OF COMMISSIONERS

ATTEST:



David Smitherman, Clerk to the Board



Tim Foster, Chairman



State of North Carolina
County of Onslow

Ordinance No. ___

**ORDINANCE ENACTING THE ONSLOW COUNTY VOLUNTARY
AGRICULTURAL DISTRICTS ORDINANCE**

WHEREAS, Onslow County has a long tradition of agricultural activities;

WHEREAS, agriculture has been a major contributor to the County's economic health and is expected to continue doing so in the future, particularly as farmland and active farms become scarcer and demands for locally-produced farm products increases;

WHEREAS, Onslow County farms and farming activities have substantially contributed to establishment of the rural values and way of life that define much of the County's history and social structure;

WHEREAS, continued agricultural activities in Onslow County and the benefits and values they bring are threatened by the introduction into rural areas of incompatible development that increases the potential for conflicts, nuisance suits, and other adverse impacts on properly managed farms;

WHEREAS, Chapter 106 (Agriculture), Article 61 (Agricultural Development and Preservation of Farmland) of the North Carolina General Statutes expressly authorizes local governments to establish a farmland preservation program through the creation of voluntary agricultural districts with the purpose of increasing identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits and other negative impacts;

WHEREAS, voluntary agricultural districts allow and encourage farmers to voluntarily join together in a program to protect their farmland for agricultural use, yet provides them latitude to leave the program should conditions warrant;

WHEREAS, a voluntary agricultural district's requirements for notice, planning coordination, reporting, and opportunity for review of proposed condemnation actions impose minimal burdens on others that are more than balanced by the public interest in protecting the County's invaluable farms and farmland;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS that the Onslow County Code of Ordinances be amended to INSERT a new Chapter 16, to read as follows:

State of North Carolina
County of Onslow

Ordinance No. ___

VOLUNTARY AGRICULTURAL DISTRICTS ORDINANCE

**ARTICLE I
TITLE**

This ordinance, adopted by the Board of Commissioners of Onslow County, North Carolina, shall be known as the Onslow County Voluntary Agricultural Districts Ordinance.

**ARTICLE II
AUTHORITY**

The articles and sections of this ordinance are adopted pursuant to the authority conferred by N.C. General Statutes §106-735 through 106-743 and N.C.Gen.Stat. §153A-121.

**ARTICLE III
PURPOSE**

The purpose of this ordinance is to promote the health, safety, rural agricultural values, and general welfare of the County, and more specifically, to increase identity and pride in the agricultural community and its way of life, encourage the economic and financial health of farming, and increase the protection of properly managed farms from incompatible development, nuisance suits, and other negative impacts.

**ARTICLE IV
DEFINITIONS**

Advisory Board: The Onslow County Agricultural Advisory Board.

Board of Commissioners: The Board of Commissioners of Onslow County, North Carolina.

District: A voluntary agricultural district established under the terms and conditions of this ordinance.

**ARTICLE V
AGRICULTURAL ADVISORY BOARD**

A. Creation

The Board of Commissioners hereby, establishes an Agricultural Advisory Board to implement the provisions of this ordinance in accordance with G.S. §106-739.

State of North Carolina
County of Onslow

Ordinance No. ___

B. Appointments and memberships

The Advisory Board shall consist of no less than seven (7) members appointed by the Board of Commissioners, and shall include a resident of each of the County's five (5) townships.

C. Membership Requirements

1. Each Board member shall be a registered voter in Onslow County.
2. A majority of the members shall be actively engaged in agriculture.
3. In selecting members actively engaged in farming, and to have the broadest geographical and commodity representation possible, the Board of Commissioners may consider names submitted by the Onslow County Soil and Water Conservation District Board of Supervisors, the Onslow County office of North Carolina Cooperative Extension Service, the Onslow County Farm Service Agency, the Onslow County Farm Bureau, nonprofit agricultural organizations, conservation organizations, and agribusiness.

D. Tenure

The initial Advisory Board shall consist of two (2) appointees serving an initial term of one (1) year, two (2) appointees serving an initial term of two (2) years, and three (3) appointees serving an initial term of three (3) years.

The terms for all seats occupied as of July 31, 2024 shall expire as of July 31, 2024. For each appointee appointed to a seat on or after August 1, 2024, the seats' term shall end on the date indicated below. Thereafter, each seat shall expire every three years. For example, those seats that will expire on July 31, 2025, will thereafter expire on July 31, 2028, July 31, 2031, July 31, 2034, etc., while those seats that will expire on July 31, 2026, will thereafter expire on July 31, 2029, July 31, 2032, July 31, 2035, etc.

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E. Vacancies

Any vacancy on the Advisory Board shall be filled by the Board of Commissioners for the

Ordinance No. ___

remainder of the member's 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 Advisory Board to perform its duties.

H. Consultation

The Advisory Board may consult with the North Carolina Cooperative Extension Service, the U.S. Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, the Onslow County Soil and Water Conservation office, and with any other individual, agency, or organization the Advisory Board deems necessary to properly conduct its business.

I. Duties

The Advisory Board shall:

1. Review and approve or disapprove applications of landowners for inclusion of qualified farmland or farms in a voluntary agricultural district.
2. Review and make recommendations concerning any amendment of this ordinance.
3. Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm;
4. Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or way of life within the County; and
5. Perform other related tasks or duties assigned by the Board of Commissioners.

**ARTICLE VI
ELIGIBILITY FOR VOLUNTARY AGRICULTURAL DISTRICTS**

A. Size

1. A voluntary agricultural district, when initially created, shall contain either:
 - a. At least ten (10) contiguous acres of qualified farmland, as defined in B. below; or
 - b. Two (2) or more qualified farms, as defined in B. below, that contain at least ten (10) acres combined.
2. If participants in a voluntary agricultural district withdraw such that the district no longer contains the minimum contiguous acres of qualified farmland or the number of, or combined acres in, qualified farms, the district will continue to exist so long as there is at least one qualifying farm.

B. Qualified Farmland/Farms

Farmland or a farm shall be qualified for inclusion in a voluntary agricultural district if it:

1. Is real property and participating in farm present-use-value taxation program established by G.S. §105-277.2 through §105-277.7 or is otherwise determined by the County as meeting all the qualifications of that program set forth in G.S. §105-277.3;
2. Is certified by the Natural Resources Conservation Service of the U.S. Department of Agriculture, in consultation with the North Carolina Cooperative Extension Service and the Farm Service Agency, as being farmland or a farm on which two-thirds (2/3) of the land either:
 - a. Is composed of soils that
 - i. Are best suited for providing food, seed, fiber, forage, timber, and horticulture crops, including Christmas trees and ornamentals,
 - ii. Have good soil qualities,
 - iii. Are favorable for major crops common to the County,
 - iv. Have a favorable growing season, and
 - v. Receive the available moisture needed to produce high yields for an average of eight (8) out of ten (10) years; or
 - b. Has been actively used in agricultural, horticultural, or forestry operations as defined in G.S. 105-277.2 during each of the five (5) years previous to the date on which the Advisory Board must decide on whether to include the land in a voluntary agricultural district under Article VI; or
3. Is the subject of a conservation agreement, as defined in G.S. §121-35, between the County and the owner of such land that prohibits nonfarm use of development of the land for a period of at least ten (10) years, except for the creation of not more than three (3) lots that meet applicable zoning and subdivision regulations.

**ARTICLE VII
CREATION OF DISTRICTS**

A. Application

1. A landowner may apply to include land in a voluntary agricultural district by written application to the Advisory Board. The application shall be on forms prescribed by the Advisory Board.
2. The application shall address the real property's eligibility for inclusion in a voluntary agricultural district, as set forth in Article VI, and include a certified copy of the conservation agreement referenced in Article VI.

Ordinance No. ___

B. Review, Hearing, Decision

1. On receiving a complete application, the Advisory board's staff person shall schedule the application for a public hearing before the Advisory Board, forward copies to the Advisory Board, and forward copies to the following offices for review and comment:
 - a. Onslow County Tax Office;
 - b. Onslow County office of the North Carolina Cooperative Extension Service;
 - c. Onslow County Soil and Water Conservation Office;
 - d. Onslow County office of the U.S. Natural Resources Conservation Service; and
 - e. Onslow County Planning and Development Department.
2. Before deciding an application, the Advisory Board shall hold a public hearing on the application to receive comments from owners of adjoining properties and other interested parties. Written notice of the date, time, and place of the hearing shall be sent to the applicant and the owners of all real property adjoining and across public or private roadways from the subject property (as identified in County tax listings current when the applications filed).
3. Following the public hearing, the Advisory Board shall review the application and the information and the information and comments submitted or presented at the hearing, and shall approve or disapprove the application based on a determination of whether the subject land is eligible for inclusion in a voluntary agricultural district, as set forth in Article VI.

C. Actions Following Decision

The County shall send notice of the Advisory Board's decision to the applicant and identify any properties approved for inclusion in a voluntary agricultural district in Tax Office records.

D. Appeal

If the Advisory Board disapproves the application, the applicant may appeal the decision to the Board of Commissioners, provided the appeal is filed in writing with the Advisory Board's staff person and County Clerk within thirty (30) days after the decision. The decision of the Board of Commissioners is final.

**ARTICLE VIII
REMOVAL FROM DISTRICT, TRANSFER OF LAND, AND RENEWAL OF
CONSERVATION AGREEMENTS**

A. Revocation and Enforcement

By providing 30 days advanced written notice to the Advisory Board, a landowner of qualifying farmland within a voluntary agricultural district may revoke the conservation agreement submitted pursuant to Article VI.C.3 of this ordinance. At the recommendation of the Advisory Board, the Board of Commissioners may revoke a conservation agreement based on noncompliance by the landowner. Revocation of the conservation agreement shall result in loss of qualifying farm status, and consequently, automatic removal from the district and loss of eligibility to participate in the benefits associated with district inclusion. Revocation of a

Ordinance No. ___

conservation agreement and removal from a voluntary agricultural district does not affect the eligibility of the land to be taxed at its present use value as provided in G.S. §105-277.2 through §105-277.7.

B. Transfer of Land

Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless the land no longer meets the requirements contained in Article VI.

C. Renewal of Conservation Agreements

Conservation agreements shall automatically renew for subsequent ten (10) year terms unless either the landowner or the county provides written notice prior to the expiration of the conservation agreement.

ARTICLE IX
REVIEW OF EMINENT DOMAIN ACTIONS

A. Request for Public Hearing Required

As authorized by G.S. §106-740, no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district created under this ordinance until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation and while the proposed condemnation is properly before the Advisory Board within the time limits for its review and submittal of findings and recommendations. This authority to review public condemnation actions shall not be deemed to give the Advisory Board, Board members, or landowners participating in the volunteer agricultural district legal standing to challenge the condemnation action in court.

B. Procedure

1. Within thirty (30) days after receiving a request for a public hearing on a proposed condemnation action, the Advisory Board shall hold the public hearing and submit its findings and recommendations to the requesting public agency or governmental unit.
2. The Advisory Board shall publish a notice describing the proposed condemnation action in a newspaper having general circulation in Onslow County at least ten (10) days prior to the hearing date.
3. The Advisory Board may consult the Cooperative Extension Service, Soil and Water Conservation District, and any other individuals, agencies, or organizations it deems necessary to consult in its review of the proposed condemnation action.

Ordinance No. ___

4. After hearing comments on the proposed condemnation action, the Advisory Board shall prepare findings and a recommendation to the decision-making body of the public agency or governmental unit. In doing so, the Board shall consider:
 - a. Whether the need for the project prompting the condemnation action has been satisfactorily established, including a review of any fiscal impact analysis conducted by the public agency or governmental unit; and
 - b. Whether there are alternatives to the proposed action that have less impact on, and are less disruptive to, agricultural activities within the district.

ARTICLE X NOTIFICATION OF DISTRICT

A. Record Notice of Proximity to Voluntary Agricultural District

1. Within thirty (30) days after receiving notice of the inclusion of land within a voluntary agricultural district pursuant to Article VI.C., the Onslow County Tax Office shall add to its computerized land records some form of notice reasonably calculated to alert a person researching title or ownership of a particular tract that such tract is located within one-half (1/2) mile of a voluntary agricultural district.
2. 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 article.
3. In no event shall any cause of action arise out of the failure of a person researching the title or ownership of a particular tract to report to any person the proximity of the tract to a voluntary agricultural district.

B. Posted 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.

Onslow County has established voluntary 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 locations and establishment of these districts can be obtained from the Onslow County office of the North Carolina Cooperative Extension Service, Onslow County Soil and Water Conservation District, or the Onslow County Planning and Development Department.

C. Signage

The Advisory Board may place signs identifying approved voluntary agricultural districts

Ordinance No. ___

along the rights-of-way of major roads that pass through or next to the districts. Placement of signage shall be coordinated with the N.C. Department of Transportation. Owners of farmland within a district may place signs on their individual farms denoting their inclusion within the voluntary agricultural district, consistent with County zoning and sign regulations.

D. Maps

Maps identifying approved voluntary agricultural districts shall be provided by the Advisory Board to the following agencies or offices:

1. Onslow County Tax Office;
2. Onslow County Register of Deeds;
3. Onslow County Planning and Development Department;
4. Onslow County office of North Carolina Cooperative Extension Service;
5. Onslow County Soil and Water Conservation District;
5. Onslow County office of the U.S. Natural Resources Conservation Service; and
6. Any other such agency or office the Advisory Board deems appropriate.

**ARTICLE XI
DISTRICT DESIGNATION ON SUBDIVISION PLANS**

Preliminary and final plats for subdivisions or planned unit developments developed under the Onslow County Subdivision Ordinance shall note the existence of any voluntary agricultural districts located within one-half (1/2) mile of the subdivision or development.

**ARTICLE XII
COORDINATION WITH COUNTY LAND USE PLANNING**

It shall be the duty of the Advisory Board to advise the Board of Commissioners and Onslow County Planning Board on the status, progress, and activities of the County's voluntary agricultural district program and coordinate the formation and maintenance of voluntary agricultural districts with the County's Comprehensive Plan and other County land use planning activities.

Ordinance No. ___

**ARTICLE XIII
ORDINANCE DISTRIBUTION; ANNUAL REPORT**

A. Distribution of Adopted Ordinance and Amendment

After adoption of this ordinance, or any amendment thereto, the County shall send a copy of the ordinance to the North Carolina Commissioner of Agriculture and Consumer Services, the Onslow County office of the North Carolina Cooperative

State of North Carolina
County of Onslow

Extension Service, and the Onslow County Soil and Water Conservation District.

B. Annual Report

The Advisory Board shall annually submit a written report on the status, progress, and activities of the County's voluntary agricultural district program to the Board of Commissioners, with a request that it approve the report and forward it to the North Carolina Commissioner of Agriculture and Consumer Services. The report shall include the following information:

1. Total number of landowners with land included in voluntary agricultural districts;
2. Total number of acres included in voluntary agricultural districts;
3. Number of acres added to and removed from voluntary agricultural districts during the past year;
4. Number of acres disapproved for inclusion in voluntary agricultural districts during the past year;
5. Number of acres for which applications for inclusion in voluntary agricultural districts are pending;
6. Copies of any amendments to the ordinance; and
7. Any other information the Advisory Board deems relevant and appropriate.

**ARTICLE XIV
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 Statutes

Whenever any federal or state statute contains more restrictive provisions than in this ordinance, the provisions of such statute shall govern.

The above Voluntary Agricultural Districts Ordinance is effective upon adoption of this ordinance.