



**SWAIN COUNTY
VOLUNTARY / ENHANCED VOLUNTARY
AGRICULTURAL DISTRICT ORDINANCE
Adopted 8.10.2009**

ARTICLE 1. TITLE

An Ordinance of the Board of County Commissioners of Swain County, North Carolina, Entitled, "Voluntary / Enhanced Voluntary Agricultural District Ordinance."

ARTICLE 2. AUTHORITY

The articles and sections of this Ordinance are adopted pursuant to authority conferred by the North Carolina General Statutes Sections 106-735 through 106-744 and Chapter 153A.

ARTICLE 3. PURPOSE

The purpose of this Ordinance is to promote agricultural values and the general welfare of the county by (1) increasing identity and pride in the agricultural community and its way of life; (2) encouraging the economic and financial health of agriculture, horticulture and forestry; (3) fostering the growth, development and sustainability of family farms; (4) preserving rural working landscapes as an integral part of our cultural heritage; (5) assuring the availability of fresh produce and other local farm products; and (6) helping to maintain clean air and water.

Participation in the program is voluntary. Farmers who do choose to participate will benefit in the following ways:

- (a) A greater voice in the affairs of County government by means of the Agricultural Advisory Board;
- (b) A requirement for a public hearing before any land enrolled in the program may be taken through eminent domain proceedings.
- (c) Increased protection from nuisance suits as a result of the requirement for notice of the presence of working farms in County land records; and
- (d) Eligibility for farmland preservation funds;

In addition, farms enrolled in the enhanced voluntary agricultural program receive these additional benefits:

- (e) May receive up to 25% of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations;
- (f) Are eligible to receive a higher percentage of cost-share funds under the Agriculture Cost Share Program.

ARTICLE 4. DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advisory Board means the Swain County Agricultural Advisory Board.

Chairperson refers to the Chair of the Swain Agricultural Advisory Board.

District means the Voluntary / Enhanced Voluntary Agricultural District as established by this ordinance.

Board of Commissioners refers to the Swain County Board of Commissioners.

ARTICLE 5. AGRICULTURAL ADVISORY BOARD

Section 5.1 Creation.

The Board of Commissioners hereby establishes the Swain County Agricultural Advisory Board to implement the provisions of this program.

Section 5.2 Membership.

The Advisory Board shall consist of seven members appointed by the Board of Commissioners.

Section 5.3 Geographical Diversity.

The Board of Commissioners shall designate the Agricultural Advisory Board members ensuring a geographical representation of Swain County.

Section 5.4 Membership Requirements.

Each Advisory Board member, except those serving in an *ex officio* capacity, shall be registered to vote in Swain County.

5.4.1. At least five of the members shall be actively engaged in farming, horticulture and/or forestry. The two remaining members shall have special interest, experience or education in agriculture and/or rural land preservation. Of the members actively engaged in farming, horticulture and/or forestry there shall be at least one such member from each agricultural region identified in Section 5.5. This determination shall be made without reference to *ex officio* members.

5.4.2. The Board of Commissioners shall appoint members based on recommendations and expressions of interest from the Soil and Water Conservation District Board of Supervisors, the Natural Resource Conservation Service, 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.

5.4.3. Additional members shall be appointed to the Board in an *ex officio* capacity from the Soil and Water Conservation District Board, North Carolina Cooperative Extension, the U.S. Farm Service Agency, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an *ex officio* capacity shall neither vote nor count toward quorum requirements.

Section 5.5 Tenure.

The initial board is to consist of two appointees for terms of one year; two appointees for terms of two years; and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted; provided, however, no member (other than an *ex officio* member) shall serve more than three consecutive full terms.

Section 5.6 Vacancies.

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

Section 5.7 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 5.8 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. If the Advisory Board requests funding, it shall submit a budget.

Section 5.9 Advisory Board Procedure.

The following provisions shall govern the procedures to be used by the Advisory Board.

5.9.1. Chairperson.

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.

5.9.2. *Determination of Procedure.*

The Advisory Board may adopt rules of procedure not inconsistent with this Ordinance or with other provisions of State law.

5.9.3. *Advisory Board Year.*

The Advisory Board shall use the Swain County fiscal year as its meeting year.

5.9.4. *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 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 on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the Advisory Board Membership. All meetings shall be open to the public.

5.9.5. *Majority Vote and Quorum Requirements.*

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 at least two-thirds of the members in attendance. No business may be conducted by the Advisory Board without a quorum present.

5.9.6. *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, or its designee, and shall be a public record.

5.9.7. *Administrative.*

The Advisory Board may contract with the Swain County Soil and Water Conservation District office to serve the Board for record keeping, correspondence, application procedures under this Ordinance, and whatever services the Board needs to complete its duties.

5.9.8. Duties.

The Advisory Board shall have the following duties:

- (a) Review and approve or disapprove applications of landowners for enrollment qualified farmland, horticultural land, or forestland in the District;
- (b) Make recommendations concerning the modification of the District;
- (c) Conduct public hearings;
- (d) 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 the District;
- (e) Review and make recommendations concerning proposed amendments to this Ordinance;
- (f) Develop a draft countywide farmland protection plan as defined in N.C.G.S. §106-744 (e) for presentation to the Board of Commissioners;
- (g) Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners; and
- (h) Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners.

ARTICLE 6. CREATION OF THE SWAIN COUNTY VOLUNTARY / ENHANCED VOLUNTARY AGRICULTURAL DISTRICT

Section 6.1 Establishment.

In order to implement the purposes stated in Article 3, above, this ordinance establishes the Voluntary / Enhanced Voluntary Agricultural District which shall consist of all participating farms located within the unincorporated area of Swain County outside of the Qualla Boundary, as well as participating farms within the Qualla Boundary and municipalities in the County should those entities elect to participate in this program.

Section 6.2 Education.

The County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage enrollment in the District and to further the purposes and objectives of this Ordinance, including the implementation of a public information program to reasonably inform landowners of the Program.

ARTICLE 7. CERTIFICATION AND QUALIFICATION OF FARMLAND

To secure county certification as qualifying farmland in the Voluntary / Enhanced Voluntary Agricultural District a farm must meet all of the criteria set forth herein:

- (a) It must participate in the farm present-use-value taxation program established by N.C.G.S. §105-277.2 through §105-277.7 or be otherwise determined by the county to meet all the qualifications of this program set forth in N.C.G.S. §105-277.3.
- (b) If highly erodible land exists on the farm, it must be managed in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land.
- (c) It must 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 land use regulations.
- (d) It must be located in the unincorporated area of Swain County or within the jurisdiction of a municipality or the Qualla Reservation if such entity has elected to participate in this program.

ARTICLE 8. APPLICATION, APPROVAL, AND APPEAL PROCEDURES

Section 8.1 Application Procedure.

8.1.1 Application.

A landowner may apply to participate the Voluntary / Enhanced Voluntary Agricultural District program by making application to the chairperson of the Advisory Board or a designated staff person, and must designate the application as for either voluntary or enhanced voluntary status. The application shall be on forms provided by the Advisory Board. The application to participate in the district may be filed with the application for certification of qualifying farmland.

8.1.2 Conservation Agreement.

A conservation agreement (required by N.C.G.S. §106-737 and defined in N.C.G.S. §121-35) suited to status (voluntary or enhanced voluntary) designated by the landowner to sustain, encourage, and promote agriculture must be

executed by the landowner and recorded with the Advisory Board, which shall record a certified copy of such with the Swain County Register of Deeds. Permitted uses include agriculture, horticulture, forestry, and natural outdoor recreation, such as hunting, fishing and horseback riding. Conservation agreements for the enhanced agricultural 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. The conservation agreement for a farm participating in the enhanced voluntary agricultural program 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 8.2 Approval Process.

Upon receipt of an application, the chairperson shall cause copies thereof to be forwarded to the following offices which shall be requested to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:

- (a) The Swain County tax assessor;
- (b) The Swain County Soil and Water Conservation District office;
- (c) The Swain County Office of N.C. Cooperative Extension; and
- (d) The Natural Resources Conservation Service.

The Advisory Board shall meet within 60 days of receipt of an application to approve or disapprove the application. Notice of the time and place of the meeting at which the Board will consider the application shall be sent by first class mail to the applicant not less than ten and not more than 25 days prior to the date of the meeting. The Advisory Board shall notify the applicant by first class mail of approval or disapproval of participation in the district.

Section 8.3 Appeal.

If the application is disapproved by the Advisory Board, the landowner shall have thirty (30) days from the date of notification 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 9. REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENTS

Section 9.1 Revocation and Enforcement.

9.1.1 Voluntary Agricultural Program.

By providing 30 days advance written notice to the Advisory Board, a landowner of qualifying farmland participating in the voluntary agricultural program may revoke the conservation agreement, or the Advisory Board may revoke the conservation agreement based on noncompliance by the landowner, subject to the same provisions as contained in Section 8.3 for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in the 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 the conservation agreement for cause, the landowner shall have the appeal rights set forth in Section 8.3. Transfers of land due to death of the landowner, sale or gift shall not revoke the conservation agreement unless the land no longer qualifies for the present-use-value taxation program or, in the event that there are water or sewer assessments held in abeyance, the new owner fails to agree in writing to accept liability for those assessments in the event that the land is withdrawn either voluntarily or involuntarily from the district. Enforcement of the terms of a conservation agreement for land participating in the voluntary agricultural program shall be limited to revocation of the conservation agreement and the benefits derived therefrom.

9.1.2 Enhanced Voluntary Agricultural Program.

Conservation agreements for land participating in the enhanced voluntary agricultural program are irrevocable for a period of 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 any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Advisory Board shall revoke the conservation agreement for cause, the landowner shall have the appeal rights set forth in Section 8.3, above. 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.

Section 9.2 Renewal.

9.2.1 Voluntary Agricultural Program.

A conservation agreement for land participating in the voluntary agricultural program shall be automatically renewed unless the landowner provides 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.

9.2.2 Enhanced Voluntary Agricultural Program.

A conservation agreement for land participating in the enhanced voluntary agricultural program shall be deemed automatically renewed for an additional term of three 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 each three-year term the Conservation Agreement shall automatically renew for an additional three-year term unless notice of termination is given.

ARTICLE 10. WAIVER OF WATER AND SEWER OR UTILITY ASSESSMENTS

Swain County does not provide water and sewer or other utilities. Accordingly, the provisions of this Article 10 shall not apply unless the Town of Bryson City Water and Sewer Authority gives its consent.

Section 10.1 No Connection Required.

A landowner belonging to either a voluntary agricultural district or an enhanced agricultural district shall not be required to connect to Swain County water and/or sewer systems.

Section 10.2 Abeyance.

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. Assessments for all utilities, including water and sewer, 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 10.3 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 10.4 Suspension of Statute of Limitations.

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner may be required to sign an acknowledgement (that may 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 10.5 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 10.6 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 11. ADDITIONAL ENHANCED AGRICULTURAL PROGRAM BENEFITS

Land enrolled in the enhanced voluntary agricultural program is entitled to all of the benefits available to land enrolled in the voluntary agricultural program and to the additional benefits specified in this article.

Section 11.1 Sale of Non-farm Products.

Landowners participating in the enhanced program may receive up to 25 percent of gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from county zoning regulations under N.C.G.S. §153A-340(b). 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 percent of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

Section 11.2 Agricultural Cost Share Program.

Landowners participating in the enhanced program are eligible under N.C.G.S. §143-215.74(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 Part 9 of Article 21 of Chapter 143 of the General Statutes for funds to benefit that farmland.

Section 11.3 Priority Consideration.

State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in the enhanced program.

Section 11.4 Utility Assessment Waiver.

As provided in Article 10, above, and subject to the consent of the Town of Bryson City Water and Sewer Authority, waiver of all county utility assessments in addition to waiver of water and sewer assessments is available to all participants in enhanced districts.

ARTICLE 12. PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND

Section 12.1 Purpose.

Pursuant to N.C.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 district until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

Section 12.2 Procedure.

12.2.1 Notice. Upon receiving a request, the Advisory Board shall cause to be published in a newspaper of general circulation in Swain County a notice describing the proposed action and advising the public of the time and place of a public hearing thereon. The public hearing shall take place within 20 days of receipt of the request.

12.2.2. 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.

12.2.3. The Advisory Board shall consult with the County Agricultural Extension Agent, the 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.

12.2.4. Within five 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 and shall be conveyed to the decision-making body of the agency proposing the acquisition.

12.2.5. 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 30 days, unless the agency agrees to an extension. 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.

12.2.6. 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 13. NOTIFICATION

Section 13.1 Record Notice of Proximity to Farms Enrolled in the Voluntary / Enhanced Voluntary Agricultural District.

Upon certification of qualifying farmland and designation of real property as a district, the title to that qualifying farmland and real property, which is contained in the Swain County Land Records System shall be changed to include a notice reasonably calculated

to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a farm enrolled in the district.

13.1.1 *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 section.

13.1.2 *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 the District as defined in this Ordinance.

Section 13.2 Signage.

Subject to funding availability, signs identifying farms enrolled in the District should be placed along the rights-of-way of major roads that pass through or next to those farms and at the farm gate of each qualifying farm. Placement of signage should be at the direction of the Advisory Board and coordinated with the North Carolina Department of Transportation and Swain County.

Section 13.3 Maps.

Maps identifying farms enrolled in the District shall be provided to the following agencies or offices: Planning Department; Register of Deeds; Natural Resources Conservation Service; North Carolina Cooperative Extension; Soil and Water Conservation District; and any other such agency or office the Advisory Board deems appropriate.

ARTICLE 14. LAND USE REVIEW

Developers of major subdivisions shall designate on preliminary plats, the existence of farms enrolled in the District which are situated within one-half aerial mile of the proposed development.

ARTICLE 15. COUNTY LAND-USE PLANNING

Section 15.1 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 delegates 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 the District with the county's land use planning activities and the Swain County Land Development Plan.

Section 15.2 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:

Swain County has established the Voluntary / Enhanced Voluntary Agricultural District to protect and preserve agricultural lands and activities. This District has 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 on farms enrolled in the District any time during the day or night. Maps and information on the location and establishment of farms enrolled in the District can be obtained from the North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning Department, or the Natural Resources Conservation Service office.

Section 15.3 Growth Corridors.

At such time as the county might establish designated growth corridors, farms situated within such growth corridor shall not be enrolled in the Voluntary / Enhanced Voluntary Agricultural District without the approval of the Board of Commissioners. Farms enrolled in the District which are in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners.

ARTICLE 16. CONSULTATION AUTHORITY

The Advisory Board may consult with North Carolina Cooperative Extension, the Natural Resources Conservation Service, 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 17. NORTH CAROLINA AGENCY NOTIFICATION

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 and shall include therein the following information:

- (a) Number of landowners enrolled;
- (b) Number of acres enrolled;
- (c) Number of acres certified during the reporting period;
- (d) Number of acres denied during the reporting period;
- (e) Number of acres for which applications are pending;
- (f) Copies of any amendments to the this Ordinance; and
- (g) Any other information the Advisory Board deems useful.

A copy of this report shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Swain County Board of Commissioners, the County Office of North Carolina Cooperative Extension, and the Soil and Water Conservation District.

ARTICLE 18. LEGAL PROVISIONS

Section 18.1 Severability.

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

Section 18.2 Conflict with other ordinances and statutes.

Whenever the provisions of this Ordinance conflict with other ordinances of Swain 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.

Section 18.3 Amendments.

This Ordinance may be amended from time to time by the Board of Commissioners.

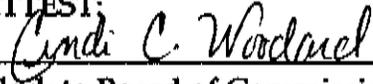
ARTICLE 19. ENACTMENT

The Swain County Board of Commissioners hereby adopts and enacts the preceding articles and sections of this Ordinance.

Adopted this the 10 day of August, 2009.



Glenn Jones, Chairman

ATTEST:


Cindi C. Woodard
Clerk to Board of Commissioners

**SWAIN COUNTY
VOLUNTARY / ENHANCED VOLUNTARY
AGRICULTURAL DISTRICT ORDINANCE**

Table of Contents

ARTICLE 1. TITLE	1
ARTICLE 2. AUTHORITY	1
ARTICLE 3. PURPOSE	1
ARTICLE 4. DEFINITIONS	2
ARTICLE 5. AGRICULTURAL ADVISORY BOARD	3
Section 5.1 <i>Creation</i>	3
Section 5.2 <i>Membership</i>	3
Section 5.3 <i>Geographical Diversity</i>	3
Section 5.4 <i>Membership Requirements</i>	3
Section 5.5 <i>Tenure</i>	4
Section 5.6 <i>Vacancies</i>	4
Section 5.7 <i>Removal</i>	4
Section 5.8 <i>Funding</i>	4
Section 5.9 <i>Advisory Board Procedure</i>	4
5.9.1 <i>Chairperson</i>	4
5.9.2 <i>Determination of Procedure</i>	5
5.9.3 <i>Advisory Board Year</i>	5
5.9.4 <i>Meetings</i>	5
5.9.5 <i>Majority Vote and Quorum Requirements</i>	5
5.9.6 <i>Records</i>	5
5.9.7 <i>Administrative</i>	5
5.9.8 <i>Duties</i>	6
ARTICLE 6. CREATION OF THE SWAIN COUNTY VOLUNTARY / ENHANCED VOLUNTARY AGRICULTURAL DISTRICT	6
Section 6.1 <i>Establishment</i>	6
Section 6.2 <i>Education</i>	6
ARTICLE 7. CERTIFICATION AND QUALIFICATION OF FARMLAND	7
ARTICLE 8. APPLICATION, APPROVAL, AND APPEAL PROCEDURES	7
Section 8.1 <i>Application Procedure</i>	7
8.1.1 <i>Application</i>	7
8.1.2 <i>Conservation Agreement</i>	7
Section 8.2 <i>Approval Process</i>	8
Section 8.3 <i>Appeal</i>	8
ARTICLE 9. REVOCATION, ENFORCEMENT AND RENEWAL OF CONSERVATION AGREEMENTS	9
Section 9.1 <i>Revocation and Enforcement</i>	9
9.1.1 <i>Voluntary Agricultural Program</i>	9
9.1.2 <i>Enhanced Voluntary Agricultural Program</i>	9
Section 9.2 <i>Renewal</i>	10
9.2.1 <i>Voluntary Agricultural Program</i>	10

9.2.2 <i>Enhanced Voluntary Agricultural Program</i>	10
ARTICLE 10. WAIVER OF WATER AND SEWER OR UTILITY ASSESSMENTS.....	10
Section 10.1 No Connection Required	10
Section 10.2 Abeyance.....	10
Section 10.3 Termination of Abeyance.....	11
Section 10.4 Suspension of Statute of Limitations.....	11
Section 10.5 Other Statutory Abeyance Procedures.....	11
Section 10.6 Conflict with Water and/or Sewer System Construction and Improvements Grants.....	11
ARTICLE 11. ADDITIONAL ENHANCED AGRICULTURAL PROGRAM BENEFITS	11
Section 11.1 Sale of Non-farm Products.....	11
Section 11.2 Agricultural Cost Share Program.....	12
Section 11.3 Priority Consideration	12
Section 11.4 Utility Assessment Waiver.....	12
ARTICLE 12. PUBLIC HEARINGS ON CONDEMNATION OF FARMLAND	12
Section 12.1 Purpose	12
Section 12.2 Procedure.....	12
ARTICLE 13. NOTIFICATION.....	13
Section 13.1 Record Notice of Proximity to Farms Enrolled in the Voluntary / Enhanced Voluntary Agricultural District	13
13.1.1 <i>Limit of Liability</i>	14
13.1.2 <i>No Cause of Action</i>	14
Section 13.2 Signage	14
Section 13.3 Maps.....	14
ARTICLE 14. LAND USE REVIEW.....	14
ARTICLE 15. COUNTY LAND-USE PLANNING	15
Section 15.1 Duty of the Advisory Board.....	15
Section 15.2 Posting of Notice.....	15
Section 15.3 Growth Corridors	15
ARTICLE 16. CONSULTATION AUTHORITY	16
ARTICLE 17. NORTH CAROLINA AGENCY NOTIFICATION	16
ARTICLE 18. LEGAL PROVISIONS	16
Section 18.1 Severability.....	16
Section 18.2 Conflict with other ordinances and statutes.....	16
Section 18.3 Amendments	17
ARTICLE 19. ENACTMENT.....	17