

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

MEETING DATE: AUGUST 2, 2018

AGENDA ITEM NUMBER: 12

**SUBJECT: ORDINANCE CREATING CHAPTER 22 OF THE FORSYTH COUNTY CODE
ENTITLED "VOLUNTARY AGRICULTURAL DISTRICTS"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

ATTACHMENTS:

YES

NO

SIGNATURE: _____

COUNTY MANAGER

DATE: _____

**ORDINANCE CREATING CHAPTER 22
OF THE FORSYTH COUNTY CODE ENTITLED
"VOLUNTARY AGRICULTURAL DISTRICTS"
(FORSYTH COUNTY ATTORNEY'S OFFICE)**

Be it ordained that the Forsyth County Code is hereby amended by adding Chapter 22, entitled, "Voluntary Agricultural Districts," with twelve (12) sections to be numbered 22-1, entitled "Purpose," 22-2 entitled "Forsyth County Agricultural Advisory Board," 22-3 entitled "Establishment of Voluntary Agricultural Districts," 22-4 entitled "Certification and Qualification of Farmland," 22-5 entitled "Application and Approval Procedure," 22-6 entitled "Revocation and Renewal of Conservation Agreement," 22-7 entitled "Public Hearings on Condemnation of Farmland," 22-8 entitled "Notification," 22-9 entitled "Deferment of Water and Sewer Assessments," 22-10 entitled "County Land-Use Planning," 22-11 entitled "Consultation Authority," and 22-12 entitled "North Carolina Agency Notification."

CHAPTER 22 VOLUNTARY AGRICULTURAL DISTRICTS

State Law Reference: G.S. § 106-735--§106-744.

Sec. 22-1 – Purpose.

Voluntary Agricultural Districts promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; increase protection from nuisance suits; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

Sec. 22-2 – Forsyth County Agricultural Advisory Board.

(a) Creation.

The Forsyth County Board of Commissioners hereby establishes the Forsyth County Agricultural Advisory Board (hereinafter "Advisory Board") to implement the provisions of this ordinance.

(b) Membership.

The Advisory Board shall consist of seven (7) members appointed by the Board of Commissioners.

(c) Member Requirements

1. Each member shall be a Forsyth County resident.
2. At least four of the seven members shall be actively engaged in farming in Forsyth County.
3. One member shall be a non-farm member, and one member shall also be a County Commissioner who shall serve only so long as he or she is a County Commissioner.

(d) Tenure

Advisory Board members shall serve three (3) year terms, with reappointment permitted for a maximum of two consecutive terms after which the member must be off the board for at least one year before being eligible for reappointment. The County Commissioner member will not be subject to the term limits set forth herein.

(e) Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the duration of the unexpired term and consistent with the capacity in which the vacancy occurs.

(f) Funding

The Board of Commissioners may appropriate funds to the Advisory Board to perform its duties.

(g) Advisory Board Procedure

1. Chairperson. The Advisory Board shall elect a chairperson at its first meeting each fiscal year to preside over all regular or special meetings of the Advisory Board and may elect additional officers as needed.
2. Rules of Procedure. The Advisory Board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of State law.
3. Advisory Board Year. The Advisory Board shall use the Forsyth County fiscal year (which is currently July 1 through June 30th) as its meeting year.
4. Meetings. Meetings of the Advisory Board shall be held at the call of the chairperson and at such other times as the Advisory Board may specify in its rules of procedure. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by the Advisory Board.
5. Majority Vote. The concurring vote of a majority of the members of the Advisory Board shall be necessary to make any decision upon any matter on which it is required to act under this ordinance.
6. Records. The Advisory Board shall keep minutes of the proceedings showing the vote of each member and shall keep records of its examinations and other official actions which shall be filed in the Cooperative Extension Office.
7. Administration. The Cooperative Extension Office shall provide administrative support services to the Advisory Board. Such administrative services shall include record keeping, correspondence, application procedures under this ordinance, and all other services the Board needs to complete its duties.

(h) Duties

In addition to all duties already conferred, the Advisory Board shall:

1. Review and make decisions on applications for the establishment and modification of qualified voluntary agricultural districts;
2. Conduct public hearings and make appropriate findings and recommendations to any agency requesting condemnation of all or part of any qualifying farm within a Voluntary Agricultural District; and conduct public hearings on any public projects likely to have an impact on agricultural operations in Forsyth

- County as requested by the Forsyth County Board of Commissioners;
3. Advise the Forsyth County Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county;
 4. Review and make recommendations to the Forsyth County Board of Commissioners concerning proposed amendments to this ordinance;
 5. Study additional methods of farmland preservation and make recommendations to the Forsyth County Board of Commissioners; and
 6. Perform other agricultural related tasks or duties assigned by the Forsyth County Board of Commissioners.

Sec. 22-3 – Establishment of Voluntary Agricultural Districts.

(a) Implementation

In order to implement the purposes stated in this Chapter, the Advisory Board may establish Voluntary Agricultural Districts (hereinafter "Districts") which meet the following standards:

1. Each District, when initially established, shall contain a minimum of five (5) acres of land in agricultural production.
2. In order to form each District, the property owner of the property defined herein shall execute a Conservation Agreement to sustain agriculture in the District in such form as approved by the Advisory Board.
3. Each District shall be represented by the current Advisory Board.

(b) Education

The Forsyth County Board of Commissioners may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Voluntary Agricultural District program.

(c) Addition and Withdrawal

In the event that one or more participants in the District withdraws and the acreage in the District becomes less than the minimum acreage required or results in the remaining land being noncontiguous, the district will be dissolved.

Sec. 22-4 – Certification and Qualification of Farmland.

(a) Requirements

In order for farmland to qualify for inclusion in a Voluntary Agricultural District, it must be real property that:

1. Is engaged in agriculture as that word is defined in G.S. 106-581.1;
2. Is managed in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to highly erodible land; and
3. Is the subject of a conservation agreement, as defined in G.S. 121-35, between Forsyth County and the owner of such land that prohibits nonfarm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations.

Sec. 22-5 – Application and Approval Procedure.

(a) Application Procedure

1. A landowner may apply for qualification as a Voluntary Agricultural District by making application to the chairperson of the Advisory Board or a designated staff person. The application shall be on forms provided by the Advisory Board. The application shall clearly identify the tax parcel or parcels or any portion thereof that is proposed for the District.
2. A Conservation Agreement to sustain, encourage, and promote agriculture must be executed by the landowner and submitted for review as part of the application to the Advisory Board. Permitted uses include agriculture, horticulture, and forestry.

(b) Approval Process

1. Upon submission of the application to the Advisory Board, the Advisory Board shall consider the application within sixty (60) days. The chairperson shall notify the applicant of approval or disapproval of qualification as a District.
2. Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments regarding the qualifying status of the property, if any, to the Advisory Board prior to the date set for the Advisory Board vote on the application:
 - a. The Forsyth Soil and Water Conservation District staff;
 - b. The Natural Resources Conservation Service; and
 - c. The City-County Planning Board staff

Sec. 22-6 – Revocation and Renewal of Conservation Agreement.

(a) Revocation

By providing thirty (30) days advance written notice to the Advisory Board, a landowner of qualifying farmland may revoke the Conservation Agreement or the Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner. Absent noncompliance by the landowner, the Advisory Board shall not revoke any Conservation Agreement prior to its expiration.

(b) Renewal

Conservation Agreements shall be deemed automatically renewed unless either the Advisory Board or the landowner gives written notice to the contrary no later than thirty (30) days prior to the termination date.

Sec. 22-7 – Public Hearings on Condemnation of Farmland.

(a) Condemnation Proceedings

No state or local public agency or governmental unit may formally initiate any

action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation.

(b) Procedure

1. The Advisory Board shall have 30 days after receiving a request to hold the public hearing and submit its findings and recommendations to the agency requesting the condemnation.
2. During the public hearing provided herein on condemnation, the Advisory Board shall consider the following:
 - a. Whether the need for the property has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Advisory Board shall consult with the County Cooperative Extension Director, 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.
4. No condemnation action may be formally initiated while the proposed condemnation is properly before the Advisory Board within the legal time limitations.

Sec. 22-8 – Notification.

(a) Record Notice of Proximity to Voluntary Agricultural District

1. Procedure

In that Forsyth County has a computerized land records system, the county shall require that such records show the location of all Voluntary Agricultural Districts and all properties within one half mile of said districts.

2. Limit of Liability

In no event shall Forsyth 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 ordinance under the procedures of Section 22-8(a)1.

3. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this ordinance.

(b) Signage

Signs identifying approved Voluntary Agricultural Districts shall be placed along the rights-of-way of major roads that pass through or next to those Districts.

There shall be at least one sign posted for every two (2) miles of such roads or as many as may be deemed appropriate by the Advisory Board, or its administrative agent for the Voluntary Agricultural District program. Placement of signage shall be coordinated with the N.C. Department of Transportation and comply with any local ordinances regarding signs.

Sec. 22-9 – Deferment of Water and Sewer Assessments.

In that the deferment of water and/or sewer assessments is not within the purview of the Forsyth County Board of Commissioners, the authority for said deferments will be at the discretion of the City-County Utilities Commission.

(a) No Required Connection

A landowner belonging to a Voluntary Agricultural District may not be required to connect to the City-County Utility system.

(b) Deferment

Water and sewer assessments may be held in deferment, for farms in a Voluntary Agricultural District that are also participating in the Present Use Value Assessment Program of the Forsyth County Tax Office, until improvements on such property are connected to the water or sewer system for which the assessment was made. Such deferments will follow the existing policies of the City-County Utilities Commission.

(c) Termination of Deferment

When the period of deferment ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(d) Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of the County to hold assessments in abeyance under the provisions of N.C.G.S. §153A-201, or other applicable law.

(e) 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 water and/or sewer systems are constructed this section shall not apply.

Sec. 22-10 – County Land-Use Planning.

It shall be the duty of the Advisory Board to inform the Board of Commissioners through the City-County Planning Board of the status, progress, and activities of the county's Voluntary Agricultural District program and to also coordinate the formation and maintenance of Voluntary Agricultural Districts with the county's land use planning activities and the county's adopted land use plans.

Sec. 22-11 – Consultation Authority.

The Advisory Board may consult with the North Carolina Commissioner of Agriculture, the North Carolina Cooperative Extension Service, 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.

Sec. 22-12 – North Carolina Agency Notification.

Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this Ordinance Establishing Voluntary Agricultural Districts shall be sent to the Office of the North Carolina Commissioner of Agriculture after its adoption.

At least annually the Advisory Board shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary Agricultural District program, including the following information:

1. Number of landowners enrolled;
2. Number of acres enrolled;
3. Number of acres certified during the reporting period;
4. Number of acres denied during the reporting period;
5. Number of acres for which applications are pending;
6. Copies of any amendments to the ordinance; and
7. Any other information the Advisory Board deems useful.

This Ordinance shall be effective upon final adoption.

Adopted this 2nd day of August, 2018.