POLK COUNTY VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I
TITLE

An ordinance of the Board of County Commissioners of POLK COUNTY, NORTH CAROLINA, entitled**,** "POLK COUNTY VOLUNTARY AGRICULTURAL DISTRICT & ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE."

ARTICLE II
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 and 160D.

ARTICLE III
PURPOSE

The purpose of this Ordinance is to 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; encourage the economic and financial health of agriculture, horticulture and forestry; and increase protection from non-farm development and other negative impacts on properly managed farms.

ARTICLE III
PURPOSE

The following are defined for purposes of this Ordinance:

Advisory Board: Polk County Agricultural Advisory Board.

Chairperson: Chairperson of the Polk County Agricultural Advisory Board.

District: Voluntary Agricultural District as established by this Ordinance.

Enhanced District: Enhanced Voluntary Agricultural District as established by this Ordinance.

Board of Commissioners: Polk County Board of Commissioners.

ARTICLE V
AGRICULTURAL ADVISORY BOARD

A. Creation

The Agricultural Preservation ordinance will be implemented by the existing ~~Voluntary Farmland Preservation~~ Agricultural Advisory Board as appointed by the The Board of Commissioners. This Advisory Board will oversee both county ordinances.

B. Membership

The Advisory Board shall consist of no less than 7 (seven) members appointed by the Board of Commissioners.

C. Membership Requirements

1. Each Advisory Board member shall be a Polk County resident.

2. At least 5 of the 7 members shall be actively engaged in farming.

3. The members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Agricultural Advisory Board with an effort to have the broadest geographical representation possible.

D. Tenure

The initial board is to consist of 2 (two) appointees for terms of one year; 2 (two) appointees for terms of two years; and 3 (three) appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted. The terms will begin January 1st and extend through December 31st in the year of expiration. The same person may not serve more than two consecutive full terms, but may reapply after one year of separation from the board.

E. Vacancies

Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term as per Article V, Section C, 3.

F. Removal

Any member of the Advisory Board who is absent from more than two consecutive meetings without adequate reason during the year may be removed by the Board of Commissioners.

G. Funding

Funds may be appropriated by the Board of Commissioners to the Agricultural Advisory Board to perform its duties.

H. Advisory Board Procedure

1. Chairperson

The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the calendar 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.

2. Jurisdiction

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

3. Advisory Board Year

The Advisory Board shall use the calendar year as its meeting year.

4. Meetings

Meetings of the Advisory Board shall be held at the call of the chairperson and at such times as the Advisory Board may specify in its rules of procedure. Notice of any meetings to the members shall be in writing. All meetings will be open to the public. A quorum consisting of 4 of the 7 Advisory Board members must be present to conduct official business.

5. Majority Vote

The concurring vote of a majority of the quorum of the Advisory Board shall be necessary to reverse any order, requirement, decision, or determination of the Agricultural Advisory Board; to decide in favor of an applicant; or to pass upon any other 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 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 Polk Soil and Water Conservation District office.~~

I. Duties

The Advisory Board shall:

1. Review and approve applications for qualified farmland and agricultural districts and make recommendations concerning the establishment and modification of these agricultural districts;

2. Conduct public hearings per Article XII.

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 ordinance;

5. Study additional methods of farmland preservation and make recommendations to the Board of Commissioners; and

6. Perform other agricultural related tasks or duties assigned by the Board of Commissioners.

~~7. Collaborate with the Polk County Agricultural Economic Development Department.~~

ARTICLE VI
VOLUNTARY AGRICULTURAL DISTRICTS & ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS/REGIONS

A. Regions

1. Polk County is hereby divided into six (6) regions as defined below:

1. Columbus
2. Cooper Gap
3. Green Creek
4. Saluda
5. Tryon
6. White Oak

The boundaries of each region will follow the boundaries of the corresponding townships as determined by the County.

B. Districts and Enhanced Districts

In order to implement the purposes stated in Article III, this program provides for the creation of Districts and Enhanced Voluntary Agricultural Districts, within Regions, which meet the following standards:

Districts and Enhanced Districts shall consist of any acreage that is part of a qualifying farm certified under Article VII, enrolled under Article VIII, and is contained within any region. All land enrolled in a region does not constitute a single District or Enhanced District. If qualifying farmland has acreage in two or more regions, the farm shall participate in the region where the largest acreage is found.

ARTICLE VII
CERTIFICATION AND QUALIFICATION OF FARMLAND

A. Requirements

To secure county certification as qualifying farmland as a District or Enhanced District, a farm must:

1. Be real property that is engaged in agriculture as defined in N.C.G.S. § 106-581.1;

Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

a. A farm sales tax exemption certificate issued by the Department of Revenue.

b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.

c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.

d. A forest management plan.

~~e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.~~

2. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly-erodible land;

3. 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 zoning and subdivision regulations, and Article XI;

4. Be located in the unincorporated area of Polk County, unless there is an agreement with a municipality through which the county is authorized to exercise the authority of the municipality on its behalf.

ARTICLE VIII
APPLICATION, REVIEW & APPEAL PROCEDURE

A. Application Procedure

1. A landowner, or landowners, may apply to participate in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District program by making application, for certification of qualifying farmland to be created, or included in a District or Enhanced District, to the chairperson of the Advisory Board or a designated staff person. The landowner, or landowners, must designate the application as for either Voluntary Agricultural District status or Enhanced Voluntary Agricultural District status. The application shall be on forms provided by the Advisory Board. A landowner can submit one application per property per year.

2. A Conservation Agreement (required by N.C.G.S. § 106-737 and N.C.G.S. § 106-743.3, and defined in N.C.G.S. §121-35) suited to district type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowner(s) to sustain, encourage, and promote agriculture must be executed by the landowner(s) with the Advisory Board, which shall record a certified copy of such with the Polk County Register of Deeds.

B. Review Process

1. Upon receipt of a completed application, the chairperson may forward copies to the following offices which may be asked to provide comments, if any, to the Advisory Board prior to the date set for the Advisory Board to review the application:

a. The Polk County Tax office;
b. The Polk County Soil and Water Conservation District office;
~~c. The Natural Resources Conservation Service;~~

~~d.~~c. ~~The North Carolina Forest Service;~~ and
~~e.~~d. Any other such agency or office the Advisory Board deems appropriate.

2. The Advisory Board or its administrative designees prior to, or at, the next regularly scheduled board meeting shall review an application for certification of qualifying farmland to determine if the application is compliant with all requirements of this Ordinance. The chairperson of the Board shall notify the applicant by first class mail of application compliance or non-compliance, and the reason(s) therefore, within 15 days of the determination.

C. Appeal

If an application is determined to be noncompliant with this Ordinance by the Advisory Board, the landowner may, within fifteen (15) days of notification of noncompliance of the application, request in writing that the Advisory Board reconsider its determination. The request for reconsideration shall state the reason(s) therefore. The Advisory Board shall meet at the next regularly scheduled board meeting for reconsideration of the
application and shall notify the applicant by first class mail of its determination, and the reason(s) therefore, within 15 days of the reconsideration of the application. After a negative determination after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the determination to the Board of Commissioners. Such appeal shall be presented in writing and shall state the reason(s) therefore. The decision of the Board of Commissioners is final. A reapplication can be made one year after final determination.

ARTICLE IX
RENEWAL, TRANSFER, ENFORCEMENT & REVOCATION OF CONSERVATION AGREEMENTS

A. Renewal

The County will provide, at a minimum, six months advance written notice to landowner(s) whose Conservation Agreement(s) will expire within the year. A Conservation Agreement for land within a Voluntary Agricultural District or Enahanced Voluntary District, that has been reviewed and continues to qualify under all provisions of Article VII. 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.

1. District. A Conservation Agreement for land within a Voluntary Agricultural District shall be automatically renewed for a period of 10 years unless the landowner provides written notice prior to expiration of the Conservation Agreement to the Advisory Board of intent not to renew.

2. Enhanced District. A Conservation Agreement for land within an Enhanced Voluntary Agricultural District shall be automatically renewed for a period of 3 years unless the landowner provides written notice prior to expiration of the Conservation Agreement to the Advisory Board of intent not to renew. Anytime during this renewal period, landowner(s) can reapply for a new 10 year Conservation Agreement.

B. Transfer

Absent noncompliance by the transferer or transferee, 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.

1. District. Transfers of land in a District due to death of the landowner, sale, or gift shall not revoke the Conservation Agreement unless new landowner(s) deny the Conservation Agreement. The new landowner(s), on a supplemental application, shall provide updated contact information and review the Conservation Agreement. In the event that there are water or sewer assessments held in abeyance by this Ordinance, and where the new owner(s) fail(s) to agree in writing to accept liability for those assessments when land is withdrawn either voluntarily or involuntarily from the District, the Conservation Agreement shall be revoked. Revocation shall be undertaken pursuant to the provisions of Section D of this Article.

2. Enhanced District. Transfers of land in a District due to death of the landowner(s), sale, or gift shall not revoke the Conservation Agreement. All new landowner(s) shall affirm the Conservation Agreement and submit a supplemental application. The Conservation Agreement for the Enhanced Voluntary Agricultural District 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.

C. Enforcement

1. District. Enforcement of the terms of a Conservation Agreement for land enrolled in a District shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom. Revocation shall be undertaken pursuant to the provisions of Section D of this Article.

2. Enhanced District. Conservation Agreements for the Enhanced Agricultural District 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. 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 this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). 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.

D. Revocation

The Advisory Board may revoke the same Conservation Agreement based on noncompliance by the landowner with the provisions of Article VII, subject to the same provisions as contained in Article VIII(C) for appeal of denials. Such revocation shall result in loss of eligibility of the noncompliant parcel(s) to participate in a 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 this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Article VIII(C). A notice of revocation shall be recorded in the county land record system pursuant to N.C.G.S. § 121-41(b), sufficient to provide

notice that the qualifying farmland land has been withdrawn from the Voluntary Agricultural District program and the qualifying farmland shall be removed from the Voluntary Agricultural District Program database and map in the county Geographic Information System.

1. District. By providing 30 days advance written notice to the Advisory Board, a landowner of qualifying farmland within a District may revoke the Conservation Agreement; or

2. Enhanced District. Conservation Agreements for land within Enhanced Districts are IRREVOCABLE for a period of 10 years. At the end of the term, a notice of revocation shall be recorded in the Polk County Register of Deeds sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program if the agreement is not automatically renewed, or renewed voluntary by the landowner(s).

ARTICLE X
WAIVER OF WATER AND SEWER OR ALL UTILITY ASSESSMENTS

A. No Connection Required

1. A landowner belonging to a District shall not be required to connect to Polk County (or its contractors, third party designees) water and/or sewer systems.

2. A landowner belonging to an Enhanced District shall not be required to connect to Polk County utility systems.

B. Abeyance

1. 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.
2. Utility assessments 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.

C. Termination of Abeyance

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

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest. The landowner shall be required to sign an acknowledgement, which shall be incorporated into the Conservation Agreement, of the abeyance of the statute of limitations upon collecting water and sewer assessments, or other utility assessments.

E. 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.

F. 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 XI
ADDITIONAL ENHANCED AGRICULTURAL DISTRICT BENEFITS

Land enrolled in the Enhanced Voluntary Agricultural District program is entitled to all of the benefits available under the Voluntary Agricultural District program, and to the following additional benefits under this Article:

A. Sale of Non-farm Products

~~Landowners participating in Enhanced Districts may receive up to twenty-five 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.~~

Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (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 under G.S. 160D-903. For purposes of G.S. 160D-903, 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 G.S. 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 percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

~~For purposes of N.C.G.S. § 153A-340(b), 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 N.C.G.S. § 106-743.2 is a bona fide farm purpose.~~

B. Agricultural Cost Share Program

A person who farms land that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect is eligible under G.S. 106-850(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 Article 72 of this Chapter for funds to benefit that farmland.

~~Landowners participating in Enhanced Districts 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 Article 72 of this Chapter for funds to benefit that farmland.~~

C. Priority Consideration

State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to any person who farms land that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect.

~~State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.~~

~~D. Utility Assessment Waiver~~

~~As provided in Article X, waiver of all county utility assessments, in addition to waiver of water and sewer assessments, is available to all participants in Enhanced Districts.~~

ARTICLE XII
PUBLIC HEARINGS

A. Purpose

N.C.G.S. § 106-740 provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District or Enhanced District until such agency or unit has requested that the Advisory Board hold a public hearing on the proposed condemnation. This provision ensures that the condemning agency or unit considers the impact of its actions upon agricultural, forestal, and/or horticultural land prior to taking action that is not reversible. This provision is not intended to, and does not, prohibit the condemning agency or unit from taking action that is authorized by law.

B. Procedure

1. Upon receiving a request, the Advisory Board shall publish notice describing the proposed action in the appropriate newspapers of Polk County within five (5) business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten (10) days of receipt of the request.

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 or Enhanced District within which the proposed action is to take place.

3. The Advisory Board shall consult with the Cooperative Extension Service office, the Soil and Water Conservation District office, the Natural Resources Conservation Service, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.

4. Within five (5) 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 prior to its being conveyed to the decision-making body of the agency

proposing the acquisition.

5. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.

6. After the ten (10) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition within five (5) days.

7. 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 thirty (30) days. 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.

8. Pursuant to N.C.G.S. § 106-740, the condemning agency may not formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE XIII
NOTIFICATION

A Record Notice of Proximity to a Voluntary or an Enhanced Voluntary Agricultural District

1. Procedure

Pursuant to N.C.G.S. § 106-741, when Polk County computerizes its county land records system the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a District or Enhanced District, Polk County shall provide in its computerized land records system some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of that District or Enhanced District. [If a county cannot provide this notice within the computerized land records system, then this provision should be left out. Recording of a VAD Conservation Agreement may assist with the implementation of this provision where tract data is shared between the Register of Deeds office and the GIS/Tax office. However, a VAD Conservation Agreement is not required to be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act. An EVAD Conservation Agreement must be recorded under N.C.G.S. § 121-41 (c) of the Conservation and Historic Preservation Agreements Act.]

2. 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 Article.

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 District or Enhanced District as defined in this Ordinance.

B. Geographic Information System

Voluntary and Enhanced Voluntary Agricultural Districts, and all properties within one-half mile of a Voluntary and Enhanced Voluntary Agricultural District, shall be mapped in the county Geographic Information System.

C. Maps

Maps identifying approved Districts shall be provided to the following agencies or offices, and required to post:

1. Planning Department;
2. Tax Office;
3. Register of Deeds;

Maps identifying approved Districts shall be provided to the following agencies or offices, and are requested to post:

~~4. Natural Resources Conservation Service;~~

~~5.~~4. North Carolina Cooperative Extension;

~~6.~~5. Soil and Water Conservation District; and

~~7.~~6. Any other such agency or office the Advisory Board deems appropriate.

D. Signage

Signs identifying parcels enrolled in an agricultural district may be placed on enrolled parcels at the discretion of the owners. Signs shall not be placed along the right-of-way of any state or county maintained road.

ARTICLE XIV
SUBDIVISION ORDINANCE & ZONING ORDINANCE REVIEW

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of Districts and Enhanced Districts within one-half mile of the proposed development.

ARTICLE XV
COUNTY LAND USE PLANNING

A. 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 delegate authority to oversee county land use planning,

on the status, progress, and activities of the county's Voluntary Agricultural District program and Enhanced VoluntaryAgricultural District program and to also coordinate the formation and maintenance of Districts and Enhanced Districts with the county's land use planning activities and the county's land use plan.

B. 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:

Polk County has established Districts and Enhanced 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, burning, and other common farming activities may occur in these Districts and Enhanced Districts any time during the day or night. Maps and information on the location and establishment of these Districts and Enhanced Districts can be obtained from the North Carolina Cooperative Extension Service office, the Soil and Water Conservation District office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

ARTICLE XVI
CONSULTATION AUTHORITY

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

ARTICLE XVII
NORTH CAROLINA AGENCY NOTIFICATION

Annual Report to the North Carolina Department of Agriculture and Consumer Services

A copy of this Ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the Board of Commissioners, the North Carolina Cooperative Extension office, and the Soil and Water Conservation District office after adoption. At least annually, the county shall submit a written report to the Commissioner of Agriculture and Consumer Services on the county's Voluntary Agricultural District program and Enhanced 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 not certified during the reporting period;
5. Number of acres for which applications are pending;

6. Municipalities with which Memorandums of Understanding have been signed;

7. Municipalities with which Memorandums of Understanding are no longer in effect;

8. Municipalities that have adopted this Ordinance for the purpose of the county enforcing this Ordinance within their corporate boundaries;

9. Copies of any amendments to this Ordinance or Memorandums of Understanding signed with municipalities; and

10. Any other information the Advisory Board deems useful.

ARTICLE XVIII
LEGAL 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 Other Ordinances and Statutes

Whenever the provisions of this Ordinance conflict with other ordinances of Polk County, the provisions of those other ordinances shall govern. Whenever the provisions of any federal or state statute conflict with this Ordinance, the provisions of such federal or state statute shall govern. The sole remedy for a land use not complying with this Ordinance shall be revocation of the Conservation Agreement and removal of the non-qualifying land from the Polk County Voluntary Agricultural District and Enhanced Voluntary Agricultural District Program. Recreational use of land that does not interfere with agricultural uses as defined in N.C.G.S. § 106-581.1 shall not be considered non-compliant with this Ordinance.

C. Amendments

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

ARTICLE XIX
ENACTMENT

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

The Polk County Board of Commissioners hereby adopt and enact the preceeding articles and sections of this ordinance.

Adopted this the _____ day of _____, _____.

Motion for adoption by _____, seconded by

_____.

ATTEST:

POLK COUNTY BOARD
OF COMMISSIONERS

_____
Clerk to the Board

_____
Chair

Approved as to form:

_____
County Attorney