

**IREDELL COUNTY
VOLUNTARY
FARMLAND PRESERVATION ORDINANCE**

ADOPTED June 19, 2001
AMENDED through June 6, 2006

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**IREDELL COUNTY VOLUNTARY
FARMLAND PRESERVATION ORDINANCE**

Article I. Policy And Purpose

It is the policy of Iredell County to conserve and protect and encourage the development, improvement and preservation of its agricultural land and forestland for the production of food, fiber, and other products. When other land uses extend into agricultural and forest areas, agricultural and forestry operations often become the subject of nuisance suits. It is the purpose of this Ordinance to reduce the loss of available and productive farmland by limiting the circumstances under which an agricultural or forestry operation may be deemed to be a nuisance, and to encourage the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of the county.

Article II. Enactment

Pursuant to authority conferred by North Carolina General Statute 106-743, and for the purpose of promoting the health, safety, morals and general welfare of Iredell County, the Board of Commissioners of Iredell County, North Carolina does enact the following sections, which shall be known as the VOLUNTARY FARMLAND PRESERVATION PROGRAM ORDINANCE of Iredell County, North Carolina.

Article III. Definitions

The following terms are defined for purposes of this ordinance:

Board - Iredell County Farmland Preservation Board

Board of Commissioners - Iredell County Board of Commissioners

Chairman – Chairman of the Farmland Preservation Board

District – Voluntary Agricultural District

Article IV. Farmland Preservation Board

Section 401. Creation

A county farmland preservation board, consisting of seven (7) members appointed by the Board of Commissioners, is hereby established.

Section 402. Membership

- (402.1) Each board member shall be a resident of Iredell County.
- (402.2) Five (5) of the seven (7) members shall be actively engaged in farming and they may be selected for appointment by the Board of Commissioners from a list of possible candidates submitted to the Board of Commissioners by: the Iredell County Soil and Water Conservation District, the Iredell County Cooperative Extension Service and the U.S. Dept. of Agriculture Farm Service Agency. Appointments should be made with an effort to have the broadest geographical representation possible.
- (402.3) All members are to serve for terms of four (4) years, except the initial Board is to consist of two (2) appointees for a term of two (2) years; three (3) appointees for terms of three (3) years, and two (2) appointees for terms of four (4) years. thereafter, all appointments are to be for terms of four (4) years, with reappointments permitted.
- (402.4) Any vacancy on the Farmland Preservation Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.
- (402.5) The Board of Commissioners may remove with or without cause any member of the Farmland Preservation Board.
- (402.6) The per diem compensation of the members of the Farmland Preservation Board shall be fixed by the Board of Commissioners and funds shall be appropriated to the Farmland Preservation Board to perform its duties.

Section 403. Procedure

- (403.1) The Board is to elect a chairman and vice-chairman each year at its first meeting of the fiscal year. The chairman shall preside over all regular or special meetings of the Board. The Board shall adopt its own by-laws and such by-laws or amendments thereto must be approved by the Iredell County Board of Commissioners.
- (403.2) The Board will use the county fiscal year as its meeting year. The meetings of the Board shall be publicized and conducted in accordance with provisions of the North Carolina Open Meetings Law. Such meetings shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify.
- (403.3) The 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. The Board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Iredell County Planning Department office and shall be a public record.

403.4) The Iredell County Farmland Preservation Board shall contract with the Iredell County Planning Dept., with technical assistance of the Iredell County Cooperative Extension Service, to serve the Board for record keeping, correspondence, maintenance of application procedures, and whatever other services the board needs to complete its duties.

(403.5) The concurring vote of a majority of the members of the Farmland Preservation Board shall be necessary to; reverse any order, requirement, decision, or determination and to decide in favor of an applicant, or pass upon any other matter on which it is required to set under this ordinance.

Section 404. Duties

The Farmland Preservation Board shall:

(404.1) Review and approve applications for qualified farmland and voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural districts;

(404.2) Hold public hearing pursuant to Article VIII of this ordinance;

(404.3) Advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;

(404.4) Perform other related tasks or duties assigned by the Board of Commissioners.

(404.5) Develop a county wide farmland protection plan as defined in NCGS 106-744 (e) (1) for presentation to board of commissioners;

(404.6) Each district shall be assigned to a member of the Board who shall monitor and represent that district in all business conducted by the Board. Individual members will represent those districts closest to them geographically. No member will represent more than twenty-five percent (25%) of the total number of districts in the county or twenty-five percent (25%) of total land area.

Article V. Application for Voluntary Agricultural Districts

Section 501. Purpose

The purpose of voluntary agricultural districts formed by landowners shall be to encourage the economic and financial well being of farming areas, to increase protection from nuisance suits, undesirable non-farm development and other

negative impacts on participating farms, and to increase the identity and pride in the agricultural community and its way of life.

Section 502. Procedure

- (502.1) An agricultural district shall initially consist of at least 25 or more contiguous acres of qualifying farmland or be within 1-mile of an already existing district or at least two (2) or more qualifying farms, which collectively will create a district. An agriculture district may be enlarged by adding qualifying, contiguous farms.
- (502.2) Upon receipt of an application, the Board will forward copies immediately to:
- (A) The Iredell County Tax Assessors Office and,
 - (B) The Natural Resource Conservation Service; and
 - (C) The Iredell County Soil and Water Conservation District Office for their evaluation pursuant to Article VI. The said offices shall evaluate, complete and return their copies to the Chairman within thirty (30) days of receipt.
- (502.3) Within thirty (30) days of receipt of respective reports from the County Tax Assessor and the Natural Resource Conservation Service, the Board will meet and render a decision regarding the application. The Board will notify the applicant by mail of its decision.
- (502.4) If the application is denied by the Farmland Preservation Board, the petitioner has thirty (30) days to appeal the decision to the Iredell County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

Section 503. Public Notice

Voluntary agricultural districts will be marked on official maps maintained by the Iredell County Planning Dept. and displayed for public view in the following county office:

- (A) Registrar of Deeds
- (B) Planning Dept./Code Enforcement
- (C) Tax Supervisor / GIS Mapping Dept.
- (D) Soil and Water Conservation District/ Natural Resource Conservation Service
- (E) Cooperative Extension Service
- (F) Land Records Office
- (G) Any other office deemed necessary by the Board of Commissioners

Section 504. Subdivision Ordinance and Zoning Ordinance Review

Developers of major subdivisions or planned unit developments shall designate on the final plat or development plans, the existence of voluntary agricultural districts within one-half (1/2) mile radius of the proposed development.

Section 505. Public Information

The County may take such action as it deems appropriate through the Farmland Preservation Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including a public information program to reasonably inform landowners of the farmland preservation program.

ARTICLE VI. Certification for Qualifying Farmland

Section 601. Requirements

To secure County certification as qualifying farmland, a parcel must:

(601.1) Be participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or be otherwise qualified by the county to meet all the requirements of this program set forth in G.S. 105-277.3;

Be certified by the Natural Resources Conservation Service of the United States Department of Agriculture as being land on which at least two-thirds (2/3) of the land is composed of soils that:

- 1) are best suited for providing food, seed, fiber forage, timber, forestry, products, horticultural crops, and oil seed crops,
- 2) Have good soil qualities;
- 3) Have a favorable growing season;
- 4) are favorable for all major crops common to the county where the land is located,
- 5) receive the available moisture need to produce high yields for an average of eight out of ten years; or
- 6) has been actively used in agricultural, horticultural, or forestry operations as defined in G. S. 105-277.2 during each of the five previous years, measured from the date in which the determination must be made as to whether the land in question qualifies.

(601.2) Be managed, if highly erodible land exists on the parcel, in accordance with Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly erodible land; and

(601.3) Be the subject of a preservation agreement, as defined in 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 (10) years, except for the creation of not more than three (3) lots that meet applicable County zoning and subdivision regulations.

Section 602. Application

A landowner may apply to the Board for such certification at the same time he applies for the approval as an agricultural district.

ARTICLE VII. Revocation of Preservation Agreement

By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Article V of this ordinance, or the Board may revoke same preservation agreement based on non-compliance by the landowner. Such revocation shall result in loss of eligibility to participate in a voluntary agricultural district.

ARTICLE VIII. Public Hearings

Section 801. Purpose

Pursuant to N.C.G.S. 106-740, which 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 voluntary agricultural district until such agency or unit has requested the Farmland Preservation Board to hold a public hearing on the proposed condemnation, this section provides for such hearings. This ordinance shall not be interpreted or construed to limit the County's authority to acquire land within or outside a voluntary agricultural district for a public purpose, whether by purchase or condemnation.

Section 802. Procedure

(802.1) Upon receiving a request for condemnation, the Farmland Preservation Board shall, within three (3) days, publish a notice in newspaper having general circulation in Iredell County, describing the proposed condemnation. The notice shall state the time, date, and location of the public hearing on the proposed condemnation. Such hearing shall be held within fourteen (14) days of receipt of the request.

(802.2) The Board will meet to review:

(A) If the need for the condemnation 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) Alternatives to the proposed condemnation that are less disruptive and of less impact to the agricultural activities and farm land base of the voluntary agricultural district within which the condemnation action is to take place.

- (802.3) The Board will consult with the County Cooperative Extension Service, U.S.D.A. Natural Resources Conservation Service, and may consult with any other individuals, agencies, or organizations, public or private, necessary to the Board's review of the proposed condemnation.
- (802.4) Within ten (10) days after the public hearings, the Board will make a report containing its findings and recommendations regarding the proposed condemnation. The report will be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing condemnation.
- (802.5) Pursuant to N.C.G.S. 106-740, the County will not, within its scope of authority, permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the board within these time limitations.

ARTICLE IX. Special Requirements

Section 901. Purpose

The purpose of this section is to help meet the needs of agriculture as an industry and to prevent conflicts between voluntary agricultural district participants and non-farm landowners in proximity to these established agricultural districts.

Section 902. Procedure

- (902.1) Voluntary agricultural districts will not be permitted in designated residential or non-residential growth areas, as delineated in the most recently adopted County Land Use Plan, such plan being adopted after the effective date of this ordinance.
- (902.2) The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Soil and Water Conservation Service and any other entity the Board deems necessary to the proper conduct of its business.
- (902.3) A copy of this ordinance shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the County shall submit a written report to the Commissioner of Agriculture's office indicating the status, progress and activities of the county's farmland preservation program, including voluntary agricultural districting

information regarding:

- (A) Number of landowners enrolled
- (B) Number of acres applied
- (C) Number of acres certified
- (D) Number of acres denied
- (E) Date each agricultural district was certified

(902.4) Copies of the reports cited in Section 902.3 of this ordinance will be sent to:

- (A) N.C. Commissioner of Agriculture
- (B) N.C. Department of Transportation
- (C) N.C. Department of Commerce
- (D) The Greater Statesville and The South Iredell Chambers of Commerce
- (E) Any other entities the Board deems appropriate

(902.5) At such time as Iredell County has a computerized land records system with the associated capability, it shall be required that such records include some form of notice reasonably calculated to alert a person searching the title of a particular tract, that such is located within one-half (1/2) mile of a poultry, swine, or dairy qualifying farm or within six hundred (600) feet of any other qualifying farm or within one-half (1/2) mile of a voluntary agricultural district.

ARTICLE X. Effective Date

This ordinance shall be effective from the date of its passage, this the _____ day of _____, _____.

ATTEST: IREDELL COUNTY BOARD OF COMMISSIONERS

Acting Clerk Chairman

APPROVED AS TO FORM:

County Attorney