

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 58, ARTICLE III OF THE CODE OF ORDINANCES OF BUNCOMBE COUNTY REGARDING THE FARMLAND PRESERVATION PROGRAM.

WHEREAS, pursuant to N.C. Gen. Stat. § 106-736, Buncombe County may by ordinance establish a farmland preservation program pursuant to Chapter 106, Article 61 of the North Carolina General Statutes; and

WHEREAS, pursuant to N.C. Gen. Stat. § 106-739, the Board of Commissioners has established an Agricultural Advisory Board to make recommendations regarding the Farmland Preservation Ordinance and amendments to said ordinance; and

WHEREAS, pursuant to N.C. Sess. Law 2005-390, the North Carolina General Assembly amend Agricultural Development and Farmland Preservation Enabling Act to create the establishment of Enhanced Voluntary Agricultural Districts to offer additional benefits to property owners who participate in the program; and

WHEREAS, the Agricultural Advisory Board has made a comprehensive review of the existing ordinance last amended in 2001 and after a unanimous vote recommends that the Board of Commissioners adopt the following changes to the Article III, Chapter 58 of the Buncombe County Code of Ordinances.

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

Section 1. Chapter 58, Article III, of the Buncombe County Code of Ordinances is amended to read as follows:

(a) By deleting Chapter 58, Article III in its entirety and inserting the following in its place:

“ARTICLE III. FARMLAND PRESERVATION PROGRAM

DIVISION 1. GENERALLY

Sec. 58-26. Purpose of article.

The purpose of this article is to encourage the voluntary preservation and protection of farmland from nonfarm development, recognizing the importance of agriculture to the economic and cultural life of the county.

Sec. 58-27. Definitions.

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

Board means the county agricultural advisory board created pursuant to G.S. 106-739 to administer the farmland preservation program.

Chairperson means chairperson of the agricultural advisory board.

District means voluntary agricultural district, as provided for in G.S. 106-739.

Enhanced District means an enhanced voluntary agricultural district as established by this ordinance.

DIVISION 2. AGRICULTURAL ADVISORY BOARD

Sec. 58-41. Creation.

A county agricultural advisory board, to consist of nine members appointed by the **Board of Commissioners**, is hereby established.

Sec. 58-42. Membership.

- (a) *Requirements.* Requirements for membership shall be as follows:
- (1) Each board member shall be a county resident
 - (2) Five of the nine members shall be actively engaged in farming.
 - (3) The five members actively engaged in farming shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by the Soil and Water Conservation District, **the North Carolina Cooperative Extension Service** and **the United States Farm Service Agency committee**, with an effort to have the broadest geographical representation possible.
- (b) *Tenure.* The members are to serve for terms of three years, except that the initial board is to consist of **three appointees** for a term of one year; **three**

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 reappointments permitted.

- (c) *Vacancies.* Any vacancy on the **Board** is to be filled by the Board of Commissioners for the remainder of the unexpired term.
- (d) *Removal.* Any member of the Board may be removed by a majority vote of the Board of Commissioners. No cause for removal shall be required.

Sec. 58-43. Funding.

- (a) *Compensation.* The per diem compensation of the members of the Board shall be fixed by the Board of Commissioners.
- (b) *Appropriations for performance of duties.* Funds shall be appropriated by the Board of Commissioners to the **Board** to perform its duties.

Sec. 58-44. Procedure.

- (a) *Chairperson.* The **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 Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall have and exercise all the powers of the chairperson so absent or disabled. Additional officers may be elected as needed.
- (b) *Jurisdiction and procedures; supplementary rules.* The jurisdiction and procedures of the Board are set out in this article, except that the Board may adopt supplementary rules of procedure not inconsistent with this article or with other provisions of law.
- (c) *Board year.* The Board shall use the county fiscal year as its meeting year.
- (d) *Meetings.* Meetings of the Board, following such notice as required by this article, shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify. A called meeting shall be held at least every two months.
- (e) *Voting.* The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or agency, to decide in favor of an applicant, or to pass upon any other matter on which it is required to act under this article.

- (f) *Records.* 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, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- (g) *Administrative services.* The Board shall contract with the Soil and Water Conservation District office to serve the Board for recordkeeping, correspondence, application procedures under this article and whatever other services the Board needs to complete its duties.

Sec. 58-45. Duties.

- (a) The Board shall:
 - (1) Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland in either Districts or Enhanced Districts;
 - (2) Make recommendations concerning the establishment and modification of Districts or Enhanced Districts;
 - (3) Conduct public hearings;
 - (4) 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 Districts and Enhanced Districts;
 - (5) Review and make recommendations concerning proposed amendments to this ordinance;
 - (6) Develop and maintain a countywide farmland protection plan as defined in N.C.G.S. §106-744(e) for presentation to the Board of Commissioners;
 - (7) Study additional methods of protection for farming, horticulture, forestry, and the attendant land base, and make recommendations to the Board of Commissioners; and
 - (8) Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners

DIVISION 3. PRESERVATION AGREEMENT PROCEDURES

Sec. 58-56. Application for and certification for qualifying farmland in a District or Enhanced District.

(a) *Requirements.* To be eligible for certification the following requirements must be satisfied:

(1) *Certification as qualifying farmland.* To secure county certification as a qualifying farmland, a farm must be:

- a. Participating in the farm present-use-value taxation program established by G.S. 105-277.2 through G.S. 105-277.7, or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3.
- b. 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 the highly-erodible land.
- c. The subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits nonfarm use or development of 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.

(2) *Application for formation of or inclusion in District or Enhanced District.* To form or be included in a District or Enhanced District, a landowner may apply to the chairperson for such inclusion at the same time he applies for qualifying farmland certification, or at any time subsequent to receiving qualifying farmland certification, according to the following considerations:

- a. The purpose of Districts or Enhanced Districts formed by landowners shall be to encourage the economic and financial health of farming areas, to increase protection from nuisance suits, undesired nonfarm development and other negative impacts on participating farms and to increase the identity and pride in the agricultural community and its way of life.
- b. Requirements to participate are as follows:
 1. A District or Enhanced District shall consist of at least 50 contiguous acres of qualifying farmland or two or more

qualifying farms consisting of a total of at least 50 acres and lying within one mile of each other.

2. An agreement to sustain, encourage and promote agriculture must be executed by the landowners in the District or Enhanced District with the county and **Enhanced District shall be** recorded therein.
- c. Landowners may apply to participate in existing Districts and/or Enhanced Districts and are encouraged to do so, as follows:
1. To secure county certification as a qualifying farm, and if so desired by the applicant, as a District or Enhanced District, a landowner for such certification will apply to the Chairperson of the Board. Application forms may be obtained from the Chairperson.
 2. Upon receipt of an application, the chairperson will forward copies immediately to:
 - i. The County Planning Department;
 - ii. The County Tax Assessor; and
 - iii. The Soil and Water Conservation District and the Natural Resources Conservation Service office. Such offices shall evaluate, complete and return their copies to the chairperson within 30 days of receipt. The evaluation by the Soil and Water District and the Natural Resources Conservation Service may be made jointly.
- (3) *Decision by the Board; notification of applicant.* Within thirty (30) days of receipt of the evaluations, the Board shall meet and render a decision regarding the application. The Chairperson shall notify the applicant by mail if the real property for which certification is sought satisfies the criteria established in subsection (a) of this section and if the land has been certified as qualifying farmland, and also as a District or Enhanced District, if application was so sought.
- (4) *Appeal upon denial.* If the application is denied by the Board, the applicant has thirty (30) days 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.

- (b) *District or Enhanced District; marking on maps; public display.* District or Enhanced Districts shall be marked on county maps which shall be available for public inspection in the following county offices:
- (1) Register of deeds;
 - (2) Code enforcement;
 - (3) Soil and Water Conservation District;
 - (4) Agricultural extension;
 - (5) Land records office; and
 - (6) Any other office deemed necessary by the Board.
- (c) *Encouragement of Districts or Enhanced Districts.* The County may take such action as it deems appropriate through the Board or other body or individual to encourage the formation of Districts or Enhanced Districts and to further their purposes and objectives, including at a minimum a public information program to reasonably inform landowners of the farmland preservation program.

Sec. 58-57. Revocation and Enforcement.

- (a) Enforcement
- (1) District. By providing thirty (30) days advance written notice to the Board, a landowner of qualifying farmland within a District may revoke the Conservation Agreement or the Board may revoke the same Conservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Sec. 58-56(a) for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a District. Absent noncompliance by the landowner, neither the 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 Sec. 58-56(a).
 - (2) Enhanced District. Conservation Agreements for land within Enhanced Districts 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 the General Courts of Justice for Buncombe County, North Carolina. 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 Board shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Sec. 58-56(a). 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. A notice of revocation shall be recorded in the county land record system sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program.

(b) Renewal

- (1) District. Absent noncompliance by the landowner, neither the Board nor the Board of Commissioners shall fail to renew any Conservation Agreement unless this Ordinance or its authorizing legislation has been repealed.
- (2) Enhanced District. A Conservation Agreement for the Enhanced District shall be deemed automatically renewed for an additional term of three (3) years, unless either the Board or the landowner gives written notice to the contrary prior to the termination date of the Conservation Agreement.

Sec. 58-58. Public Hearings Regarding Condemnation.

- (a) *Purpose.* Pursuant to 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 or Enhanced District until such agency or unit has requested the Board to hold a public hearing on the proposed condemnation, this subsection provides for such hearings.
- (b) *Procedure.* The hearing procedure shall be as follows:
 - (1) *Time Period.* The total time period from the day that the request for a hearing has been received to the day that a final report is issued to the decision making body or the agency proposing the condemnation, shall not exceed thirty (30) days. Five (5) days prior to holding a public meeting, the Board must publish notice of said public hearing in a newspaper of general circulation where the District or Enhanced District is located and posting a copy of the notice by any electronic means. If the agency agrees to an extension, the agency and the Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

- (2) *Review.* The Board shall meet to review:
 - a. If 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 destructive to the agricultural activities of the District or Enhanced District within which the proposed action is to take place.
- (3) *Consultation.* The Board shall consult with the County Cooperative Extension agent, U.S.D.A. Natural Resources Conservation Service District Conservationist, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.
- (4) *Report of findings.* After a public hearing, the Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the decision-making body of the agency proposing acquisition and the general public.
- (5) *Formal initiation of condemnation.* Pursuant to G.S. 106-740, the county shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Board within these time limitations.

Sec. 58-59. Waiver of water and sewer assessments.

- (a) *Purpose of section.* The purpose of this section is to help mitigate the financial impacts on farmers by some local and state capital investments unused by such farmers.
- (b) *Procedure.* The waiver procedure shall be as follows:
 - (1) Landowners belonging to **Districts or Enhanced Districts** shall not be assessed for, or required to connect to, **County** water and/or sewer systems.
 - (2) Water and sewer assessments shall be held in abeyance, without interest, for farms inside a **District or Enhanced District**, until

improvements on such property are connected to the water or sewer system for which the assessment was made.

- (3) When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.
 - (4) Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.
 - (5) Assessment procedures followed under G.S. 153A-185 et seq. shall conform to the terms of this article with respect to qualifying farms that entered into preservation agreements while such article was in effect.
 - (6) Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201.
- (c) **Conflict with County 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.

Sec. 58-60. Notice Provisions.

- (a) *Purpose.* The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between **District or Enhanced District** participants and nonfarm landowners in proximity to **Districts or Enhanced Districts**.
- (b) *Districts and Enhanced Districts established.* The **County** has established **Districts or Enhanced Districts** for farmland preservation to protect and preserve agricultural lands and activities. These **Districts or Enhanced Districts** have been developed and mapped by the county to inform all purchasers of real property that certain agricultural activities, including, but not limited to, pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities may take place in these **Districts or Enhanced Districts** any time during the day or night. Maps and information on the location and establishment of these **Districts or Enhanced Districts** can be obtained from the county planning and development office.
- (c) *Notification generally.* The **Board**, in cooperation with the county, shall provide notification to property owners, residents and other interested persons in and adjacent to any designated agricultural district. The purpose of such notification

is to inform all current and potential residents and property owners in and adjacent to an agricultural district that farming and agricultural activities may take place in this **District or Enhanced District** any time during the day or night. These activities may include, but are not limited to pesticide spraying, manure spreading, machinery operations, livestock operations, sawing, and similar activities.

- (d) *Types of notification.* Notification shall be provided as follows:
- (1) Signs identifying approved **Districts or Enhanced Districts** **may** be placed along the rights-of-way of major roads.
 - (2) Maps identifying approved **Districts or Enhanced Districts** shall be provided to the register of deeds, code enforcement, the Soil and Water Conservation office, the agricultural extension office, and the land records office.
 - (3) The following notice shall be available for public inspections in the register of deeds' office:

Notice to real estate purchasers in Buncombe County of **each Voluntary Agricultural Districts or Enhanced Voluntary Agricultural District** for farmland preservation.
- (e) *Areas where district not permitted.* **Districts or Enhanced Districts** will not be permitted in designated county growth areas, as delineated on the official county planning map as of the date this article is adopted.

Sec. 58-61. State agency notification.

- (a) The **Board** shall consult as much as possible with the state department of agriculture, the state division of soil and water and any other entity the **Board** deems necessary to the proper conduct of its business.
- (b) A record of this article shall be recorded with the state commissioner of agriculture's office after adoption. At least once a year the county shall submit a written report to the commissioner of agriculture, including the status, progress and activities of the county's farmland preservation program, including **District and Enhanced Districting** information regarding:
 - (1) Number of landowners enrolled;
 - (2) Number of acres applied;

- (3) Number of acres certified;
 - (4) Number of acres denied; and Date certified.
- (c) Copies of the reports cited in subsection (b) of this section will be sent to:
- (1) State department of transportation;
 - (2) Secretary, state department of commerce;
 - (3) Asheville Area Chamber of Commerce; and
 - (4) Any other entities the Board deems appropriate.

58-62. Additional Benefits for Enhanced Districts.

- (a) Land enrolled in the Enhanced District program is entitled to all of the benefits available under the District program, and to the following additional benefits:
- (1) *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.
 - (2) *Agricultural Cost Share Program.* 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 Part 9 of Article 21 of Chapter 143 of the General Statutes to benefit that farmland.
 - (3) *Priority Consideration.* State departments, institutions, or agencies that award grants to farmers are encouraged to give priority consideration to landowners participating in Enhanced Districts.
 - (4) *Utility Assessment Waiver.* As provided in Sec. 58-59, waiver all county utility assessments in addition to waiver of water and sewer assessments is available to all participants in Enhanced Districts.

DIVISION 4. CONSERVATION AGREEMENT PROGRAM

Sec. 58-71. Purpose.

- (a) *General.* The preservation of the county's best agricultural land in a manner that directs and accommodates growth and development is a high priority to the residents of the county. To this end the county establishes the following goals:
- (1) To protect and conserve those soils in the county best suited to agricultural uses;
 - (2) To identify and harmonize policies of government at all levels which may conflict with the goal of protection of farmland;
 - (3) To reduce land use conflicts between agricultural and other land uses; and
 - (4) To promote agriculture as an integral part of the county's economy.

These program guidelines contain policies and procedures for administering a conservation agreement program.

- (b) *Duties and responsibilities of the Board.* The Board shall act on behalf of the county in administering the conservation agreement program within the farmland preservation program. The planning department shall make recommendations to the Board on the selection of properties for purchase, lease, and/or donation and on the development of purchase and lease priorities. The County Attorney shall execute any and all documents necessary to purchase, lease, and/or accept donations of conservation easements and perform any other such acts necessary for the implementation of this program. The Board shall administer this program within the financial resources provided by the Board of Commissioners.
- (c) *Definitions of conservation agreements.* For purposes of this program, "conservation agreement" is defined as a right, whether or not stated in the form of a restriction, reservation, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or improvement thereon or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming or forest use, to forbid or limit any or all of the following:
- (1) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground;

- (2) Dumping or placing soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;
- (3) Removal or destruction of trees, shrubs or other vegetation;
- (4) Excavation, dredging or removal of loam, peat, gravel, soil, rock, or other mineral substance in such manner as to affect the surface;
- (5) Surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition;
- (6) Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or
- (7) Other acts or uses detrimental to such retention of land or water areas.

None of the above limitations should be interpreted to prevent a landowner from conducting agricultural activities as defined in subsection (d) below.

- (d) *Definition of agricultural uses.* For purposes of this program, "agricultural uses" are defined as including, but not limited to, the production of crops, forestry products, horticultural specialties, livestock, and livestock products. Associated uses allowable are sales and processing necessary and customarily incidental to the agricultural activities on-site which are in keeping with the purpose of the program.
- (e) *Definition of open space* For purposes of this program, "open space" is defined as land used for recreation, natural resource protection, amenities, and/or buffer yards. Open space may include, but is not limited to lawns, walkways, active recreation areas, playgrounds, wooded areas, greenways, and water courses.

Sec. 58-72. Agricultural preservation area (APA).

"Agricultural preservation areas" shall be defined as lands currently enrolled in the existing voluntary farmland preservation program of the county.

Sec. 58-73. Purchase of conservation easements.

- (a) *General.* The county may purchase conservation easements in agricultural and/or open space lands. All applications for the purchase of conservation easements will be evaluated based upon the attached farmland ranking system. Highest priority will be given to farms located within the APA. There may be

instances when purchasing agricultural conservation easements on farms outside of the APA may serve the citizens well. Applications will be ranked based upon various site factors, such as the level of development pressure and agricultural production capability. Conservation easements may be purchased in accordance with the ranking of farm properties and the availability of allocated funds. Compensation for conservation easements will be based on the Board's determination of the difference between fair market value and agricultural or open space value appraisals. The purchase price will be subject to negotiation.

- (b) *Description.* The purchase of conservation easements is legally binding, restricting the owner and future owners to agricultural and/or open space use of the land. The conservation easements will be held in public trust by the county, or transferred to a private nonprofit conservation organization. Conservation easements will be in perpetuity and in compliance with the North Carolina Historic Preservation and Conservation Agreement Act and applicable federal and state tax laws.
- (c) *Minimum eligibility criteria.* The agricultural and/or open space land must be at least ten acres in size or contiguous to a ten-acre tract for which **a perpetual conservation easement exists**, and be in agricultural and/or open space use.
- (d) *Application procedure.* An application must be submitted to the **Board** through the **Soil and Water Conservation District**.
- (e) *Review and ranking of application.* The **Soil and Water Conservation District** will rank each of the applications using the soil assessment and "T" formula of conservation criteria of the farmland ranking system. The **Soil and Water Conservation District** will forward the application and soil assessment to the planning department which will rank each of the applications using the site assessment criteria of the farmland ranking system, will prioritize applications and make recommendations to the Board.
- (f) *Acquisition.*
 - (1) The county attorney will obtain two appraisals on tracts considered for entry into the program. One appraisal will establish current fair market value of the property at its current highest and best use. The second appraisal will establish the value of the property for agricultural or open space use. Payment for these appraisals will be based upon negotiations with the landowner at the county's discretion.
 - (2) Upon receiving the written appraisals, the county attorney will present the values to the landowner by certified mail. The landowner will have 30 days from receipt of the values to submit an offer to sell his/her

conservation easements. Failure to respond in writing within the required time may constitute waiver of the opportunity. Upon receiving an offer to sell, the county attorney and a member of the Board will meet with the landowners and attempt to negotiate a price with the landowner and recommend a purchase price to the **Board of Commissioners**. If an agreement is reached, a contract to convey will be signed promptly by the landowner and the **Board of Commissioners** or their designee.

- (3) The county attorney will cause any necessary title examinations to be performed and all documentation to be prepared. If the property in question is subject to mortgage(s) or lien(s), a subordination agreement or waiver must be secured from the mortgage or lien holder. Closing will not take place until this requirement is met. The county attorney will assist in securing this agreement with the mortgage or lien holder, at the request of the landowner.
 - (4) Upon preparation of appropriate legal documents covering titles, deeds, surveys, and subordination agreements, the closing will be scheduled. Prior to closing, all legal documents will be reviewed by the county attorney for verification and accuracy. At closing, the owner will execute appropriate full warranty documents conveying conservation easements to the county in perpetuity. After proper recordation of necessary instruments, the landowner will be presented a check. The county will bear all closing and related costs. The county attorney will securely store all pertinent records, including deeds.
 - (5) The Board of Commissioners may extend any stated time limit, as circumstances require. The deviations will be reported to the chairman of the Board and the landowner.
- (g) *Public disclosure.* During negotiations concerning the purchase of conservation easements, information will be kept confidential, as allowed by law. Following a purchase agreement, information may be made public as provided by law.

Sec. 58-74. Lease of conservation easement.

- (a) *General.* The county can lease conservation easements in agricultural lands. High priority will be given to applicants located within an APA. Applications will be ranked based upon various site factors, such as the level of development pressure and agricultural production capability. Conservation easements will be leased in accordance with the ranking of farm properties and the availability of allocated funds. Compensation for conservation easements will be based on the Board's determination of cash rent values for comparable land. The lease price will be subject to negotiation. The leasing of conservation easements will be a

low priority, used only when insufficient interest in the purchase of conservation easements exist.

- (b) *Description.* The lease of conservation easements is legally binding, restricting the owner and future owners to agricultural and/or open space use of the land. The conservation easements will be held in public trust by the county or transferred to a private nonprofit conservation organization.
- (c) *Minimum eligibility criteria.* The agricultural and/or open space land must be at least ten acres in size or contiguous to a ten-acre tract for which a perpetual conservation easement exists, and be in agricultural and/or open space use.
- (d) *Application procedure.* An application must be submitted to the Board through the Soil and Water Conservation District.
- (e) *Review and ranking of applications.* The Soil and Water Conservation District will rank each of the applications using the soil assessment and "T" formula of conservation criteria of the farmland ranking system. The county soil and water conservation district will forward the application and soil assessment to the county planning department which will rank each of the applications using the site assessment criteria of the farmland ranking system, will prioritize applications and make recommendations to the Board.
- (f) *Acquisition.*
 - (1) The Board will calculate a maximum cash rent value for each application. A cash rent value factor will be set by a committee consisting of the NRCS District Conservationist, the county extension director, and three residents of the county selected by the Board, who derive a majority of their income from agricultural production. The Board will call the meeting of this committee and document the findings. The cash rent value factor will include the lease price per acre for the first five years of the lease and the formula for annual payments for the term of the lease.
 - (2) Upon calculating the lease value, the county attorney will present the value to the landowner by certified mail. The landowner will have 30 days from receipt of the values to submit an offer to lease his/her conservation easements. Failure to respond in writing within the required time may constitute waiver of the opportunity. Upon receiving an offer to lease, the county attorney will meet with the landowner and accept, reject, or negotiate a compromise price with the landowner. If an agreement is reached, a contract to convey will be signed promptly by the landowner and the Board of Commissioners or their designee.

- (3) The county attorney will cause any necessary title examinations to be performed and all documentation to be prepared. If the property in question is subject to mortgage(s) or lien(s), a subordination agreement or waiver must be secured from the mortgage or lien holder. Closing will not take place until this requirement is met. The county attorney will assist in securing this agreement with the mortgage or lien holder, at the request of the landowner.
 - (4) Upon preparation of appropriate legal documents covering the lease of a conservation easement the county attorney shall review all necessary documents prior to the execution by both parties. The county attorney will securely store all pertinent records, including the lease and related deeds, and will cause a copy of any lease to be recorded with the county office of the register of deeds.
 - (5) The Board of Commissioners may extend any stated time limit, as circumstances require. The deviations will be reported to the chairman of the Board and the landowner.
- (g) *Public disclosure.* During negotiations concerning the lease of conservation easements, information will be kept confidential, as allowed by law. Following closing of each lease, information may be made public as provided by law.

Sec. 58-75. Donation of conservation easements.

- (a) *General.* The Board of Commissioners may accept a voluntary donation or devise of conservation easements.
- (b) *Description.* The donation of conservation easements is legally binding, restricting the owner and future owners to agricultural and/or open space use of the land. The conservation easements will be held in public trust by the county or transferred to a private nonprofit conservation organization. Conservation easements will be in perpetuity and in compliance with the North Carolina Historic and Conservation Agreements Act and applicable federal and state tax laws.
- (c) *Minimum eligibility criteria.* The agricultural and/or open space land must be at least ten acres in size or contiguous to a ten-acre tract for which a perpetual conservation easement exists, and be in agricultural and/or open space use.
- (d) *Application procedure.* Guidance documents for donating conservation easements are housed at the soil and water conservation district office. Upon contact by a landowner, a meeting will be set with the county attorney and a member of the Board to discuss donation of conservation easements.

- (e) *Review of applications.* The county **Soil and Water Conservation District** will rank each of the applications using the soil assessment and "T" formula of conservation criteria of the farmland ranking system. The **Soil and Water Conservation District** will forward the application and soil assessment to the county planning department which will rank each of the applications using the site assessment criteria of the farmland ranking system. The planning department will review the documentation to determine whether the minimum eligibility criteria are met, will prioritize applications and may make recommendations to the Board on the waiver of any of the criteria.
- (f) *Acquisition.*
- (1) The county attorney will obtain two appraisals on tracts considered for entry into the program. One appraisal will establish current fair market value of the property at its current highest and best use. The second appraisal will establish the value of the property for agricultural or open space use. Payment for these appraisals will be based upon negotiations with the landowner at the county's discretion.
 - (2) Upon receiving the written appraisals, the county attorney will prepare a donation verification statement to document the value of the interest conveyed to the county. This statement will be based on the difference between the appraised values. If an agreement is reached, a contract to convey will be signed promptly by the landowner and the **Board of Commissioners** or their designee.
 - (3) The county attorney will cause any necessary title examinations to be performed and all documentation to be prepared. If the property in question is subject to mortgage(s) or lien(s), a subordination agreement or waiver must be secured from the mortgage or lien holder. Closing will not take place until this requirement is met. The county attorney will assist in securing this agreement with the mortgage or lien holder, at the request of the landowner.
 - (4) Upon preparation of appropriate legal documents covering titles, deeds, surveys, and subordination agreements, the closing will be scheduled. Prior to closing, all legal documents will be reviewed by the county attorney for verification and accuracy. At closing, the owner will execute appropriate full warranty documents conveying conservation easements to the county in perpetuity. After proper recordation of necessary instruments, the chairman of the Board of Commissioners, or his designee, will sign and present the donation verification statement to the

landowner. The county will bear all closing and related costs. The county attorney will securely store all pertinent records, including deeds.

- (g) *Public disclosure.* During negotiations concerning the donation of conservation easements, information will be kept confidential as allowed by law. Following a donation agreement, information may be made public as provided by law.

Sec. 58-76. Repurchase of conservation easements.

- (a) *General.* The designation of agricultural preservation areas and the subsequent purchase of conservation easements is intended to create areas with sufficient amount of contiguous agricultural and/or open space land to facilitate the permanent agricultural and/or open space use of land. While program activity will be directed toward that goal, success is dependent on the voluntary participation of landowners. If a landowner or several owners of small tracts are the only participants in their area, the goal may not be achieved. These landowners could become land locked by development and agricultural and/or open space use may become impractical. In such a situation it may be in the best interest of the landowner and the public to allow repurchase of the conservation easements for the property in question. Other circumstances could also affect a property's suitability for continued agricultural and/or open space use. Repurchase of conservation easements by a landowner is foreseen as an unusual and infrequent occurrence, and would take place with the concurrence of the Board and the **Board of Commissioners**.
- (b) *Eligibility criteria.* In order for a repurchase request to be considered, the following criteria must be met: The original purchase of conservation easements must have occurred at least 20 years prior to the request for repurchase and the conservation easements must have been purchased by and not donated to the county.
- (c) *Repurchase procedure.* A landowner requesting a review of his property for possible repurchase of conservation easements should do so by certified letter to the Board. The letter should state the reason for the request and the date that the property was entered into the program. Any repurchase agreement included in a perpetual conservation easement must comply with the North Carolina Historic Preservation and Conservation Agreements Act and applicable federal and state tax laws. Upon approval in principle to the repurchase, the landowner must submit two appraisals of value for the property in question. One appraisal will establish the fair market value of the property at its current highest and best use. The second appraisal will establish the value of the property for agricultural or open space use. Other appraisals may be secured as necessary. The Board will review the appraisal values and decide to either recommend a repurchase price to the **Board of Commissioners** or decline to recommend repurchase. If a

repurchase price is approved by the Board of Commissioners, the landowner will be notified. If the price is acceptable to the landowner, he/she will submit a written offer to purchase the conservation easements. The county may accept the bid and advertise for upset bids. If an agreement is reached, a contract to convey will be signed promptly by the landowner and the **Board of Commissioners** or their designee. The landowner will secure all legal documents necessary for the closing and will bear all associated costs. When legal documents are prepared and adequate financing is available, a date, time, and location for closing will be agreed upon. Payment shall be made directly to the county at closing by a certified check or equivalent payment.

Sec. 58-77. Property use restrictions.

- (a) In addition to restrictions set out elsewhere in these guidelines, the following restrictions will apply to property included in the purchase, lease or donation of conservation easements program. A waiver of any restriction may be granted only upon approval by the Board in writing.
 - (1) Residences permitted on the land from which conservation easements have been conveyed are existing dwellings and the replacement of existing dwellings. No more than three dwellings will be permitted on the property included in the purchase, lease or donation of conservation easements. Request for additional dwellings shall be considered on a case by case basis.
 - (2) All permitted non-agricultural structures shall, when feasible, be located in the immediate vicinity of existing structures, described as the homestead or curtilage, as reasonable expansions of the homestead or curtilage or on the area(s) of the property of least productive capability. Such permitted structures shall, when feasible, utilize existing or common driveways, lanes or right-of- ways.
 - (3) The extraction of minerals by surface mining and extraction and removal of topsoil from the property are prohibited. The extraction of subsurface or deep-mined minerals, including natural gas and oil, and the non-commercial extraction of minerals including limestone, shale and other minerals shall be permitted, as long as the removal activity does not significantly diminish the agricultural potential of the land.
 - (4) Use of the property for dumping, storage, processing, or landfill of non-agricultural solid waste generated off-site is prohibited. Land application of biosolids is acceptable.

- (5) Use of the property for dumping, storage, processing, or landfill of hazardous or nuclear waste is prohibited.
- (6) Signs, billboards, and outdoor advertising structures may not be displayed on the property except to state the name of the property, the name and address of the occupant, to advertise an on-site activity and to advertise the property for sale or rent, as allowed by the county sign ordinance.
- (7) Agricultural land will be managed in accordance with sound soil and water conservation practices in a manner which will not destroy or substantially or irretrievably diminish the productive capability of the property.
- (8) County officials shall have the right to enforce these restrictions by injunction and all other appropriate proceedings allowable by law. Representatives of the county may enter upon the property for the purposes of inspection concerning compliance with the conservation agreement program.
- (9) The county will hold the conservation easements in public trust for farmland preservation and/or open space purposes and will not voluntarily assign these rights except to another organization bound to hold such rights for the same purposes.
- (10) All tracts of land from which conservation easements were purchased with federal or state funds will be subject to federal and state regulations concerning farmland preservation.
- (11) Timbering shall be permitted when based on a valid management plan prepared by a registered forester or consulting forester.

Sec. 58-78. Farmland ranking system.

The farmland ranking system will be used to rank, or prioritize, applications received from landowners seeking sale, lease or donation of their conservation easements. The system can be used for evaluating conversion impact. The system consists of two parts:

1. *Site assessment criteria.* This part of the system consists of ten factors, most of which are related to development pressures and development capability/suitability of a particular farm parcel and its surrounding area. Each factor is assigned a point value based on its relative importance to other factors.

2. *Soil assessment criteria.* All soils in the county have been rated and placed into groups ranging from the most productive farmland to the least productive. A relative value has been determined for each group. The best group is assigned the highest value and all other groups are assigned lower values.

To determine the total value of a given parcel, the values for the soil assessment and site assessment criteria are added together.

Site assessment criteria

The following information describes the criteria to be used in site evaluation in administering the conservation agreement program. Point values and the criteria for allocation of ranking points are listed below.

1. Tract size (weight 200 points).
A score of one point per acre is given up to a maximum of 200 points.
2. Percentage of tract in agricultural and/or open space use (weight 100 points).
A score of one ranking point per percentage point of land in production or open space compared to total tract size is given up to a maximum of 100 points.
3. Proximity to public water and sewer (weight 50 points).

	Points
Existing service area adjacent	50
Existing or planned service area within 1/4 mile	40
Existing or planned service area within 1/2 mile	30
Existing or planned service area within 1-mile radius	20
No existing or planned service area within 1-mile radius	10

4. Probability of conversion (weight 100 points).

	Points
Property subject to potential forced sale	100

Property subject to estate settlement sale	75
Property actively marketed for voluntary sale	50

5. Proximity to planned development (weight 50 points).

	Points
Non-agricultural development planned adjacent	50
Non-agricultural development planned within 1/4 mile	40
Non-agricultural development planned within 1/2 mile	30
Non-agricultural development planned within 1 mile	20
Planned agriculture within 1 mile	10

6. Proximity to agricultural preservation areas (APA) (weight 50 points).

	Points
Included in or adjacent to APA	50
Within 1/4 mile	40
1/4 to 1/2 mile	30
More than 1/2 mile	20

7. Capital investment in farm operation (weight 200 points). (Dwellings are not included in this determination other than employee housing)

	Points
Substantial capital investment within past 5 years	200
Substantial capital investment within past 10 years	100
Substantial capital investment within past 15 years	50

8. Conservation program (weight 200 points).

A score of two ranking points per percentage point of land meeting the "T" formula of conservation is given up to a maximum of 200 points.

9. Historic, scenic, environmental qualities (weight 50 points).

	Points
Exceptional features favorable to preservation (National Register of Historic Places, exceptional scenic contribution on major highway corridor, exceptional or special environmental circumstances).	50
Significant features favorable to preservation (Historic Site Survey, significant scenic contribution on rural roads, significant environmental circumstances).	40
Features favorable to preservation (Significant, but undocumented historic features, moderate localized scenic contribution and/or limited but recognized environmental features favorable to preservation).	30

10. Specialty products (weight 50 points).

A score of one-half a ranking point per percentage point of land used for production of a locally unique crop or product up to a maximum of 50 points.

FORESTLAND SOIL ASSESSMENT CRITERIA

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
<u>GROUP 1 – HIGH SITE INDEX (>=90) = 100 POINTS</u>							
BeA	Biltmore loamy sand, 0 to 3 percent slopes			106		106	
ChD, ChE, ChF Cheoa	Cheoa-Jeffrey complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony (Jeffrey is listed in a lower point category)	-	-	103	84	93	
CkB2, CkC2, CkD2, CkE2	Clifton Clay loam, 2 to 8; 8 to 15; 15 to 30; and 30 to 50 percent slopes	95	-	-	-	95	
CsB, CsC, CsD	Clifton sandy loam, 2 to 30 percent slopes	95	-	96	-	95	
DeA Dellwood Reddies	Dellwood-Reddies complex 0 to 3 percent slopes	91 -	- -	100 105	- -	95 105	

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
FaC2, FaD2, FaE2	Fannin-Lauada complex, 8 to 15; 15 to 30; and 30 to 50 percent slopes, moderately eroded						
Fannin Lauada		94 -	- -	96 -	84 -	91 -	
FrA	French loam, 0 to 3 percent slopes	105	-	105	-	105	
IoA	lotla loam, 0 to 2 percent slopes, occasionally flooded	90	-	100	-	95	
RdA	Reddies sandy loam, 0 to 3 percent slopes, occasionally flooded	105	-	-	-	105	
StB	Statler loam, 1 to 5 percent slopes, rarely flooded	90	-	100	-	95	
TaB, TaC, TaD	Tate loam 2 to 8; 8 to 15; and 15 to 30 percent slopes	89	-	92	-	90	
TkC, TkD	Tate loam, 8 to 15, and 15 to 30 percent slopes, very stony	89	-	92	-	90	
TnE	Toecane very cobbly loam 30 to 50 percent slopes, extremely bouldery	-	-	104	-	104	
ToC, TpD, TpE	Toecane-Tusquitee complex, 8 to 15; 15 to 30; and 30 to 50 percent slopes, very bouldery						
Toecane Tusquitee		- 100	- -	104 103	104 -	104 102	
TtE	Trimont loam 30 to 50 percent slopes, stony	102	-	-	94	98	
TuD	Tusquitee-Toecane complex 15 to 30 percent slopes, stony						
Tusquitee Toecane		100 -	- -	103 104	- -	102 104	
TwB, TwC	Tusquitee-Whiteside complex 2 to 8; and 8 to 15 percent slopes						
Tusquitee Whiteside		100 90	- -	103 95	- -	102 92	

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
WtB, WtC	Whiteside loam, 2 to 8; and 8 to 15 percent slopes	90	-	95	-	92	
<u>GROUP 2 – MEDIUM SITE INDEX (60-89) = 74 POINTS</u>							
AcD, ArE, ArF	Ashe Cleveland-Rock outcrop complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, very stony	81	-	-	-	81	
Ashe		-	-	-	-	-	
Cleveland		-	-	-	-	-	
Rock Outcrop		-	-	-	-	-	
BkB2, BkC2, BkD2	Braddock clay loam, 2 to 8; 8 to 15; and 15 to 30 percent slopes, moderately eroded	91	-	87	77	85	
ChD, ChE, ChF	Cheoa-Jeffrey complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	70	-	80	60	70	
Jeffrey							
DrB	Dillard loam, 1 to 5 percent slopes	95	75	95	-	87	
EdC, EdD, EdE, EdF	Edneyville-Chestnut complex, 8 to 15; 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	90	64	98	80	83	
Edneyville		-	-	-	-	-	
Chestnut							
EvD2, EvE2, EvF2	Evard-Cowee complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	91	73	95	-	86	
Evard		78	-	-	80	79	
Cowee							
EwC, EwD, EwE, EwF	Evard-Cowee complex, 8 to 15; 15 to 30; 30 to 50, and 50 to 95 percent slopes, stony	93	73	95	-	87	
Evard		78	78	80	-	79	
Cowee							
HcE	Heintooga-Chiltoskie complex, 30 to 50 percent slopes, very stony	-	-	-	-	-	
HpA	Hemphill loam, 0 to 3 percent slopes, rarely flooded	84	-	88	-	86	

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
JbB, JbC, JbD, JbE Junaluska Brasstown	Junaluska-Brasstown complex, 2 to 8; 8 to 15; 15 to 30; and 30 to 50 percent slopes	86 91	68 71	- -	- -	77 81	
KsB, KsC Kanuga Swannanoa	Kanuga-Swannanoa complex 2 to 8 percent slopes	90 -	75 -	95 -	- -	87 -	
MvD, MvE, MvF Mars Hill Walnut	Mars Hill-Walnut complex 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	84 75	69 -	- -	- -	78 75	
MwD, MwE, MwF Micaville Brownwood	Micaville-Brownwood complex 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	- 78	- -	- 97	- 80	- 85	
NkA	Nikwasi loam, 0 to 2 percent slopes, drained or un-drained	84	-	88	-	86	
NtD, NtE Northcove Maymead	Northcove-Maymead complex, 15 to 30; and 30 to 50 percent slopes, very stony	80 -	- -	- 90	- 75	80 82	
PwC, PwD, PwE, PxF Porters Unaka	Porters-Unaka complex, 8 to 15; 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	88 -	- -	97 90	82 77	89 83	
SoD, SoE, SoF Soco Stecoah	Soco-Stecoah complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	85 91	61 68	- -	- 81	73 80	
SyD, SyE, SzF Sylco Soco	Sylco-Soco complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, stony	85 85	- 61	- -	- -	85 73	
TsA	Toxaway loam, 0 to 2 percent slopes (drained or un-drained same), frequently flooded	94	-	85	-	89	

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
UkD, UKE, UkF Unaka Rock Outcrop	Unaka-Rock Outcrop complex, 15 to 30; 30 to 50; and 50 to 95 percent slopes, very bouldery	- -	- -	90 -	77 -	83 -	
WaC2, WaD2, WaE2 Walnut Oteen Mars Hill	Walnut-Oteen-Mars Hill complex, 8 to 15; 15 to 30; and 30 to 50 percent slopes, moderately eroded	75 - 87	- 67 69	- - -	- - -	75 67 78	
WnF Walnut Oteen Rock Outcrop	Walnut-Oteen-Rock Outcrop complex, 50 to 95 percent slopes	75 - -	- 67 -	- - -	- - -	75 67 -	
WoE	Wayah-Burton complex, 30 to 50 percent slopes, bouldery	-	-	-	72	72	
WpF Wayah Burton	Wayah-Burton complex, 50 to 95 percent slopes, very rocky	- -	- -	- -	72 -	72 -	
ZcB, ZcC, ZoD	Zillicoa loam, 2 to 8; 8 to 15; and 15 to 30 percent slopes	-	63	88	-	75	
<u>GROUP 3 – LOW SITE INDEX (<60) = 55 POINTS</u>							
OwC, OwD, OwE, Owf Oconaluftee Guyot Cataloochee	Oconaluftee-Guyot-Cataloochee, windswept, 8 to 15; 15 to 30; 30 to 50; and 50 to 95 percent slopes, bouldery	- - -	- - -	- - -	40 40 40	40 40 40	
RsA	Rosman fine sandy loam, 0 to 3 percent slopes, occasionally flooded	-	-	40	-	40	
WrC, WrD, WrE, WsF	Wayah-Burton complex, windswept, 8 to 15; 15 to 30; 30 to 50; and 50 to 90 percent slopes, bouldery						

Map Symbols	Map Unit Name	WP	SLP	YP	NRO	Av SI	Pt
RkF	Rock Outcrop-Cleveland complex 30 to 95 percent slopes, very bouldery	-	-	-	-	-	
RoF	Rock Outcrop-Oteen complex 30 to 95 percent slopes, very bouldery	-	-	-	-	-	
TmB, TmC, TmD	Tate-Urban land complex 2 to 8; 8 to 15; and 15 to 30 percent slopes	-	-	-	-	-	
UcB	Udifluvents, sandy, 0 to 5 percent slopes, frequently flooded	-	-	-	-	-	
Ud	Udorthents, loamy	-	-	-	-	-	
UfB	Udorthents-Urban land complex, 0 to 5 percent slopes, occasionally flooded	-	-	-	-	-	
UhE	Udorthents-Urban land complex, 2 to 50 percent slopes	-	-	-	-	-	
UnB, UnC, UnD	Unison loam 2 to 8; 8 to 15; and 15 to 30 percent slopes	-	-	-	-	-	
UrB, UrC	Unison-Urban Land complex, 2 to 8; and 8 to 15 percent slopes	-	-	-	-	-	
Ux	Urban Land	-	-	-	-	-	
W	Water	-	-	-	-	-	

Note: All other map units being used for forestry purposes will be determined on an individual basis.

FARMLAND SOIL ASSESSMENT CRITERIA

Map Symbol				
	Map Unit Name	Farmland Classification	Group	Points
BkD2	Braddock clay loam, 2 to 8 percent slopes, moderately eroded	All areas are prime farmland	P1	100
CkB2	Clifton clay loam, 2 to 8 percent slopes, moderately eroded	All areas are prime farmland	P1	100
DrB	Dillard loam, 1 to 5 percent slopes, rarely flooded	All areas are prime farmland	P1	100
KsB	Kanuga-Swannanoa complex, 2 to 8 percent slopes	All areas are prime farmland	P1	100
RdA	Reddies sandy loam, 0 to 3 percent slopes, occasionally flooded	All areas are prime farmland	P1	100
RsA	Rosman fine sandy loam, 0 to 3 percent slopes, occasionally flooded	All areas are prime farmland	P1	100
StB	Statler loam, 1 to 5 percent slopes, rarely flooded	All areas are prime farmland	P1	100
TaB	Tate loam, 2 to 8 percent slopes	All areas are prime farmland	P1	100
TwB	Tusquitee-Whiteside complex, 2 to 8 percent slopes	All areas are prime farmland	P1	100
UnB	Unison loam, 2 to 8 percent slopes	All areas are prime farmland	P1	100
WtB	Whiteside loam, 2 to 8 percent slopes	All areas are prime farmland	P1	100
ZcB	Zillicoa loam, 2 to 8 percent slopes	All areas are prime farmland	P1	100
FrA	French loam, 0 to 3 percent slopes, occasionally flooded	Prime farmland if drained	P2	90
IoA	lotla loam, 0 to 2 percent slopes, occasionally flooded	Prime farmland if drained	P2	90
TsA	Toxaway loam, 0 to 2 percent slopes, frequently flooded	Prime farmland if drained and either protected from flooding or not frequently flooded during the	P5	85

Map Symbol				
	Map Unit Name	Farmland Classification	Group	Points
		growing season		
BeA	Biltmore loamy sand, 0 to 3 percent slopes, occasionally flooded	Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season	P5	85
AcD	Ashe-Cleveland-Rock outcrop complex, 15 to 30 percent slopes, very stony	Farmland of local importance	LI	80
BkD2	Braddock clay loam, 15 to 30 percent slopes, moderately eroded	Farmland of local importance	LI	80
CkD2	Clifton clay loam, 15 to 30 percent slopes, moderately eroded	Farmland of local importance	LI	80
CsD	Clifton sandy loam, 15 to 30 percent slopes	Farmland of local importance	LI	80
EdD	Edneyville-Chestnut complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
EvD2	Evard-Cowee complex, 15 to 30 percent slopes, moderately eroded	Farmland of local importance	LI	80
EwC	Evard-Cowee complex, 8 to 15 percent slopes, stony	Farmland of local importance	LI	80
EwD	Evard-Cowee complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
FaD2	Fannin-Lauada complex, 15 to 30 percent slopes, moderately eroded	Farmland of local importance	LI	80
JbD	Junaluska-Brasstown complex, 15 to 30 percent slopes	Farmland of local importance	LI	80
MvD	Mars Hill-Walnut complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
NtD	Northcove-Maymead complex, 15 to 30 percent slopes, very stony	Farmland of local importance	LI	80
PwC	Porters-Unaka complex, 8 to 15 percent slopes, stony	Farmland of local importance	LI	80
PwD	Porters-Unaka complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
SoD	Soco-Stecoah complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
SyD	Sylco-Soco complex, 15 to 30	Farmland of local		

Map Symbol				
	Map Unit Name	Farmland Classification	Group	Points
	percent slopes, stony	importance	LI	80
TaD	Tate loam, 15 to 30 percent slopes	Farmland of local importance	LI	80
TkC	Tate loam, 8 to 15 percent slopes, very stony	Farmland of local importance	LI	80
TkD	Tate loam, 15 to 30 percent slopes, very stony	Farmland of local importance	LI	80
TuD	Tusquitee-Toecane complex, 15 to 30 percent slopes, stony	Farmland of local importance	LI	80
UnD	Unison loam, 15 to 30 percent slopes	Farmland of local importance	LI	80
WaD2	Walnut-Oteen-Mars Hill complex, 15 to 30 percent slopes, moderately eroded	Farmland of local importance	LI	80
ZoD	Zillicoa loam, 15 to 30 percent slopes	Farmland of local importance	LI	80
BkC2	Braddock clay loam, 8 to 15 percent slopes, moderately eroded	Farmland of statewide importance	SI	80
CkC2	Clifton clay loam, 8 to 15 percent slopes, moderately eroded	Farmland of statewide importance	SI	80
CsC	Clifton sandy loam, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
DeA	Dellwood-Reddies complex, 0 to 3 percent slopes, occasionally flooded	Farmland of statewide importance	SI	80
FaC2	Fannin-Lauada complex, 8 to 15 percent slopes, moderately eroded	Farmland of statewide importance	SI	80
HpA	Hemphill loam, 0 to 3 percent slopes, rarely flooded	Farmland of statewide importance	SI	80
JbB	Junaluska-Brasstown complex, 2 to 8 percent slopes	Farmland of statewide importance	SI	80
JbC	Junaluska-Brasstown complex, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
KsC	Kanuga-Swannanoa complex, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
TaC	Tate loam, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
TwC	Tusquitee-Whiteside complex, 8 to 15 percent slopes	Farmland of statewide importance	SI	80

Map Symbol				
	Map Unit Name	Farmland Classification	Group	Points
UnC	Unison loam, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
WaC2	Walnut-Oteen-Mars Hill complex, 8 to 15 percent slopes, moderately eroded	Farmland of statewide importance	SI	80
WtC	Whiteside loam, 8 to 15 percent slopes	Farmland of statewide importance	SI	80
ZcC	Zillicoa loam, 8 to 15 percent slopes	Farmland of statewide importance	SI	80

Note: All other map units being farmed will be determined on an individual basis using the soil capability classification system to determine ranking.”

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declare that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance is effective upon adoption.

Read, approved and adopted this _____ day of February 2011.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

KATHY HUGHES, CLERK

BY: _____
DAVID GANTT, CHAIRMAN

APPROVED AS TO FORM

COUNTY ATTORNEY