

An Ordinance Amending Certain Provisions of the County's Farmland Preservation Program to Comply with Session Law 2021-78

WHEREAS, Chapter 58, Article III, of the Buncombe County Code of Ordinances created the Buncombe County Farmland Preservation Program, which was enacted to promote agricultural values and the general welfare of Buncombe County, and more specifically: to increase identity and pride in the agricultural community and its way of life; to encourage the economic and financial health of agriculture, horticulture and forestry; and to increase protection from non-farm development and other negative impacts on properly managed farms; and

WHEREAS, on July 2, 2021, the North Carolina General Assembly enacted Session Law 2021-78, which, among other things, refined the requirements to be certified as qualifying farmland and clarified that the required proximity buffer from the boundary line of any farm enrolled in a Voluntary Agricultural District or an Enhanced Voluntary Agricultural District is 1/2 mile; and

WHEREAS, the Board of Commissioners has determined that it is in the best interest of the citizens and residents of Buncombe County to enact the following revisions to the County Code of Ordinances.

NOW THEREFORE, be it ordained by the buncombe county board of commissioners that:

1. Section 58-56(a)(1) of the Buncombe County Code of Ordinances be deleted in its entirety and replaced with the following provision:

(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. Real property used for bona fide farm purposes, as that term is engaged in agriculture as defined in G.S. 106-581.1743.4(a) and G.S. 160D-903.

b. managed in accordance with the Natural Resources Soil Conservation Service defined erosion control practices for that are addressed to highly erodible land; and

c. subject of a conservation agreement ~~(VAD/EVAD),,~~ as defined in G.S. 121-35, between the county/local government administering the voluntary agricultural district program and the owner of such

land that prohibits nonfarm use or development of such land for a period of at least ten (10) years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.

~~d. Located in the unincorporated area of Buncombe County, unless a municipality of the county has by resolution requested that this article be applicable within that municipality and such request has been formally granted by Buncombe County.~~

2. Section 58-60(b) of the Buncombe County Code of Ordinances is amended as follows:

(b) VAD or EVAD established. The county has established VAD or EVAD for farmland preservation to protect and preserve agricultural lands and activities. These VAD or EVAD have been developed and mapped by the county to inform all purchasers of real property, located within ½ mile of a VAD or EVAD, 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 VAD or EVAD any time during the day or night. Maps and information on the location and establishment of these VAD or EVAD can be obtained from the county planning and development office.

3. 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.

4. This ordinance is effective upon adoption.

Read, approved and adopted this 19th day of July, 2022.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

LAMAR JOYNER, CLERK

BY: _____
BROWNIE NEWMAN, CHAIRMAN

APPROVED AS TO FORM

COUNTY ATTORNEY