FP Ordinance Crosswalk

Section	Topic	Add/Edit/Remove	Reasoning
Sec. 58-26.	Authority and Purpose of Article.	**Remove:** "to increase protection from non farm development and other negative impacts on properly manged farms" **Add:** "decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors. "	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge change reduces County liability in providing protection from nuisance lawsuit, rather than the program reducing the chance of a lawsuit occurring
Sec. 58-26.	Authority and Purpose of Article.	**Add:** This Ordinance establishes a Voluntary Agricultural District ("VAD") Program, which provides the following benefits: - Preserves and maintains agricultural areas in the county. - Informs non farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells, which may avoid conflicts between neighbors and potential nuisance claims. - Gives the farming community an enhanced voice in Buncombe County Commissioners' decisions affecting farmland. - Conserves open space and natural resources as the county's population and development expands. - Farmer participation in the program is voluntary, and the farmer may terminate his/her participation at any time.	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-27.	Definitions	**Add:** Farmland Preservation Staff means staff from the Buncombe County Soil and Water Conservation District staff dedicated to Farmland Preservation Program.	Added Farmland Preservation Staff
Sec. 58-42.(a)(3)	Membership	**Edit**: Edited to clarify how new AAB members are recommended to Commissioners	Clarified language to reflect current program processes
Sec. 58-42(b)	Membership - Tenure	**Edit:** Edited to reflect new County Board term limits.	Clarified language to reflect current program processes
Sec. 58-43.	Funding	**Remove:** (a) Compensation. The per diem compensation, if any, of the members of the Advisory Board shall be fixed by the Board of Commissioners.	Clarified language to reflect current program processes
Sec. 58-44.	Procedure	**Whole Section Edit**: Changed fiscal year to calendar year	Clarified language to reflect current program processes
Sec. 58-44.(g)	Procedure	**Add:** "The storing of these records will follow the Buncombe County Records retention policy."	Clarified language to reflect current program processes
Sec. 58-45.	Duties	**Add:** 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 has delegated the authority to oversee county land-use planning, on the status, progress, and activities of the county's agricultural district and conservation easement program and to also coordinate the formation and maintenance of agricultural districts and conservation easements with the county's land-use planning activities and the county's land-use plan if one currently exists at the time this is enacted or when one is formed.	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-45. (6)	Duties	**Edit:** Requires updating and maintaing a Farmland Protection Plan for the Program	Clarified language to reflect current program processes and to remain eligible for grant funding programs
Division 3	Conservation Agreements for VAD/EVAD	**Remove:** 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. 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.	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement

Sec. 58-56	Application for and certification for qualifying farmland in VAD or EVAD	**Edit:** Updated the eligibility requirements to bona fide farm requirements and application review process.	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement. Clarified language to reflect current program processes.
Sec. 58-56(d)	Application for and certification for qualifying farmland in VAD or EVAD	**Edit:** Extended time for notification of application approval/disapproval from 60 to 90 days.	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-56	Application for and certification for qualifying farmland in VAD or EVAD	**Remove**: Mention of VAD/EVAD maps on public display in County offices	Redundant language that is mentioned in another section in the ordinance.
Sec. 58-57.	Transfer, Renewal, Rovcation, and Enforcement of VAD and EVAD	**Edit:** Edit section titles to reflect section content. **Add:** (d)(2) EVAD Enforcement: Monitoring of EVAD. To protect conservation values on its EVAD properties, Soil and Water Conservation District will conduct monitoring and maintain detailed records of inspections, problems on the property, and actions taken to address such problems.	Clarified language to reflect current program processes and reflect NCDA best practices
Sec. 58-58	Public hearing regarding condemnation and rezoing of farmland	**Add**: Language to require public hearings for the rezoning of farmland: "(1) Upon receiving a request to hold a hearing on the proposed condemnation or rezoning, the Advisory Board shall provide public notice within ten (10) business days of the request, and will in the same notice notify of the public of a public hearing on the proposed condemnation or rezoning action, to be held within thirty (30) days of the receipt of the request. " **AND** "(6)(4)(5) There will be a period of seven (7) days allowed for public comment on the report of the Advisory Board. After the seven (7) day period for public comment has expired, the Advisory Board shall review the public comments for at least one business day before preparing the final report. 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 by condemnation or rezoning action. (7)(5)(6) The total time period, from the day that a request for hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition or rezoning, shall not exceed forty-five (45) days. The State, local government agency, or governmental unit proposing to acquire property by condemnation or rezoning shall not formally initiate a condemnation or rezoning until one-hundred twenty (120) days after the date the local Agricultural Advisory Board submits its findings and recommendations to the agency or unit. The Board of Commissioners shall condemn farmland within an Agricultural District only as a last resort if it is considering condemnation for County purposes."	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-60(f)	Notice of proximity to a Voluntary or an Enhanced Voluntary Agricultural District.	**Add: "**(f)Exclusion of Liability 1)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 ordinance. (e)2)In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or Voluntary Agricultural District as defined in this Ordinance."	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-60(g)(4)	Notice of proximity to a Voluntary or an Enhanced Voluntary Agricultural District.	**Add:** "The Buncombe County Tax Department/GIS Mapping shall maintain maps of approved Districts within the Buncombe County Geographic Information Mapping System Database as well as an overlay for all tracts located within one-half (1/2) mile of the property line of any tract of land enrolled in a voluntary agricultural district. (4) The mapping information shall provide notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one half mile of an agricultural district. This mapping information may be viewed by accessing the Buncombe County GIS website."	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement

Sec. 58-63(b)	County Land Use Planning	**Add:** "Posting of Notice. The following notice of a size and form suitable for posting shall be posted in the Ag and Land Resources office and any other office or agency the Advisory Board deems necessary: Buncombe County has established Agricultural 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, prescribed burning, and other common farming activities may occur in these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from Buncombe County Cooperative Extension, Buncombe County Planning and Zoning Department, Buncombe County Tax Department/GIS Mapping."	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-64(d)	Legal provisions	**Add:** "Notice. A copy of this ordinance, once adopted, shall be recorded with the Commissioner of the N.C. Department of Agriculture and Consumer Services."	Recommended language from 2026 NCDA Farmland Preservation Ordinance template updates; langauge aligns with new NC General Statute update requirement
Sec. 58-71(c)	Purpose	**Remove**: "Agricultural Conservation Easement, as set forth in NCGS §106-744, or as amended, means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement: (1)May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations; (2)May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and (3)May be perpetual in duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question."	Removed to reflect current program purposes and activities
Sec. 58-72(c)(2)	Purchase of conservation easements	**Add:** "Conservation Easement Closing. Buncombe County Soil and water Conservation District gives District Director the authority to sign necessary conservation easement closing documents on behalf of Buncombe County Soil and Water Conservation District Conservation Easement projects."	Gives District Director signature authority for conservation easement application and closing documents.
Sec. 58-72(d)	Purchase of conservation easements	**Edit**: Changed minimum acreage requirements for conservation easements from 10 to 15 acres	Clarified language to reflect current program processes
Sec. 58-72(f)	Purchase of conservation easements	**Edit:** Remove AAB and Soil and Water Board from basic program administration tasks and replacing with Farmland Preservation Staff	Clarified language to reflect current program processes
Sec. 58-72(g)	Purchase of conservation easements	**Edit:** Reordered and clarified language on conservation easement acquisition	Clarified language to reflect current program processes
Sec. 58-73	Lease of conservation easement	**Remove:** Entire section	Clarified language to reflect current program processes; lease of conservation easements was not included in the NCDA ordinance template
Sec. 58-74(f)	Donation of conservation easements	**Remove:** Acquisition section and instead references Sec. 58-72(g)	Reduced redudancy by refering to section above instead of adding identical language.
Sec. 58-75	Repurchase of conservation easements	**Remove:** Entire section	Clarified language to reflect current program processes; repurchase of conservation easements was not included in the NCDA ordinance template

Sec. 58-76(a)	Baseline Documentation and Easement Monitoring	**Add:** "Other natural resource information documenting the conservation values of the site such as soil maps, land cover data, natural community descriptions, topographic map, flora and fauna lists, land use history, ecological data, conservation and management plans, property photos with a photo point location map and descriptive caption, and other relevant agricultural or forestry information. Web soil survey soils map;" **Remove:** "USGS topographic map; b.Buncombe County tax map; c.Forest management plan; 1.If there is forestland [MR15.1]on the property, then a forestry management plan is required within the baseline document. 2.The forest management plan can change over time, depending on varying landowner objectives (harvest, wildlife, old growth etc.) but the plan must be followed. d.Flora and fauna lists, including rare species, within general natural communities (upland, floodplain, etc.); e.Natural communities map (delineated from aerial photos and/or site visit); f.Written description of the property outlining the landscape, biological composition, historical or cultural features being protected, land use history and restrictions on future land uses; g.Photos with a photo point location map and descriptive captions; and h.Management issues that warrant future consideration."	Clarified language to reflect current program processes
Sec. 58-76(a)(2)	Baseline Documentation and Easement Monitoring	**Edit:** Clarify baseline document storage requirements	Clarified language to reflect current program processes
Sec. 58-76(b)	Baseline Documentation and Easement Monitoring	**Edit:** Removing specific monitoring requirements and instead, referencing the Farmland Preservation Program Monitoring Guidelines and Protocols document and Records and Retention Protocols document.	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.
Sec. 58-76(b)(6)	Baseline Documentation and Easement Monitoring	**Remove:** "Problems and violations. Threats to conservation values or safety problems that require action shall be reported to the Soil and Water Conservation District Director. The person responsible for taking action shall work to remedy the problem in a timely manner and shall be required to report actions taken and that report will be a permanent record."	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.
Sec. 58-76(b)(8)	Baseline Documentation and Easement Monitoring	**Remove:** "Monitoring form. The monitoring form shall, at a minimum, contain the following information: a.Site information; b.Current condition of the property; c.Conservation values; d.Natural threats to the conservation values; e.Hazards present; f.Human use; g.Evidence of overuse; h.Structures and improvements; i.Current management activities; j.Neighboring properties; k.Recommendations for actions; l.List all persons present during the inspection: m.Attachments such as map and photos; and n.Monitor's signature and date. "	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.

Sec. 58-76	Tax Code and Appraisal Considerations	**Remove:** "(b)Ā Uniform Appraisal Standards for Federal Land Acquisitions (“Yellow Book”) certified appraiser who has also been certified as a conservation easement appraiser shall be hired to perform these appraisals. He or she shall be capable of producing an IRS qualified appraisal if applicable. To seek a federal income tax deduction the landowner (not Soil and Water Conservation District) must obtain what the IRS terms a “qualified” appraisal of the value of the donated conservation easement, conducted by a “qualified” appraiser who follows Uniform Standards of Professional Appraisal Practice (USPAP). (1)Section §1.170A-13(c)(5)(i) of the Treasury Regulations defines a “qualified appraiser” as a person who: a.Holds himself or herself out to be an appraiser or performs appraisals on a regular basis; b.Because of his or her qualifications, is qualified to make appraisals of the type of property being valued; c.Is not an excluded individual, e.g., the donor or related party to the donor; and d.Understands that an intentionally false overstatement of property value may subject him or her to a penalty for assisting in an understatement of tax liability. (2).Ā “qualified appraisal,” as defined in Treasury Regulation §1.170A-13(c)(3), is an appraisal which: a.Is made no earlier than 60 days prior to the date of contribution; b.Includes certain information, which is described below; c.Is prepared, signed and dated by a “qualified appraiser”; and d.Does not involve a prohibited appraisal fee, such as a fee based on the percentage of the valuation. (3)Ā “qualified appraisal” must include the following information: a.Ā description of the property in sufficient detail to determine that the property appraised was the property donated; b.The physical condition of the property; c.The date (or expected date) of donation;"	Staff created Program guidelines and protocol documents to guide Program activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.

Sec. 58-77	Tax Code and Appraisal Considerations	**Remove (Cont):** "d.The terms of any agreement or understanding entered into (or expected to be entered into) by the donor that relates to the use or sale of the donated property; e.The name, address and identifying number of the qualified appraiser. Note that often two ID numbers can be required: the appraiser's social security number and the employer's ID number; f.The qualifications of the qualified appraiser; g.A statement that the appraisal was prepared for income tax purposes; h.The date on which the property was appraised; i.The appraised fair market value on the date (or expected date) of contribution; j.The method of valuation used to determine fair market value, such as the income approach or comparable sales approach; and k.The basis for the valuation. (c)Any determination of the value of the donation is the responsibility of the donor. Conservation easement appraisals are complex and subject to special rules with which the appraiser should be familiar. For federal income tax purposes, the appraisal generally should be dated no earlier than 60 days prior to the donation/closing, but no later than the due date of the return in which the contribution is claimed (i.e., April 15th, 2016 for the calendar year 2015 returns). (d)Title Investigation and Subordination. The Soil and Water Conservation District attorney shall investigate title to each property for which it intends to acquire title or a conservation easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the conservation easement or significantly undermine the conservation values on the property shall be discharged or properly subordinated to the conservation easement."	Staff created Program guidelines and protocol documents to guide Program activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.

Sec. 58-78(a)	Conservation easement violations	**Remove : "**(a)Property Use Restrictions. 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 Advisory Board in writing. Additional funding sources may be more restrictive based on their program deed requirements. (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 nonagricultural 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 rights-of-way. (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 or hazardous materials 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."	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.
Sec. 58-78(a)	Conservation easement violations	**Remove (Cont):** "(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 Agricultural Conservation Easement 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."	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.

Sec. 58-78(a)(2)	Conservation easement violations	**Remove:** "(b)Document the violation with photographs, measurements of damage to the affected resource, signed and dated field notes, and explicit comparison with the baseline data. A thorough record will be essential should the Soil and Water Conservation District pursue legal action. The violation should be documented for an audience that is unfamiliar with the property. (c)If discovery of the violation is after the fact, evaluation and formulation of remedies will include the Advisory Board. If the violation is ongoing and response time is of the essence, staff and the chairperson of the Advisory Board shall evaluate the violation and formulate a plan for remedy. (d)Soil and Water Conservation District staff shall contact the landowner by telephone, explain the situation and the Soil and Water Conservation District's policy on easement violations, request correction of the violation, replacement and/or cessation of the activity, and set a deadline for compliance. (e)Soil and Water Conservation District staff shall follow up the telephone call with a letter reiterating the oral explanation and request and the need for a compliance inspection. Soil and Water Conservation District staff will send the correspondence via certified mail. (f)Soil and Water Conservation District staff and the chairperson of the Advisory Board shall inspect the property on the deadline date for compliance. The inspection may proceed without the chairperson of the Advisory Board. (g)If the matter ends with prompt compliance, Soil and Water Conservation District staff shall send a written acknowledgement of compliance to the landowner. (h)If the landowner does not comply by the established date, Soil and Water Conservation District staff shall send a second letter restating the required corrections and establishing a second deadline date. A copy of the letter will be sent to the district's attorney. (i)Soil and Water Conservation District staff and the chairperson of the Advisory Board shall inspect the property on the second deadline date. The inspection can proceed without the Advisory Board chairperson. (j)If the landowner complies with the required corrections, Soil and Water Conservation District staff will send a written acknowledgement to the landowner of compliance."	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.
Sec. 58-78(a)(2)	Conservation easement violations	**Edit:** Edited to show the basic steps of easement violation follow-up, but for more details guidelines reference the Farmland Preservation Program Violation Protocol document.	Staff created Program guidelines and protocol documents to guide Stewardship activities. By removing these details from the ordinance, it allows Staff to update guidelines and protocols as needed without future ordinance updates.
Sec. 58-79	Farmland Preservation ranking systems	**Remove:** "(7) Capital investment in farm operation, (8) Conservation program, (11) Speciality products"	Program ranking system has been updated since the last ordinance update, changes proposed here reflect the current ranking system criteria.