ARTICLE III. - FARMLAND PRESERVATION PROGRAM DIVISION

1. - GENERALLY

Sec. 58-26. – Authority and Purpose of Article.

This Article is adopted pursuant to authority conferred by the North Carolina General Statutes ("NCGS") §§ 106-735 through 106-744 and Chapter 153A.

~~The purpose of this Article is 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.~~

The purpose of this Ordinance is to promote agricultural values and the general welfare of the county and, more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture, and forestry; and decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors.[1]

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.

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:

1. **Advisory Board** means the County Agricultural Advisory Board created pursuant to NCGS §106-739 to administer the farmland preservation program.

2. **Agricultural Conservation Easement** (sometimes herein "ACE") shall have the meaning defined in NCGS §106-744(b).

3. **Chairperson** means chairperson of the Advisory Board.

4. **Farmland Preservation Staff** means staff from the Buncombe County Soil and Water Conservation District ~~staff~~ dedicated to Farmland Preservation Program.

5. **Voluntary Agricultural District** (sometimes herein "VAD"), shall have the meaning defined in NCGS
   a. §106-738.

Commented [AZ1]: Should we have farmland preservation manager and farmland preservation coordinator as definitions here?

6. **Enhanced Voluntary Agricultural District** (sometimes herein "EVAD") shall have the meaning defined in NCGS §106-743.1.

7. **Board of Commissioners** means the Buncombe County Board of Commissioners.

8. **Conservation Agreement** means conservation agreement as same is defined in NCGS §121-35(1).

9. **Conservation Easement**, for the purposes of this Article shall have the meaning as Agricultural
   a. Conservation Easement as same is defined in NCGS §106-744, and to the extent not inconsistent with NCGS §106-744 generally means a written agreement between a landowner and a qualified conservation organization or public agency under which:

   b. The landowner agrees to keep the land available for agriculture and/or forestry and restrict subdivision or non-farm development and other uses that are incompatible with commercial agriculture and forestry; and

   c. The conservation organization or public agency is responsible for monitoring the easement to ensure the terms of the easement are met.

Sec. 58-28—58-40. - Reserved.

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 to implement the provisions of this Article.

Sec. 58-42. - Membership.

(a) Requirements. Requirements for membership shall be as follows:

(1) Each Advisory Board member, except those serving in an ex officio capacity, shall be a County resident.

(2) At least five of the nine members shall be actively engaged in agriculture as defined in NCGS §106-581.1. There shall be at least one member from each of the four regions of Buncombe County as designated below. This is to ensure that these four quadrants of the County have representatives on the Advisory Board to ensure their regional concerns are met. This determination shall be made without reference to *ex officio* members.

a. Northwest: Sandy Mush, Leicester, and French Broad Townships

b. Northeast: Black Mountain, Swannanoa, Ivy, Flat Creek, Reems Creek, Beaverdam, and Haw Creek Townships

c. Southwest: Lower Hominy, Upper Hominy, Avery's Creek, and Hazel Townships

d. Southeast: Fairview, Broad River, Limestone, and Biltmore Townships

(3) ~~The 9 members shall be selected for appointment by the Board of Commissioners from the names of individuals submitted to the Board of Commissioners by applications submitted to the Farmland Preservation Staff and the Buncombe Soil and Water Conservation District Board of Supervisors, . the Buncombe County Office of the North Carolina Cooperative Extension Service and the United States Farm Service Agency Committee.~~The nine members of the Advisory Board shall be selected and appointed by the Board of Commissioners from a list of qualified candidates prepared by the Farmland Preservation ~~Staff~~staff and the Buncombe Coild and Water Conservation District Board of Supervisors.

(4) Additional members may be appointed to the Advisory Board in an *ex officio* capacity from the Soil and Water Conservation District Board of Supervisors, the Buncombe County Office of North Carolina Cooperative Extension, the U.S. Farm Service Agency, or other agencies, as deemed necessary by the Board of Commissioners. Members serving in an *ex officio* capacity shall neither vote nor count toward quorum requirements.

(b) Tenure. The members are to serve for terms of three years~~,.. except that .the initial Advisory 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 for 2 consecutive terms. Once a member has reached this limit, the member must be off the board for one year to be reappointed. The initial Advisory 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.

Commented [AZ2]: Should this be edited to follow the county's rules?

Commented [AZ3R2]: 2 consecutive terms of 3 years each

Commented [AB4R2]: Yes - a maximum of two consecutive terms.

(c) Vacancies. Any vacancy on the Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term.

(d) Removal. Any member of the Advisory 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, if any, of the members of the Advisory Board shall be fixed by the Board of Commissioners.~~

~~(b)~~(a) Appropriations for performance of duties. Funds may be appropriated by the Board of Commissioners to the Advisory Board to perform its duties. The Board of Commissioners may provide operating funds to Buncombe County Soil and Water Conservation District assisting the Advisory Board's needs.

Sec. 58-44. - Procedure.

(a) Chairperson. The Advisory Board shall elect a chairperson and vice-chairperson each year at its first meeting of the ~~fiscal~~ calendar year. The chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the chairperson, the vice-chairperson shall preside and shall 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 Advisory Board are set out in this Article, except that the Advisory Board may adopt supplementary rules of procedure not inconsistent with this Article or with other provisions of law.

(c) Advisory Board year. The Advisory Board shall use the County fiscal year as its meeting year.

(d) Meetings. Meetings of the Advisory Board, shall be held at the call of the chairperson and at such other times as the Advisory Board in its rules of procedure may specify. A called meeting shall be held at least every two months. Meeting dates and times shall be posted no less than one week before the meeting by giving notice by an electronic mail or a mailed notification to each Advisory Board member, and by posting a copy of the notice on the principal bulletin board of the Advisory Board or at the door of its usual meeting room or on the building in an area accessible to the public. A copy of the notice shall also be delivered to the Clerk to the Board of Commissioners for delivery to the media as well as to other persons who have made requests for notices. All meetings shall be open to the public.

(e) Voting. The concurring vote of a majority of the members of the Advisory 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) Duty to Vote. Once a meeting has been convened, every member, including the chairperson, must vote unless excused by a majority vote of those members present. A member who wishes to be excused from voting shall so inform the chairperson, who shall take a vote of the remaining members. The Advisory Board may excuse a member from voting, but only upon questions involving his/her own financial interest or his/her official conduct or on matters on which the member is prohibited from voting under NCGS §14-234. Refusal to vote (without just cause) shall be recorded as an affirmative vote.

(g) Records. The Advisory Board, or its designee, 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

Commented [AZ5]: There is no funding for board members - can we take this out?

Although (b) we want to keep in.

Commented [AZ6]: We have been doing first meeting of the calendar year - can we change this to that?

Commented [AZ7]: We follow the fiscal year - but vote on the calendar of meeting in November, with the meeting dates going jan - dec.

Commented [AZ8]: Amy - can we just say that the board follows the county public meeting rules, rather than stating it this way?

records of its examinations and other official actions, all of which shall be immediately filed in the Soil and Water Conservation District Office and shall be a public record. ~~The storing of these records will follow the Buncombe County Records retention policy.~~ Records shall be maintained in accordance with the Buncombe Conty Records Retention policy.

(h) Administrative services. The Advisory Board shall contract with the Soil and Water Conservation District office to serve the Advisory Board for recordkeeping, correspondence, application procedures under this Article and whatever other services the Advisory Board needs to complete its duties. The Soil and Water Conservation District Administrative Coordinator and the Farmland Preservation ~~Coordinator~~ staff will fulfill these and other appointed program duties.

Sec. 58-45. - Duties.

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.

The Advisory Board shall:

(1) Review and approve or disapprove applications of landowners for enrollment of qualified farmland, horticultural land, or forestland in either VAD or EVAD and applications for conservation easements;

(2) Make recommendations concerning the establishment and modification of VAD or EVAD or conservation easements;

(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 VAD and EVAD and conservation easements;

(5) Review and make recommendations concerning proposed amendments to this Article;

(6) Develop ~~and~~ , maintain ~~and update~~ a Countywide farmland protection plan as defined in 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;

(8) Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners; and

(9) Develop methodology for prioritization of projects.

~~(9)~~

Secs. 58-46—58-55. - Reserved.

Commented [AB9]: I like an oxofrd comma for the purposes of clarity.

Commented [AZ10]: Put in here how often it should be updated? 5-10 years?

DIVISION 3. - CONSERVATION AGREEMENTS FOR VAD/EVAD

~~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.~~

~~The Conservation agreement should not~~None of the above limitations should be interpreted to prevent a landowner ~~from conducting agricultural activities, 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.~~

~~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. 58-56. - Application for and certification for qualifying farmland in a VAD or EVAD.

(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. ~~Is~~Be ~~b~~used for "bona fide farm" purposes, as that term is defined in N.C. Gen. Stat. §160D-903(a). and G.S. 160D-903. [16]

~~a.~~b. Be m~~M~~anaged in accordance with the United States Department of Agricultural Natural Resource Conservation Service ~~Soil Conversation Service~~ defined erosion control practices that are addressed to highly erodible land; and

c. When initially established, a VAD or EVAD, ~~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, which collectively will create a district with each said farm lying within one mile of any other such farm. An agricultural district may be enlarged by adding qualifying farms subsequent to initial formation to create distinct district regions.

d. ~~The Property is the~~ Be the ~~S~~subject of a conservation ~~easement~~ agreement as defined in G.S. § 121-35, between ~~the local government administering the voluntary agricultural district program~~the County and the ~~owner of such land~~landowner 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 ~~an~~and municipal zoning and subdivision regulations. The form of the conservation agreement shall be approved by the ~~agricultureal~~agricultural advisory board created under G.S. § 106-739. The Conservation Agreement shall be suited to district type (Voluntary Agricultural District or Enhanced

Voluntary Agricultural District) designated by the landowner(s) to sustain, encourage, and promote agriculture, must be executed by the landowner(s) and be reviewed and approved by the Advisory Board. The Conservation Agreement for the Enhanced Voluntary Agricultural District must be recorded with the Buncombe County Register of Deeds as required pursuant to NCGS §121-41.

~~b.~~e.

(b)

~~(2)~~ ~~A~~Application Procedure - A landowner, or landowners, may apply for certification of qualifying farmland for inclusion in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District program. Such application shall be made with the chairperson or Farmland Preservation ~~Coordinator~~ staff and must designate whether the application is for Voluntary Agricultural District status

or Enhanced Voluntary Agricultural District status. The application and agreement shall be ~~on forms~~ provided by the Advisory Board or Farmland Preservation ~~Coordinator~~staff.

~~a. A Conservation Agreement, as required by NCGS §106-737 and NCGS §106-743.3, and defined in NCGS §121-35, suited to district type (Voluntary Agricultural District or Enhanced Voluntary Agricultural District) designated by the landowner(s) to sustain, encourage, and promote agriculture, must be executed by the landowner(s) and be reviewed and approved by the Advisory Board. The Conservation Agreement for the Enhanced Voluntary Agricultural District must be recorded with the Buncombe County Register of Deeds as required pursuant to NCGS §121-41.~~

~~b. Requirements to participate are as follows:~~

~~1. VAD or EVAD 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 VAD or EVAD with the County and EVAD shall be recorded therein.~~

~~c.~~ (c) Application Review Process:

~~1. To secure County certification as a qualifying farm, and if so desired by the applicant, as a VAD or EVAD, a landowner for such certification will apply to the Advisory Board. Application forms may be obtained from the Advisory Board or farmland Preservation Coordinator.~~

~~2.~~1. Upon receipt of an application, the ~~Advisory Board or~~ Farmland Preservation ~~Coordinator~~ staff will review applications, in conjunction with the following County departments and determine eligibility: ~~based on eligibilty requirements. Farmland Preservation staff will review applications with the following County department systems: forward copies immediately to:~~

- ~~i.~~ The County ~~planning~~Planning Ddepartment plan review system
- ~~i.~~ The County Permit and Inspections department's permit review system;

~~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 Conservation District and the Natural Resources Conservation Service office may be made jointly.~~Office.

~~(3)~~ (d) Decision by the Advisory Board; notification of applicant. Within ~~60~~ 90 days of receipt of the ~~evaluations~~reviewed applications, the Advisory Board shall meet and ~~render~~make a decision regarding the application. The ~~chairperson or designee~~Farmland Preservation staff shall notify the applicant by mail of approval or disapproval within (15) days of decision. ~~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 VAD or EVAD, if application was so sought.~~

~~(4)~~ (e) Appeal upon denial. If the application is denied by the Advisory Board, the applicant has 30 days to appeal the decision to the Board of Commissioners. Such ~~appeal~~appeal shall be presented in writing. The decision of the Board of Commissioners is final.

Commented [AZ11]: We do not do this anymore - but the GIS layer is available to these folks, so need to update this.

Commented [AB12]: Are these "review systems" a formal thing? If not, just use the department name.

~~(b) VAD or EVAD; marking on maps; public display. VAD or EVAD 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 Cooperative Extension;~~

~~(5) Land records office; and~~

~~Any other office deemed necessary by the Advisory Board.~~

~~(6)~~

~~(c)~~(i) **Encouragement of VAD or EVAD.** The County may take such action as it deems appropriate through the Advisory Board or other body or individual to encourage the formation of VAD or EVAD 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~~ Transfer, Renewal, ~~Recovation~~Revocation, and ~~e~~Enforcement of VAD and EVAD.

(a) Transfer.

(1) Transfers of land in a Voluntary Agricultural District due to death of the landowner, sale, or gift shall not revoke the conservation agreement, if all new landowner(s) affirm the conservation agreement and affirm, on a supplemental application, updated information demonstrating that the enrolled land still qualifies for enrollment under subsection 58-56(a). In the event that there are water or sewer assessments held in abeyance by this Article, and where the new owner(s) fail(s) to agree in writing to accept liability for those assessments when land is withdrawn either voluntarily or involuntarily from the VAD, the conservation agreement shall be revoked. Revocation shall be undertaken pursuant to the provisions of subsection 58-57(c).

(2) Transfers of land in an Enhanced Voluntary Agricultural District due to death of the landowner(s), sale, or gift shall not revoke the conservation agreement. The conservation agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the conservation agreement.

(b) Renewal.

(1) VAD. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall fail to renew any conservation agreement unless this Article or its authorizing legislation has been repealed.

(2) EVAD. A conservation agreement for the enhanced district shall be deemed automatically renewed for an additional term of three years, unless either the Advisory Board or the landowner gives written notice to the contrary prior to the termination date of the conservation agreement.

(c) ~~Revocation~~Termination.

(1) VAD. By providing 30 days' advance written notice to the Advisory Board, a landowner of qualifying farmland within a VAD may revoke the conservation agreement or the Advisory Board may revoke the same conservation agreement based on noncompliance by the landowner,

subject to the same provisions as contained in subsection 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 VAD. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any conservation agreement prior to its expiration. If the Advisory Board shall revoke this conservation agreement for cause, the landowner shall have the appeal rights set forth in subsection 58-56(a).

~~(2)~~ ~~(2)~~ EVAD ~~.~~ ~~.~~ Conservation agreements for land within enhanced districts are irrevocable for a period of ten years~~.~~

~~(3)~~ ~~Revocation.~~ If at the end of the term, the agreement is not automatically renewed or renewed voluntarily by the landowner, then a notice of revocation shall be ~~recorded~~ documented in the County land record system sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District Program.

(d) Enforcement.

(1) VAD Enforcement. By providing 30 days' advance written notice to the Advisory Board, a landowner of qualifying farmland within a VAD may revoke the conservation agreement or the Advisory Board may revoke the same conservation agreement based on noncompliance by the landowner, subject to the same provisions as contained in subsection 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 VAD. Absent noncompliance by the landowner, neither the Advisory Board nor the Board of Commissioners shall revoke any conservation agreement prior to its expiration. If the Advisory Board shall revoke the conservation agreement for cause, the landowner shall have the appeal rights set forth in subsection 58-56(a).

(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.

- Conservation agreements for land within enhanced districts are irrevocable for a period of ten 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 Advisory Board shall revoke the conservation agreement for cause, the landowner shall have the appeal rights set forth in subsection 58-56(a). The right to terminate program benefits is in addition to any legal rights that the County may have under either this Article 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.

Commented [AZ13]: Mention monitoring practices?

Commented [AB14R13]: No, because if that changes you don't want to have to amend the entire ordinance.

Sec. 58-58. - Public hearings regarding condemnation and rezoning of farmland.

(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 or rezone such land within a VAD or EVAD until such agency or unit has requested the Advisory Board to hold a public hearing on the proposed condemnation or

rezoning. ~~his 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 30 days. Five days prior to holding a public meeting, the Advisory Board must publish notice of said public hearing in a newspaper of general circulation where the VAD or EVAD is located and posting a copy of the notice by any electronic means. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.~~

(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.

~~(2)~~(1) Review. The Advisory 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 VAD or EVAD within which the proposed action is to take place.

~~(3)~~(2) Consultation. The Advisory Board shall consult with the County Cooperative Extension Service, USDA Natural Resources Conservation Service, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Advisory 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)~~(3) Report of findings. ~~After a~~ Within five (5) days after the public hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to it's being conveyed to the to the decision-making body of the agency proposing acquisition ~~and the general public~~ by condemnation or rezoning action.

~~(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 Advisory Board within these time limitations.~~

~~(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.

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 VAD or EVAD 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 VAD or EVAD, 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 Article shall apply.

Sec. 58-60. - Notice of proximity to a Voluntary or an Enhanced Voluntary Agricultural District.

(a) Purpose. The purpose of this section is to help meet the needs of agriculture as an industry and prevent conflicts between VAD or EVAD participants and nonfarm landowners in proximity to VAD or EVAD.

(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.

(c) Notification generally. The Advisory 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 VAD or EVAD 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) Limit of liability. In no event shall the County or any of its officers, employees, members of the Advisory Board, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this Article.

(e) No cause of action. In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or VAD or EVAD as defined in this Article.

(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 an individual ~~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.

~~(f)~~(g) Types of notification. Notification shall be provided as follows:

(1) Signs identifying approved VAD or EVAD may be placed along major roads, however, signs shall not be placed within the right-of-way of any state maintained road.

(2) Maps identifying approved VAD or EVAD shall be provided to Buncombe County offices including: the register of deeds, code enforcement, the Soil and Water Conservation District office, the Cooperative Extension office, the land records office, and any other office or agency the Advisory Board deems necessary.

(3) The following notice, of a size and form suitable for posting, shall be posted and available for public inspections in the register of deeds' office, and any other office or agency the Advisory Board deems necessary:

Notice to real estate purchasers in Buncombe County of each voluntary agricultural district or enhanced voluntary agricultural district for farmland preservation. Buncombe County has established VAD or EVAD 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 that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, burning, and other common farming activities may occur in these 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 North Carolina Cooperative Extension Service office, the Soil and Water Conservation District office, the office of the Register of Deeds, the County Planning office, or the Natural Resources Conservation Service office.

(4) Geographic information system. Voluntary and Enhanced Voluntary Agricultural Districts shall be mapped in the County geographic information system.

- 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.

Sec. 58-61. - State agency notification.

(a) The Advisory Board, or its designee, may consult with the North Carolina Cooperative Extension office, the Soil and Water Conservation District office, the Natural Resources Conservation Service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the Advisory Board, or its designee, deems necessary to the proper conduct of its business.

(b) A copy of this Article shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the North Carolina Cooperative Extension office, and the Soil and Water Conservation District office after adoption. At least once a year the County shall submit a written report to the commissioner of agriculture and consumer services, including the status, progress and activities of the County's farmland preservation program, including VAD or EVAD information regarding:

(1) Number of landowners enrolled;

(2) Number of acres enrolled;

(3) Number of acres certified during the reporting period;

(4) Number of acres not certified during the reporting period;

(5) Number of acres for which applications are pending;

(6) Municipalities with which memorandums of understanding have been signed;

(7) Municipalities with which memorandums of understanding are no longer in effect;

(8) Municipalities that have adopted this Article for the purpose of the County enforcing this Article within their corporate boundaries;

(9) Copies of any amendments to this Article or memorandums of understanding signed with municipalities; and

(10) Any other information the Advisory Board deems useful.

(c) Copies of the reports cited in subsection (b) of this section ~~will~~ may 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 Advisory Board, or its designee, deems appropriate.

Sec. 58-62. - Additional benefits for Enhanced Voluntary Agricultural Districts.

(a) Land enrolled in the EVAD program is entitled to all of the benefits available under the VAD program, and to the following additional benefits:

(1) Sale of nonfarm products. Landowners participating in EVAD may receive up to 25 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 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 25 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 EVAD are eligible under 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 EVAD.

(4) Utility assessment waiver. As provided in section 58-59, waiver of all County utility assessments in addition to waiver of water and sewer assessments is available to all participants in EVAD.

Commented [AB15]: What?

Commented [AZ16R15]: My understanding is that this is when utility assessments happen, then if a property is in vad or evad they could be waived from having to change?

Sec. 58-63. – County land use planning.

(a) Duty of Advisory Board. It shall be the duty of the Advisory Board to advise the Board of Commissioners, or the agency or office to which the Board of Commissioners delegates authority to oversee County land use planning, on the status, progress, and activities of the County's Voluntary Agricultural District program and Enhanced Voluntary Agricultural District program and to also coordinate the formation and maintenance of VAD and EVAD with the County's land use planning activities and the County's land use plan.

(b) Posting of Notice. The following notice of a size and form suitable for posting shall be posted in the 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.

~~(b)~~(c) Areas where VAD and EVAD are not permitted. At such time as the County might establish designated growth corridors, VAD and EVAD shall not be permitted in those designated growth corridors, as delineated on the official County planning map, without the approval of the Board of Commissioners. VAD and EVAD located in growth corridors designated after the effective date of this program may

remain, but shall not be expanded within the growth corridor area without the approval of the Board of Commissioners.

Sec. 58-64. – Legal provisions.

(a) Severability. If any section, subsection, clause, phrase, or portion of this Article is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Article.

(b) Conflict with other ordinances and statutes. Whenever the provisions of this Article conflict with other ordinances of Buncombe County, the provisions of those other ordinances shall govern. Whenever the provisions of any federal or state statute conflict with this Article, the provisions of such federal or state statute shall govern. The sole remedy for a land use not complying with this Article shall be revocation of the conservation agreement and removal of the non-qualifying land from the Buncombe County Voluntary Agricultural District program. Recreational use of land that does not interfere with agricultural uses as defined in NCGS §106-581.1 shall not be considered non-compliant with this Article.

(c) Amendments. This Article may be amended by the Board of Commissioners.

(d) All policies, forms, and resolutions referenced in this Article shall be available for public review at the BCSWD office.

~~(c)~~(e) Notice. A copy of this ordinance, once adopted, shall be recorded with the Commissioner of the N.C. Department of Agriculture and Consumer Services.

Secs. 58-65—58-70. - Reserved.

DIVISION 4. - AGRICULTURAL CONSERVATION EASEMENT 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 an Agricultural Conservation Easement Program.

(b) Duties and responsibilities of the Advisory Board. The Advisory Board shall act on behalf of the County in administering the Agricultural Conservation Easement Program within the farmland preservation program. The planning department shall make recommendations to the Advisory Board on the selection of properties for

purchase, lease, and/or donation and on the development of purchase and lease priorities. A ~~The~~ Buncombe County ~~s~~staff ~~a~~Attorney~~s~~ or Soil and Water Conservation District contracted attorney shall draft and approve as to form 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

Advisory Board and farmland preservation staff shall administer this program utilizing the financial resources provided by the Board of Commissioners.

~~(c) 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.~~

Sec. 58-72. - Purchase of conservation easements.

(a) General. The County may purchase conservation easements in agricultural, forest and/or open space lands. All applications for the purchase of conservation easements will be evaluated based upon the farmland preservation ranking system as described in Section 58-79. Applications will be ranked based upon various site factors. 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 Advisory 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 Conservation and Historic Preservation Agreements Act and applicable federal and state tax laws.

(c) Authority.

(1) Conservation Easement Grants. Buncombe County Soil and Water Conservation District acts as a department of Buncombe County. Buncombe County gives Soil and Water Conservation District the authority to apply for grant funding on behalf of the County. Buncombe County gives the Soil and Water Conservation District director and designated ~~staff~~staff signature authority on conservation easement applications, and allows Soil and Water Conservation District to use Buncombe County's tax ID and DUNs number to apply for conservation easement grant funding on behalf of Buncombe County. Buncombe County gives the Buncombe County Soil and Water District authority to enter into cooperative agreements with the United States Department of Agriculture Natural Resource Conservation Service (USDA NRCS), North Carolina Department of Agriculture and Consumer Sciences Agricultural Development & Farmland Preservation Trust Fund (NCDA&CS ADFP) or other agencies to facilitate easement purchase.

~~(c)~~(2) 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.

(d) Minimum eligibility criteria. The agricultural and/or open space land must be at least fifteen~~ten~~ acres in size or contiguous to a ~~ten~~fifteen-acre tract for which a perpetual conservation easement exists, and be in agricultural and/or open space use.

(e) Application procedure. An application must be submitted to the ~~Advisory Board~~Farmland Preservation staff or its designee on behalf of Buncombe County.

(f) Review and ranking of application. The applications will be ranked by the Soil and Water Conservation District ~~and the County Planning Department~~. The ~~Soil and Water Conservation District~~Farmland Preservation staff will rank each

of the applications using the soil assessment, site assessment, and conservation criteria in the farmland preservation ranking system. ~~The Soil and Water Conservation District will forward the application and the soil assessment to the planning department which will rank each of the applications using the site assessment criteria of the farmland preservation ranking system~~. After the Soil and Water Conservation District ~~and County Planning Department~~ have ranked the application, the ~~Soil and Water Conservation District~~Farmland ~~Preservaiton~~Preservation staff will prioritize applications and make recommendations to the Advisory Board and the Buncombe County Soil and water Conservation District Board of Supervisors~~.~~

(g) Acquisition.

(1) The Farmland Preservation staff will obtain a Survey, environmental assessment, baseline documentation report to document the conditions of the property.

(2) The Farmland Preservation staff will obtain either a conventional conservation easement appraisal or Uniform Appraisal Standards for Federal Land Acquisition's Yellow Book Format appraisals on tracts considered conservation easement acquisition. The purpose of the appraisal is to determine the value of the property before the placement of a conservation easement, and the value of the property after the encumbrance of a conservation easement. The difference between the two values indicates the change in value due to the encumbrance of a conservation easement. Payment for these appraisals will be part of the County project transaction costs.

~~(1) The Soil and Water Conservation District 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)~~(3) Upon receiving the written appraisals, the Buncombe County Farmland Preservation ~~Coordinator~~ staff will review the appraisals ~~and determine if they meet landowner objectives.~~ The Farmland Preservation ~~Coordinator~~ staff will review ~~the appraisals with the landowner to insure the landowner has an understanding of~~ the easement process and the ~~contents of the~~ appraisal value with the landowners.

~~(3)~~(4) 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.~~The Soil and Water Conservation District 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 Soil and Water Conservation District attorney will assist in securing this agreement with the mortgage or lien holder, at the request of the landowners.~~

~~(4)~~(5) Closing. 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 and the Soil and Water Conservation District attorneys 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~~presented with a check. The County may bear all closing and related costs.

(h) 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. 58-73. - Lease of conservation easement.~~

~~(a) General. The County can lease conservation easements in agricultural lands. Applications will be ranked based upon various site factors. 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 Advisory 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 Advisory Board, or its designee.

(e) Review and ranking of applications. The applications will be ranked by the Soil and Water Conservation District and the County Planning Department. The Soil and Water Conservation District will rank each of the applications using the soil assessment and the conservation criteria in the farmland preservation 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 preservation ranking system. After the Soil and Water Conservation District and County Planning Department have ranked the application, the Soil and Water Conservation District will prioritize applications and make recommendations to the Advisory Board.

(f) Acquisition.

(1) The Advisory 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 Cooperative Extension director, and three residents of the County selected by the Advisory Board, who derive a majority of their income from agricultural production. The Advisory 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 Soil and Water Conservation District 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 Soil and Water Conservation District 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 Soil and Water Conservation District 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 Soil and Water Conservation District 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 and the Soil and Water Conservation District attorneys shall review all necessary documents prior to the execution by both parties. The Soil and Water Conservation District attorney 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 chairperson of the Advisory 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. 58-74. - 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 Conservation and Historic Preservation 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 Soil and Water Conservation District attorney and a member of the Advisory Board, or its designee, to discuss donation of conservation easements.

(e) Review and ranking of applications. The applications will be ranked by the Soil and Water Conservation District and the County Planning Department. The Soil and Water Conservation District will rank each of the applications using the soil assessment and the conservation criteria in the farmland preservation ranking system. The Soil and Water Conservation District will forward the application and the soil assessment to the County planning department which will rank each of the applications using the site assessment criteria of the farmland preservation ranking system. After the Soil and Water Conservation District ~~and County Planning Department~~ have ranked the application, the Soil and Water Conservation District will prioritize applications and make recommendations to the Advisory Board.

(f) Acquisition of ~~for~~ easements is described in section Sec. 58-72g~~.~~

~~(1) The Soil and Water Conservation District 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 Soil and Water Conservation District 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 Soil and Water Conservation District 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 Soil and Water~~

~~Conservation District 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 and the Soil and Water Conservation District attorneys 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 chairperson of the Board of Commissioners, or his or her designee, will sign and present the donation verification statement to the landowner. The County may bear all closing and related costs.~~

(1)

(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.~~ for conservation easement acquisition is described in Sec. 58-72h

~~Sec. 58-75. - Repurchase of conservation easements.~~

Commented [AZ17]: Do we want this?

~~(a) General. The 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 Advisory 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 Advisory 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 Conservation and Historic Preservation 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 Advisory Board, or its designee, 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. 58-76. – Baseline Documentation Reports and Easement Monitoring ~~Baseline documentation and monitoring.~~

(a) **Baseline documentation purpose**. This policy establishes the procedure for the collection, compilation, and storage of baseline documentation for conservation easements managed by Buncombe County Soil and Water Conservation District. The Soil and Water Conservation District must have baseline documentation for all properties it protects. This information establishes the condition of a property at the time of acquisition, allowing comparisons with findings during subsequent monitoring events. Such information is also required by the IRS for landowners seeking a federal income tax deduction for conservation easement donations. In most cases, the Soil and Water Conservation District will collect this information for the conservation easement donor. Baseline documentation is important in defending conservation properties from threats, including conservation easement violations. The baseline documentation may be relied upon during litigation to establish the condition of a property prior to a conservation easement violation. The Soil and Water Conservation District will collect and store all baseline documentation for conservation easements in a manner that maximizes effectiveness for enforcement purposes.

(1) Baseline data collection. The volume and specificity of the information included in the baseline documentation report may vary depending on the terms of the easement and the conservation objectives for the property. It is the Soil and Water Conservation District's policy that baseline data will be collected by ~~staff~~staff, or paid contractors.

Baseline data collected during a site visit will generally include:

a. Boundary photos, photos of special features, and photos of structures and other improvements;

b. Global Positioning System (GPS) data and locations on a map of each photo, special feature, structure, and other improvement;

~~a.~~c. 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;~~

~~b. USGS topographic map;~~

~~c. Buncombe County tax map;~~

~~d. Forest management plan;~~

~~1. If there is forestland on the property, then a forestry management plan is required within the baseline document.~~

~~2.~~1. ~~The forest management plan can change over time, depending on varying landowner objectives (harvest, wildlife, old growth etc.) but the plan must be~~

Commented [AZ18]: I think we should look at our monitoring policy and this side by side to make sure we include all we want here. Also we need to mention stewardship funding I think

Commented [MR19]: Do we want to go into this level of detail? I feel like the list of what it includes can be deleted. @Ariel D. Zijp

Commented [MR20]: Do we want to make this more specific so we don't have to do FMPs for every project with forest? I know for the NCDA projects we are only doing FMPs for properties where more than 20 acres are forest. @Ariel D. Zijp

followed.

~~e. Flora and fauna lists, including rare species, within general natural communities (upland, floodplain, etc.);~~

~~f. Natural communities map (delineated from aerial photos and/or site visit);~~

~~g. 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;~~

~~h. Photos with a photo point location map and descriptive captions; and~~

~~i. Management issues that warrant future consideration.~~

(2) Baseline data compilation and storage. Baseline data will be compiled using archival materials. ~~The~~ One original copy of the baseline data will be kept on file with the grantee ~~at the Soil and Water Conservation District offic~~in secure storage and two digital copies will be kept in separate locations for security. Refer to Buncombe County Farmland Preservation Program Record Policy for details.~~e.~~ A copy also will be provided to the landowners. ~~For conservation easements, t~~The baseline documentation will be reviewed by the landowner prior to closing. Landowners will certify review of the baseline documentation by signing the Acknowledgement of the Baseline Document at closing .

(b) **Monitoring of conservation easements ~~purpose~~**. To protect conservation values and maintain safety on its ~~fee simple~~ conservation easement properties, Soil and Water Conservation District will conduct ~~regular~~ annual monitoring and maintain detailed records of inspections, problems on the property, and actions taken to address such problems~~, and report these results to the Advisory Board~~.

(1) Monitoring personnel. Overall supervision of monitoring is the responsibility of the Farmland Preservation ~~Manager and Coordinator~~r~~Staff~~staff. The Soil and Water Conservation District Director may delegate monitoring duties to any of the Soil and Water soil conservationists or consultants if needed.

(2) Monitoring procedure. Comprehensive monitoring shall be performed annually, in accordance with the protocols outlined in the Farmland Preservation ~~Prorgam~~Program Monitoring Guidelines and Protocols document. ~~with additional monitoring~~ Additional site visits and reports to be generated may be conducted and generated as needed throughout the year~~. Monitoring can take place on foot, off-road vehicle, or on-road vehicle using the Buncombe County Soil and Water monitoring form and the North Carolina Department of Agriculture and Consumer Services/United States Department of Agriculture monitoring form which will vary based on funding.~~

Commented [MR21]: Add reference to FPP monitoring protocols document for specifics

~~(3) Safety precautions. Monitors should take safety precautions as appropriate, including informing others when leaving on a monitoring visit, packing extra water, sunscreen, hat, appropriate shoes, GPS, and cell phone.~~

~~(4) Monitoring tools. Property maps, soil maps and topography maps shall be brought on the site visit for reference to show the location of any situation requiring action. GPS will be used to help locate points of interest, safety hazards, and trespassing locations. These points will be recorded on the monitor form.~~

~~(5)~~(3) Recordkeeping. Monitor activities will be recorded on the Buncombe County Soil and Water monitoring form. Monitoring reports, including the monitoring form, maps, and photos from the

visit will be kept on record by ~~the~~ Soil and Water Conservation District Farmland Preservation ~~Coordinator's~~~~Staff~~staff. All monitoring reports will be kept on file in the Farmland Preservation ~~Coordinator's~~ staff's office ~~and an electronic copy will be stored.~~. Reference the Farmland Preservation Program Records and Retention Policy for stewardship record storage protocols.

~~(6) 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.~~

~~(7)~~(4) Revising the policy. From time to time the referenced monitoring policy may be revised for the following reasons, to correct errors or clarify ambiguities in order to comply with Soil and Water Conservation District's standards and practices. ~~Any revisions to the monitoring policy require the prior approval and adoption by the Advisory Board before implementation.~~

~~(8) 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.~~

Commented [MR22]: Reference the FPP file retention/storage policy?

Sec. 58-77. – ~~Appraisal policy.~~ Tax Code and Appraisal ~~Requirement~~ Considerationss.

(a) ~~Soil and Water Conservation District~~BCSWCD~~t~~ shall inform each landowner by sending The Conservation Easement Appraisal and Tax letter ~~of the tax code~~ and appraisal requirements relevant to the transaction, and also that the Soil and Water Conservation District will not knowingly participate in transactions where it has significant concerns regarding a tax benefit claimed by the landowner. ~~Two signed originals of the letter shall be sent to the landowner, with the request that one of the originals signed by the landowner be returned to Soil and Water Conservation District before Soil and Water Conservation District accepts the donation of any interest in real property.~~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. Seeking tax benefits from the donation is the responsibility of the donor, not Buncombe County.

Commented [AZ23]: This is about the charitable donation letter we send after closing

~~(b) A 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). A "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) A "qualified appraisal" must include the following information:

a. A 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;

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)(b) 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.

Sec. 58-78. - Property use restrictions and violationsConservation easement restriction violations.

(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.

(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.

~~(b)~~(a) Conservation easement violations.

~~(1)~~ Purpose. This policy establishes the procedure the Soil and Water Conservation District shall follow in the event of an easement violation and the assessment of the appropriate enforcement action. The Soil and Water Conservation District is legally obligated to enforce the terms of its conservation easements. In addition to protecting the conservation values of the land, enforcement is necessary to generate public confidence in the Soil and Water Conservation District's mission to conserve land, to uphold the organization's legal authority to enforce the terms of its conservation easements, and to maintain the ability to accept future donations of easements and its tax-exempt status. The Soil and Water Conservation District may discover a violation on a monitoring visit, through a neighbor or other interested party, or during informal observation. BCSWD's response to a violation shall be commensurate with and proportional to the violation. ~~It is important to note that a violation may have been caused by the landowner, an adjacent property owner or a trespasser. The Soil and Water Conservation District's first response must be twofold: thoroughly document the violation, and contact the landowner to discuss and understand the situation. The Soil and Water Conservation District's response to a violation should match the severity of the violation. Minor infractions (i.e., roadside trash, minor tree cutting) may warrant a written acknowledgement of the violation from Soil and Water Conservation District staff~~staff. ~~The more egregious transgressions (e.g. construction, excavation, timber harvest, hazardous material dumping) require a swift and formal response.~~

(1)

(2) Procedures for enforcement.

Commented [MR24]: Reference the FPP violation protocols? Also, the ordinance stipulates that "evaluation and formulation of remedies" involves the board... and that the chairperson of the board be involved in re-inspection of the violation.

I had no idea this section was in here when I made our violation protocols, do you think its worth a review of those protocols to make sure they align with what is outlined here? or changing what is in the ordinance so we just reference the violation protocols? I am not sure what is best practice

Commented [AZ25R24]: Lets definitely reference FPP encroachment and violation policy here @Martha Ross

(a) After discovering the potential violation, Soil and Water Conservation District ~~staff~~staff shall review the conservation easement document. If ~~staff~~staff concludes the action to be a violation of the easement's terms and/or the violation is of an on-going nature, the ~~staff~~staff shall ~~involve the Soil and Water Conservation District director and the Advisory Board chairperson immediately.~~refer to the Farmland Preservation Program Violation Protocol document to address the violation and pursue remedies.

~~(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~~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.~~

~~(k)~~(b) If the Soil and Water Conservation District Director and ~~Staff~~ determine that a violation should require legal action, the Soil and Water District should confer with Buncombe County Attorney's

office and determine next steps. ~~landowner does not comply by the second deadline date, the Advisory Board shall re-evaluate the situation. The Advisory Board has the option to recommend that the Soil and~~

Water Conservation District pursue enforcement through more formal legal channels (i.e., arbitration, mediation, litigation). Judicial proceedings should be viewed as a last resort.

If a violation requires court action, the Soil and Water Conservation District shall:

(a) Be certain there are adequate funds to cover legal expenses;

(b) Retain and prepare the best legal counsel available;

(c) Actively participate in the formulation of the case;

(d) Use the Soil and Water Conservation District's documentation of the violation, baseline and monitoring documentation, and experience on the property to its fullest advantage.

(e) There may be occasions when actions (i.e., unauthorized timber harvest, construction, etc.) by a landowner or third party can or will result in a serious threat to the conservation values of the property. To protect the conservation values in such cases, the action(s) must be stopped immediately. If an attempt to rectify the situation by working with the landowner or responsible party is unsuccessful, Soil and Water Conservation District staff will may use the following protocol for such situations:

1. StaffStaff will ensure the action is a legitimate violation of the conservation easement;

2. Notify the Soil and Water Conservation District Director;

3. Notify the Advisory Board;

4. Director should seek the approval of the Advisory Board for an immediate response in the form of an injunction;

5.3. Inform the Soil and Water Board of the situation at the next board meeting; and

6.4. Execute injunction process and attempt to re-establish productive communication with the landowner or responsible party.

Sec. 58-79. - Farmland preservation ranking system.

The farmland preservation 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. Site and soil assessment criteria shall be maintained by the Advisory Board. The system consists of two parts:

(1) Site assessment criteria. The focus of this system is to determine suitability of a particular farm parcel for conservation. 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.

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 includes but is not limited to:

(1) Tract size

(2) Percentage of tract in agricultural and/or open space use

(3) Proximity to public water and sewer

~~(4)~~ Probability of conversion

~~(5)~~(4) Proximity to planned development

~~(6)~~(5) Proximity to land under conservation easement or conservation agreement

~~(7) Capital investment in farm operation~~

~~(8) Conservation program~~

(6) Historic, scenic, environmental qualities

~~(9)~~(7) Land stewardship activities
~~(10)~~(8)

~~(11) Specialty products~~

Sec. 58-80. - Reserved.

Commented [AZ26]: Also need to look at our ranking criteria to confirm we need to keep all of these in there