

April 16, 2025

MINUTES

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

**BOARD OF COMMISSIONERS
WEDNESDAY, APRIL 16, 2025**

The Henderson County Board of Commissioners met for a regularly scheduled meeting at 9:30 a.m. in the Commissioners' Meeting Room of the Historic Courthouse on Main Street, Hendersonville.

Present were: Chairman William Lapsley, Vice-Chair J. Michael Edney, Commissioner Rebecca McCall, Commissioner Sheila Franklin, Commissioner Jay Egolf, County Manager John Mitchell, Assistant County Manager Chris Todd, Public Safety Director Jimmy Brissie, Financial Services Director Samantha Reynolds, County Attorney Russ Burrell, and Clerk to the Board Denisa Lauffer.

Also present were: Budget Manager/Internal Auditor Sonya Flynn, Engineer Marcus Jones, Human Resources Director Karen Ensley, Chief Communications Officer Mike Morgan, Director of Facility Services Andrew Griffin, Fire Marshal Kevin Waldrup, Planning Director Autumn Radcliff, Planner Lee Stevens, Tax Assessor Harry Rising, DSS Director Lorie Horne, Deputy DSS Director Debbie Dunn, Finance Director Randal Cox, Capital Projects Manager Bryan Rhodes, Tourism Executive Director Michelle Owens, Tourism Development Coordinator Dara Hossley, Soil and Water Conservation District Director/Conservationist Director Jonathan Wallin, Soil Conservationist/Educator Coordinator April Hoyt, Strategic Behavioral Health Director Jodi Grabowski, LFNC Fellow Nora Sjue, A/V Technician Oscar Guerrero. Deputy Kevin Gaddy provided security.

CALL TO ORDER/WELCOME

Commissioner Lapsley called the meeting to order and welcomed all in attendance.

INVOCATION

Pastor Cesar Perozo provided the invocation.

PLEDGE OF ALLEGIANCE

Chairman Lapsley led the Pledge of Allegiance to the American Flag.

RESOLUTIONS AND RECOGNITIONS

Chairman Lapsley noted that a recognition had been added to the Resolutions and Recognitions portion of the meeting. He invited Travel and Tourism Development Board chair Richard Rhodes to the podium to present the Debbie Smith Heart of Hospitality Award. Michelle Owens and Debbie Smith joined Mr. Rhodes in presenting the award to County Manager John Mitchell. Mitchell was recognized for his outstanding leadership during and after Hurricane Helene and during the recent wildfires.

2025.049 Resolution – Line Worker Appreciation Day

The Henderson County Board of Commissioners was requested to adopt the proposed resolution, proclaiming April 18, 2025, as Line Worker Appreciation Day.

Approved: May 5, 2025

**RESOLUTION – PROCLAMING FRIDAY, APRIL 18, 2025, AS
LINE WORKER APPRECIATION DAY IN HENDERSON COUNTY**

WHEREAS, on April 10, 2013, a resolution was passed in the United States Senate to recognize April 18 annually as National Lineman (Line Worker) Appreciation Day; and

WHEREAS, the profession of the electrical line worker is steeped in personal, family, and professional tradition; and

WHEREAS, line workers are often first responders during storms and other catastrophic events, working to make the scene safe for other public safety officials, and to expedite the return of vital electrical power to our communities; and

WHEREAS, these brave men and women work with thousands of volts of electricity high atop power lines 24 hours a day, 365 days a year, risking and sometimes losing their lives to keep electricity flowing; and

WHEREAS, line workers are often faced with dangerous conditions, far from their families, as they work to construct and maintain energy infrastructure throughout the State of North Carolina and the United States; and

WHEREAS, line workers must use their technical knowledge, physical strength and ingenuity to achieve success in challenges they face every day; and

WHEREAS, the Henderson County Board of Commissioners thanks these skilled and heroic line workers who brave hurricanes, ice storms, snowstorms, floods, and other natural disasters to maintain our community's energy grid.

NOW, THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners do hereby proclaim Friday, April 18, 2025, as Line Worker Appreciation Day in Henderson County.

In witness whereof I have hereunto set my hand and caused the seal of the County of Henderson to be affixed.

Adopted this the 16th day of April 2025.

Motion: Commissioner McCall made the motion that the Board adopt the Resolution, proclaiming Friday, April 18, 2025, as Line Worker Appreciation Day. All voted in favor, and the motion carried.

Ms. McCall and Duke Energy's Craig DeBrew presented the resolution to Matt Paige, Daniel Walker, and Logan Rupert.

PUBLIC COMMENT

Approved: May 5, 2025

1. Jane Bilello urged the Board not to purchase new voting machines until they comply with statutes. She noted that the current voting machines in use were noncompliant.
2. David Hill opposed the City's practice of "forced annexation," noting that this strips volunteer fire departments of essential resources.
3. Kirk Hall opposed the First Contact Ministry's men's rehab facility, citing concerns about its location adjacent to the campground he owns in Saluda.
4. Katie Gash spoke about the importance of inclusion, emphasizing that diversity, Equity, and Inclusion (DEI) is rooted in empathy, justice, and truth. She affirmed that DEI efforts have brought significant progress, but more is needed.
5. Katherine Sheppard addressed the Board regarding a recent animal cruelty case involving eight Saint Bernards found in devastating living conditions. She urged the Board to draft an ordinance to better protect animals
6. Tian Griffith shared that she adopted one of the dogs referenced in the recent animal cruelty case. She described how the once timid and frightened dog has since become a sweet, loving companion with a sassy personality. Griffith urged the Board to draft an ordinance to ensure stronger animal protection.

DISCUSSION/ADJUSTMENT OF AGENDA

Vice-Chair Edney added a Closed Session for Economic Development.

Motion: Vice-Chair Edney moved to approve the modified consent agenda. All voted in favor, and the motion carried.

CONSENT AGENDA

Tax Collector's Report

The following report from the office of the Tax Collector was provided for the Board's information.

Please find outlined below collections information through April 2, 2025 for 2024 real and personal property bills mailed on July 31, 2024. Vehicles taxes are billed monthly by NC DMV.

Henderson County Annual Bills (Real and Personal Property):

2024 Beginning Charge:	\$101,665,024.57	
Discoveries & Imm.	\$135,170.17	
Releases & Refunds:	(\$106,395.21)	
<u>Net Charge:</u>	<u>\$101,693,799.53</u>	
Unpaid Taxes:	\$1,403,875.40	
Amount Collected:	\$100,289,924.13	
		Paid 98.62%
		Unpaid 1.38%

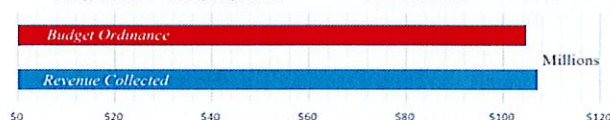


Henderson County Registered Motor Vehicles (As Collected by NC DMV):

Net Charge:	\$6,052,568.48	
Unpaid Taxes:	\$127,767.37	97.89%
Amount Collected:	\$5,924,801.11	

Henderson County FY25 Budget Analysis:

	<u>Budget Ordinance</u>	<u>Revenue Collected</u>
Ad Valorem:	\$103,559,409.00	\$106,214,725.24
Prior Years:	\$1,041,250.00	\$815,062.45
Budget Total:	\$104,600,659.00	YTD Revenue: \$107,029,787.69



Approved: May 5, 2025

2025.050 Parks and Recreation Trust Fund Grant Application – Berkeley Sports Complex

Henderson County Parks and Recreation requested the support of the Henderson County Board of Commissioners to apply for the 2025 Parks and Recreation Trust Fund (PARTF) Grant to provide additional funding for the proposed Berkeley Mills Sports Complex. Staff proposed requesting the maximum allowable amount from PARTF of \$500,000 for the project. The PARTF grant requires a one-for-one match, which has already been satisfied by the County's current investments in the project. The Parks and Recreation staff have hosted two community presentations and a public meeting, receiving overwhelming support for the grant application. The Recreation Advisory Board has recommended that the staff apply for this grant by the May 1 deadline.

Motion: I move the Henderson County Board of Commissioners approve the 2025 PARTF Grant application and sign the certification of local government approval.

Land Development Code Rewrite – Proposal Acceptance

On March 3rd, the Board directed staff to release a Request for Proposals for a consultant to rewrite the Land Development Code (LDC) to be compatible with the new Comprehensive Plan and its recommendations.

The Planning Department released the RFP in compliance with county and state procurement policies. Unlike many procurement methods, such as a bid, an RFP is a specific procurement process for contract services and the proposal cannot be judged on price alone. On Friday, March 31st, staff received a total of four proposals. These proposals were scored based on the matrix provided to potential submitters. The scoring committee comprises Planning, Code Enforcement, Floodplain Administration, and Building Services and Inspections staff.

Inspiration Placemaking Collective submitted the highest-scored proposal, and all evaluators agreed the firm was the most qualified for this critical task. The scoring matrix is attached. All proposals were submitted to the Board for additional review.

Land Development Code Rewrite Proposal Scoring Matrix					
Criteria	Total Points Available (100)	Freese and Nichols	N Focus	Inspire Placemaking	Zone Co
Qualifications and experience of firm and Project Manager	25	22	22	23	15
Qualifications and experience specific to Farmland Preservation	25	19	10	22	12
Proposed process and approach	20	17	15	19	13
Cost of proposal (evaluated based on county's formula)	10	5.8	10	7.8	6.3
References	15	7	15	15	10
Implementation schedule	5	5	4	5	2
	100	75.8	76	91.8	58.3

Motion: I move that the Board approve Inspire Placemaking Collective's proposal for the Land Development Code rewrite.

Motion: Chairman Lapsley made the motion to adopt the consent agenda. All voted in favor, and the motion passed unanimously.

PUBLIC HEARINGS

Motion: Chairman Lapsley made the motion to go into the Public Hearing. All voted in favor, and the motion carried.

Approved: May 5, 2025

2025.051 Amendments to Chapter 45 Farmland Preservation

The Farmland Preservation Taskforce has been working throughout several meetings on amendments to Chapter 45 in the County Code of Ordinances for Farmland Preservation. (Amendments attached to these minutes). The amendments deal with administrative changes necessary in the ordinance, add the process for agricultural conservation easements, expand the membership and role of the Agricultural Advisory Board, and support the duties of a farmland preservation coordinator.

The Agricultural Advisory Board reviewed the draft amendments at its meeting on February 26th, 2025, and voted unanimously to recommend that the Board of Commissioners adopt them. On March 10th, 2025, the Farmland Preservation Taskforce voted unanimously to recommend that the Board of Commissioners adopt the draft amendments.

The bylaws for the Agricultural Advisory Board must be amended to reflect the changes in Chapter 45. The Agricultural Advisory Board's next regular meeting will be April 23rd, 2025, and they will review and recommend the amended bylaws. Staff anticipate that the amended bylaws will be on the Board of Commissioners' May 5th meeting as a consent item. The Board can reappoint and add new position appointments to the expanded Agricultural Advisory Board, provided the required criteria are met.

PUBLIC NOTICE:

A public notice for this hearing was submitted to be advertised in the Hendersonville Lightning on Wednesday, April 2nd, 2025, and Wednesday, April 9th, 2025.

Public Comment: There was none.

Motion: Chairman Lapsley made the motion to go out of the Public Hearing. All voted in favor, and the motion carried.

Motion: Commissioner McCall made the motion that the Board approve the proposed amendments to Chapter 45 Farmland Preservation. All voted in favor, and the motion carried.

Motion: Chairman Lapsley made the motion to go into the Public Hearing. All voted in favor, and the motion carried.

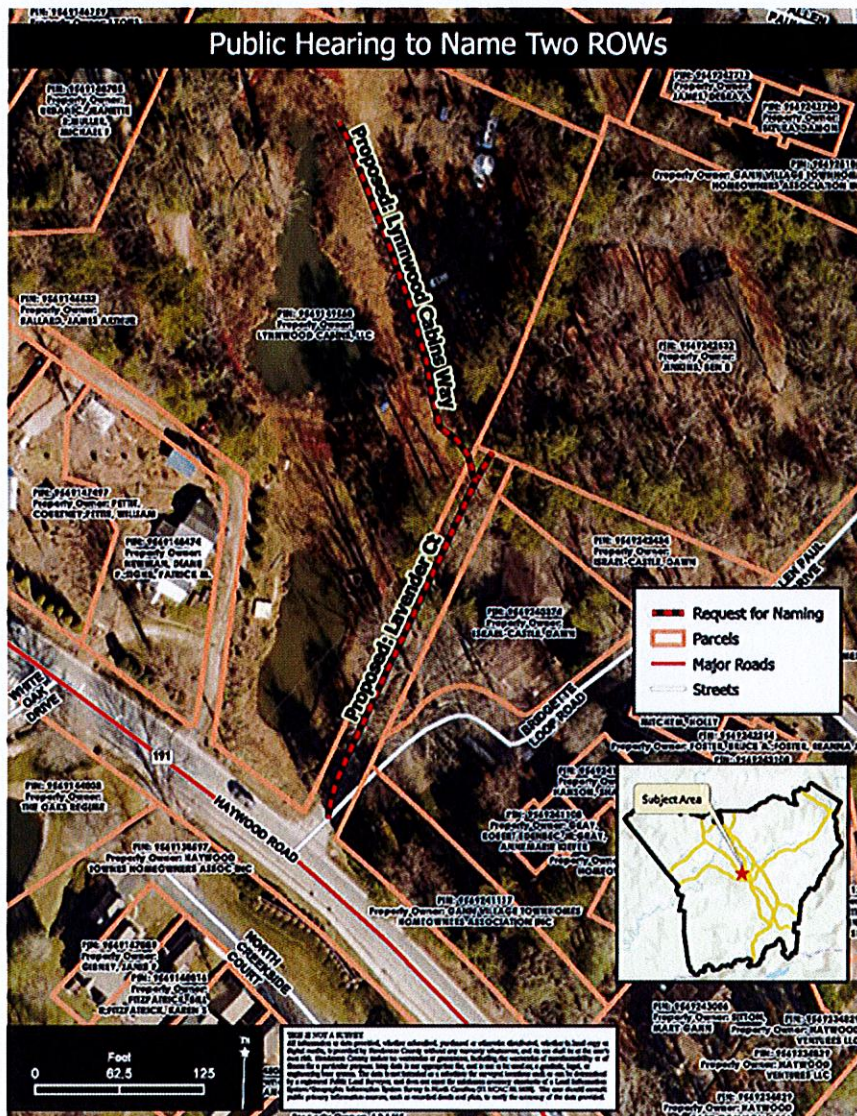
2025.052 Public Hearing – Renaming of Rights-of-Way “Lavender Court” and “Lynwood Cabin Way”

The County Attorney contacted the property owners along the rights-of-way (ROW) portion to be named Lavender Court and Lynwood Cabin Way. Staff received confirmation from all owners and agreed with the new proposed road names and locations. The ROWs are required to be named under the Property Addressing Ordinance for E911 purposes.

Staff sent letters to all property owners notifying them of the date and time of the public hearing

Approved: May 5, 2025

and the proposed road names, and the hearing was advertised in the Hendersonville Lightning.



Public Comment: There was none.

Motion: Chairman Lapsley made the motion to go out of the Public Hearing. All voted in favor, and the motion carried.

Motion: Vice-Chair Edney made the motion that the Board approve renaming the ROWs as shown on the map provided to Lavender Court and Lynnwood Cabin Way. All voted in favor, and the motion carried.

DISCUSSION

A. Hurricane Helene Update

The Board was provided with the most current information about Hurricane Helene in Henderson County.

Financial Impacts

Approved: May 5, 2025

Samantha Reynolds gave a brief update on the financial impacts of Hurricane Helene.

FY2025 Impacts

Revenues	Expenses
♦ Waived Fees Total: \$856,129.45	♦ Personnel Costs: \$3,189,040.52
♦ Sales Tax Deficit: \$0	♦ Debris Management/Monitoring: \$9,499,981.20
♦ Property Tax Collection Rate: 98.780%	♦ Other Disaster Response: \$2,180,312.05

Summary to Date

Revenues:

FEMA Funding Received	15,224,300.00
Donations, Unassigned	104,628.30
Insurance Proceeds	529,610.86
Reimbursements	5,384.00
	<hr/> 15,911,553.29

Expenditures:

Personnel	3,189,040.52
Debris Management/Monitoring	9,499,981.20
Other Disaster Response	2,180,312.05
	<hr/> 14,869,333.77

Net	1,042,219.52
-----	--------------

FEMA Projects Summary

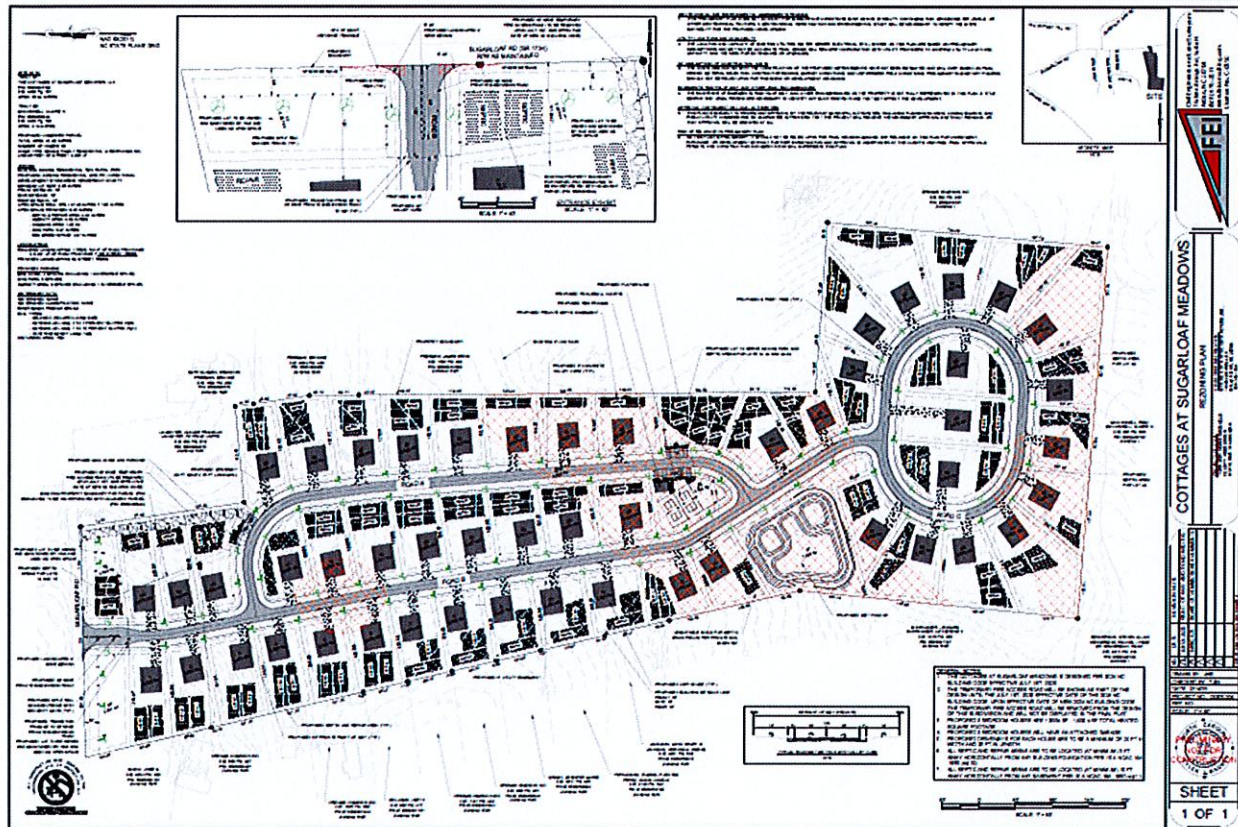
Title	Process Step	Total Cost
Expedited Funding	Obligated	\$15,224,300
Emergency Debris Removal		\$1,139,019
United Way	Pending PDMG Application Review	\$90,240
Leases – DRC and DW		\$930,000
Personnel Costs thru Dec. 2024		\$3,442,560
Jackson Park Field and Lights	Pending Initial Project Development	\$200,000
Radio Tower Access Roads		\$200,000
Mill Pond Creek Drainage Project		\$400,000

Jimmy Brissie reported that the distribution warehouse had been cleared of all supplies and materials used in the aftermath of the hurricane. The remaining items were distributed among local non-profits and churches to ensure they reached community members in need.

Approved: May 5, 2025

2025.053 Conditional Rezoning Application (#R-2025-01-C) – The Cottages at Sugarloaf Meadows

On April 7, 2025, the Board held a public hearing for Rezoning Application #R-2025-01-CD, which requested that the County conditionally rezone approximately 31.46 acres of land from Residential Two Rural (R2R) to a Conditional District (CD-2025-01). Following the public hearing and discussion by the Board, certain conditions and requests were made of the applicant. The Board requested continued discussion at its next meeting.



Planner Liz Hanson provided a brief overview of the rezoning application. She noted that the developer had revised the site plan and added four conditions based on the Board's direction at the public hearing. Developer Rick Moore and applicant Tyler Wagner were present to address questions from the Board.

Commissioner McCall voiced concern that the installed septic tanks could infiltrate the adjoining property used as farmland. Mr. Moore said he had spoken with the adjacent property owner regarding setback requirements. He assured the Board that he was working with surrounding property owners to ensure no one would be adversely affected. Ms. McCall acknowledged that the farmer of the adjacent property was not opposed to the project.

If the application is approved, Vice-Chair Edney proposed deleting paragraphs 6 and 14 and designing interior roads with a regular curb cut instead of the valley curb cut. He believed the change in the curb cut would deter individuals from parking along the road.

Approved: May 5, 2025

Vice-Chair Edney left the meeting at 10:50 a.m.

Commissioner Egolf expressed support for development but emphasized the importance of protecting the rights of neighboring property owners. Commissioner McCall stated she would reluctantly support the proposed application. Chairman Lapsley did not support Edney's proposed modification to the curb cuts.

Chairman Lapsley made the motion to approve rezoning application #R-2025-01-CD to rezone the Subject Area to a Conditional District (CD-2025-01) with the 2045 Comprehensive Plan Statement based on the recommendations of the 2045 Comprehensive Plan, and with the deletion of paragraphs 6 and 14.

And;

Further moved that the Board amend the 2045 Comprehensive Plan Future Land Use Map to apply the Infill Character Area to the Subject Area parcels. All voted in favor, and the motion carried.

Construction Projects Update

Bryan Rhodes provided the following update on construction projects around Henderson County.

BRCC MRTS Projects

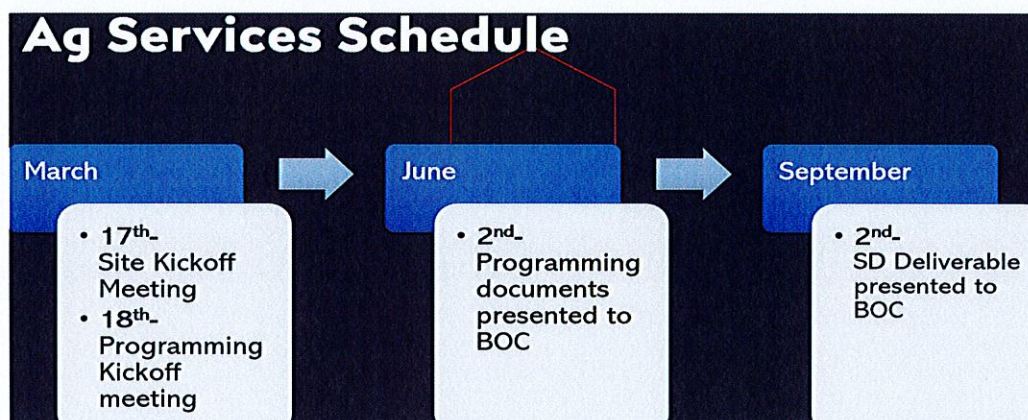
BRCC Facilities Building – Programming was in progress, and staff are working on programming with the college and Clark Nexsen.

Henderson County Public Schools MRTS Projects

The ribbon cutting for the West Henderson renovation and addition was held on April 4. The project was completed on time and under budget.

Henderson County Capital Projects

Henderson County Ag Services Building—Programming was underway, and Staff, MPS, and all stakeholders are working collaboratively on it.



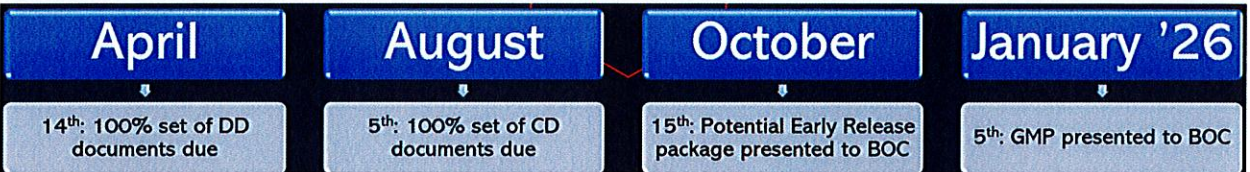
Medical Office Buildings

The design and development phase are progressing for the Spartanburg Highway location. The schematic design was being revised and reprogrammed for the Mills River site. At an upcoming

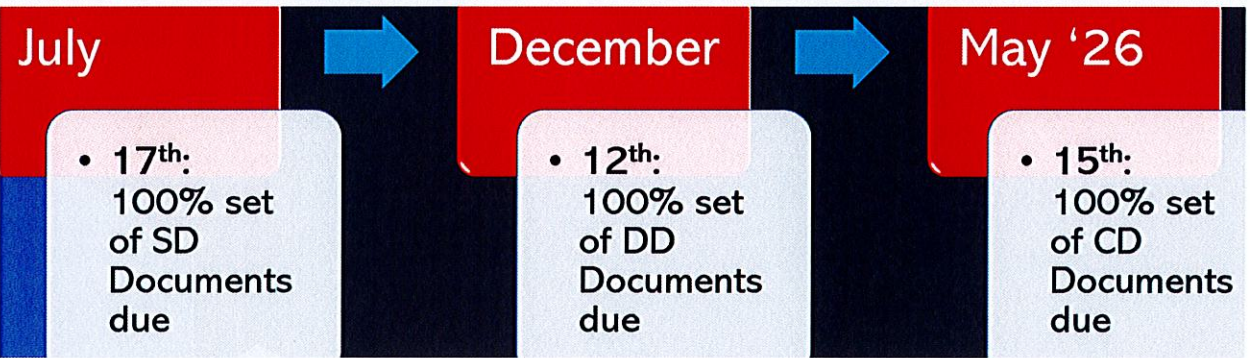
Approved: May 5, 2025

meeting, the board will be presented with an SD Deliverable update on the Mills River location.

Medical Office Buildings: Spartanburg Highway Schedule



Medical Office Buildings: Mills River Schedule



Henderson County JCAR Project





DETENTION CENTER - NEW VEHICULAR SALLYPORT



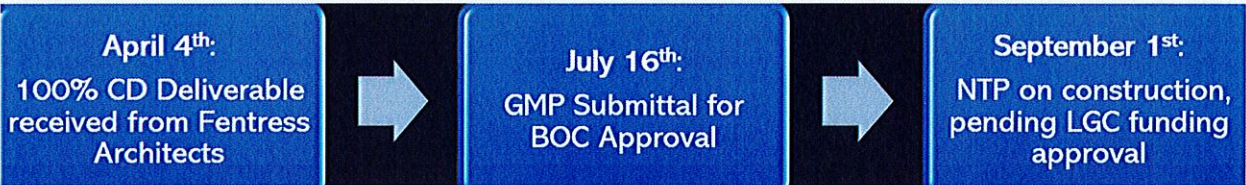
DETENTION CENTER - NEW ENTRANCE AT AREA "D"

January 23, 2025
HENDERSON COUNTY JUDICIAL CENTER
Hendersonville, NC

DETENTION CENTER RENDERINGS



JCAR:Detention Schedule



JCAR: Courts Schedule

March		
21 st : NTP: CD Phase	August	December
	20 th : Potential early release site/civil package presented to BOC	19 th : 100% CD Deadline, full GMP to follow

Henderson County Sports Complex – Groundbreaking Ceremony – March 31, 2025



Henderson County Public Schools

Mr. Mitchell reported that the Joint Schools Facilities Committee had recently met to discuss the need for a new bus garage. He then invited School Superintendent Mark Garrett to address the Board to provide an overview of the discussions from that meeting.



New Bus Garage

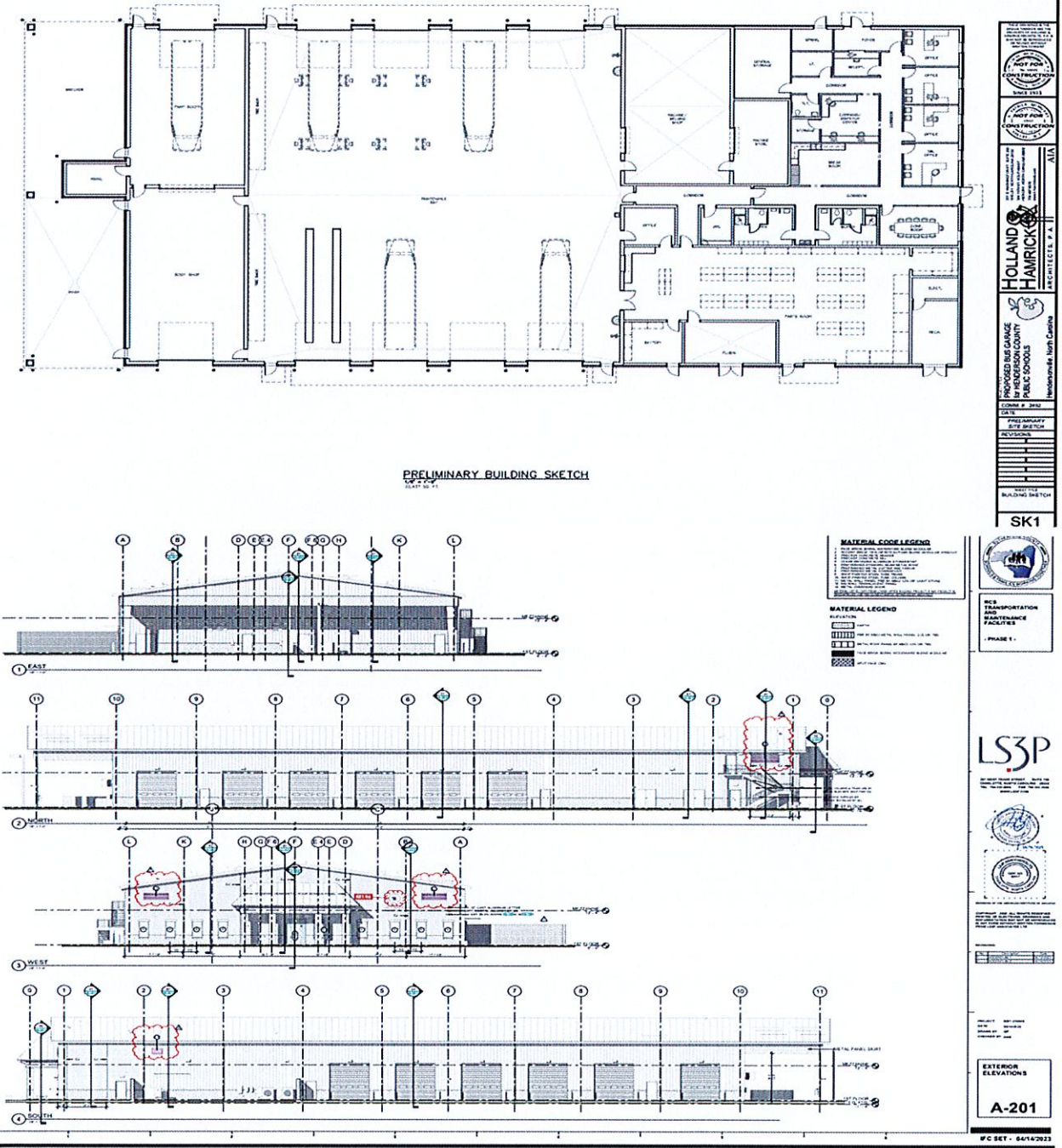
Maintenance Property Location Option

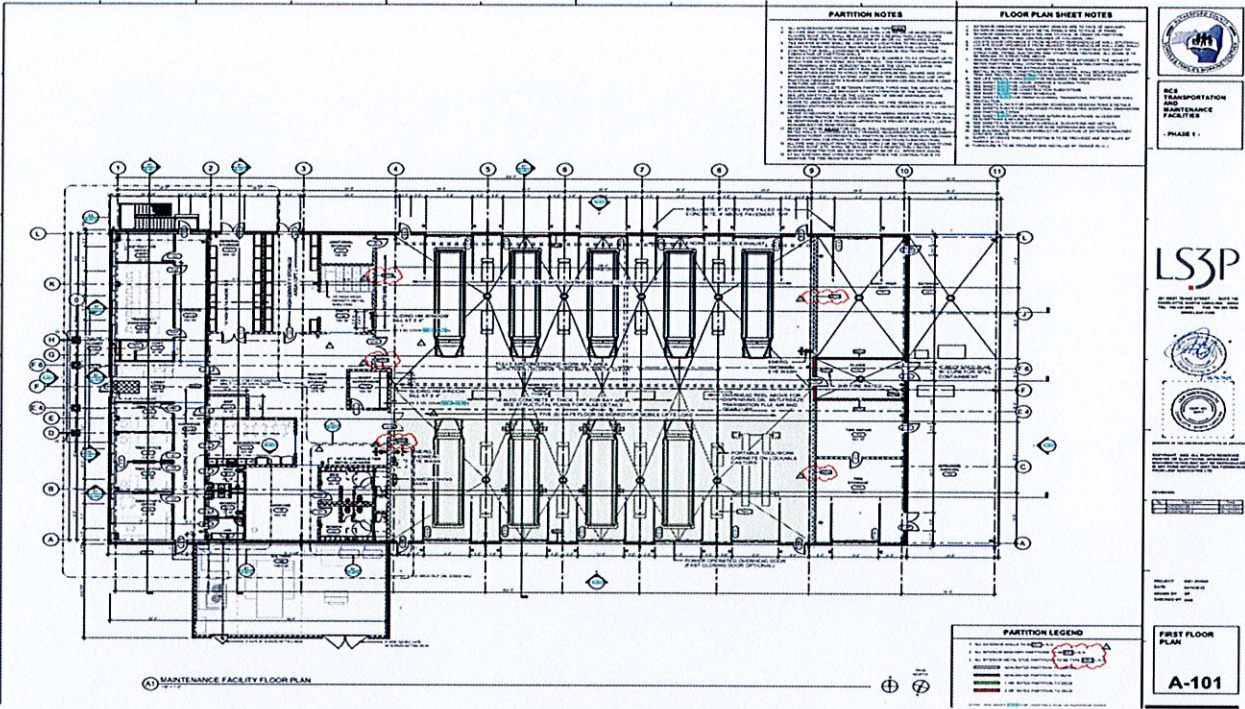


HOLLAND &
HAMRICK
ARCHITECTS, P.A.

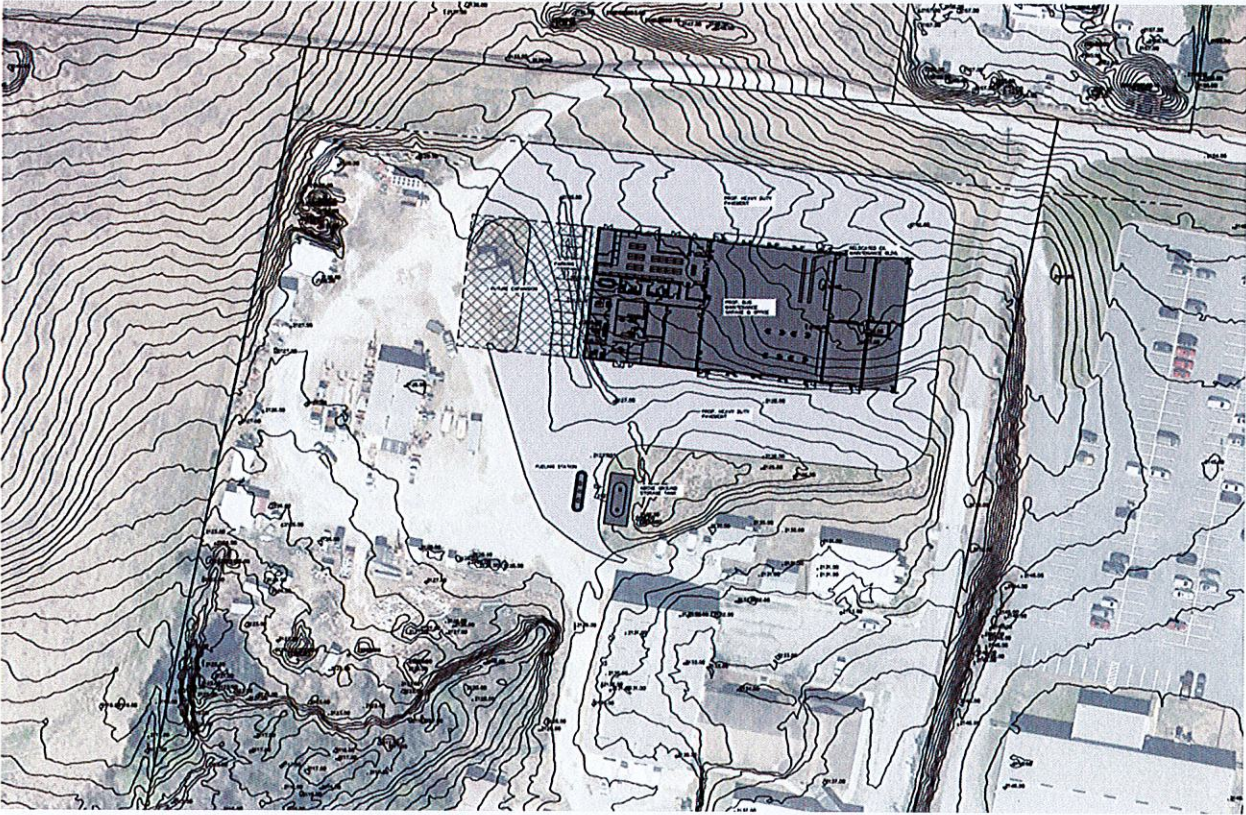
Approved: May 5, 2025

Mr. Garrett shared a rendering of the proposed 22,000 sq. ft. facility, which was designed to meet DPI recommendations based on the district’s fleet, which includes 111 yellow buses and 45 activity buses. The current garage, which has served the community for 40 years, is no longer adequate for the size and type of buses used today. The proposed design included drive-thru bays and a shared island for maintenance and transportation needs. The preferred location for the new garage was the Upward Road maintenance facility, which can accommodate the building.





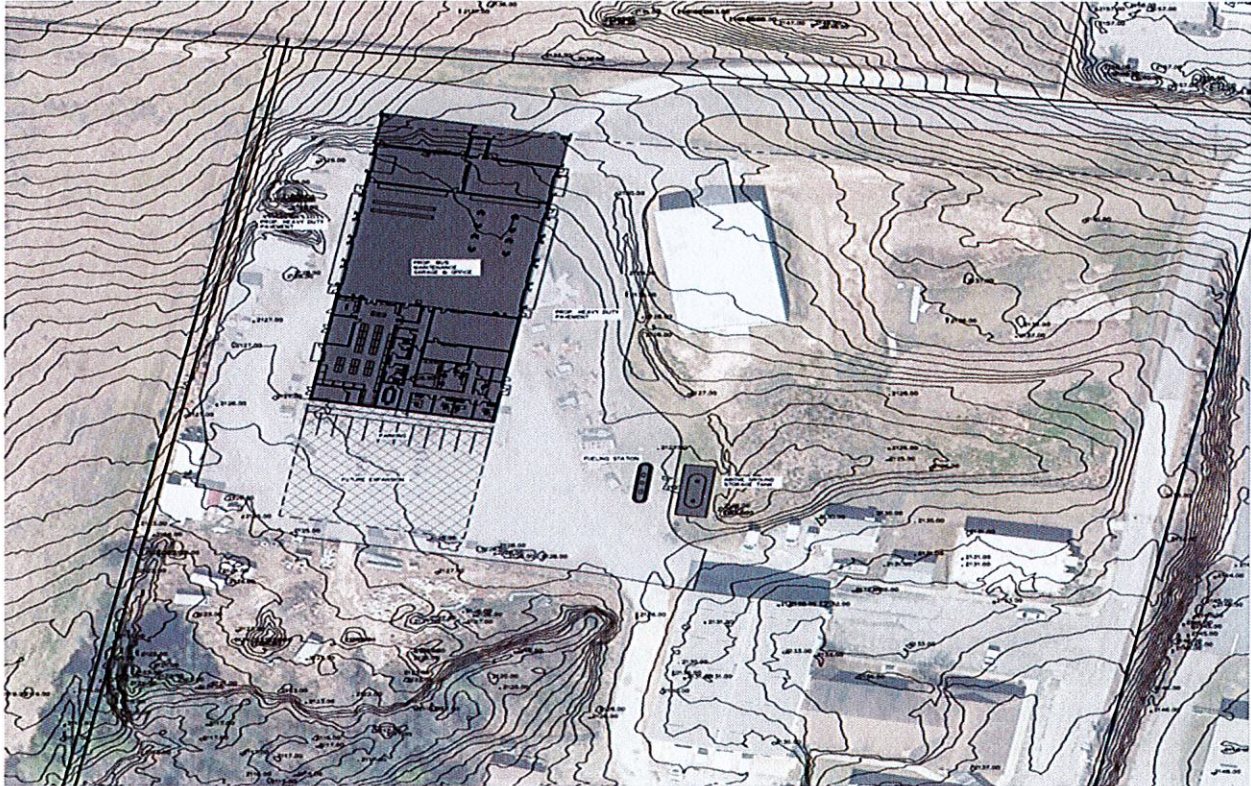
Bus Garage – Option 1



Bus Garage – Option 2

Mr. Garrett noted that option 2 was the School Board's proposed location. The site plan for this option included a 60' x 40' maintenance building and storage warehouse that would need to be removed. The operations in that structure would be relocated to the proposed bus garage.

Mr. Mitchell stated that the superintendent presented the renderings to the Board and the public to gather the Board's initial thoughts on whether to move forward with securing the proper design for the site.



Mr. Garrett stated that a similar facility had recently been completed in Rutherford County, and they had invited the Board of Commissioners and School Board Members to tour it. The new bus garage was the School Board's top financial priority, with East Henderson security upgrades next. The School Board would like to mirror the upgrades recently completed at West Henderson.

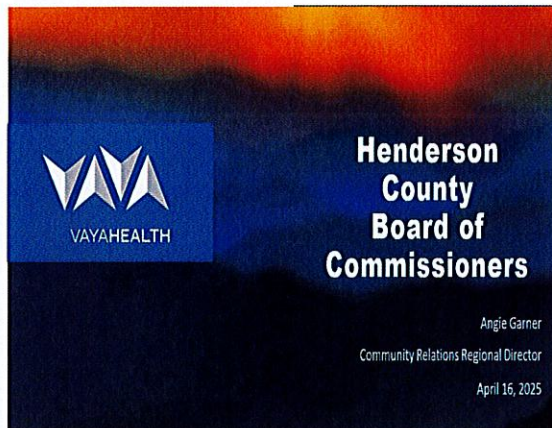
Commissioner McCall recommended that the Joint School Facilities Committee make a site visit to the Rutherford County location to aid in the planning and decision-making for the project.

Asheville Regional Airport Update

President and CEO of the Greater Asheville Regional Airport Authority, Lew Bleiweis, provided the annual update for the airport as of December 2024. He reported there were six airlines operating out of the airport, including: Allegiant, American, Delta, Jet Blue, Sun Country, and United. The number of passengers was down 3.2% due to Hurricane Helene. Seats in the market were up 2.7% for a total of 1,410,000 seats. Load factor dropped 77.57%, which was a 5.4% drop for the year, as a result of the passenger count.

VAYA Health Update

Community Relations Regional Director Angela Garner provided information about VAYA Health.



Who We Are

- Vaya Health is a local political subdivision of the state of North Carolina and a Local Management Entity/Managed Care Organization (LME/MCO) governed by Chapter 122C of the North Carolina General Statutes
- Vaya Health is a Tailored Plan which manages publicly-funded mental health, substance use disorder, intellectual/ developmental disability, and traumatic brain injury services in 32-county region
- NCGS § 122C-115.4(a): "Local management entities are responsible for the management and oversight of the public system of mental health, developmental disabilities, and substance abuse services at the community level. An LME shall plan, develop, implement, and monitor services within a specified geographic area to ensure expected outcomes for consumers within available resources."

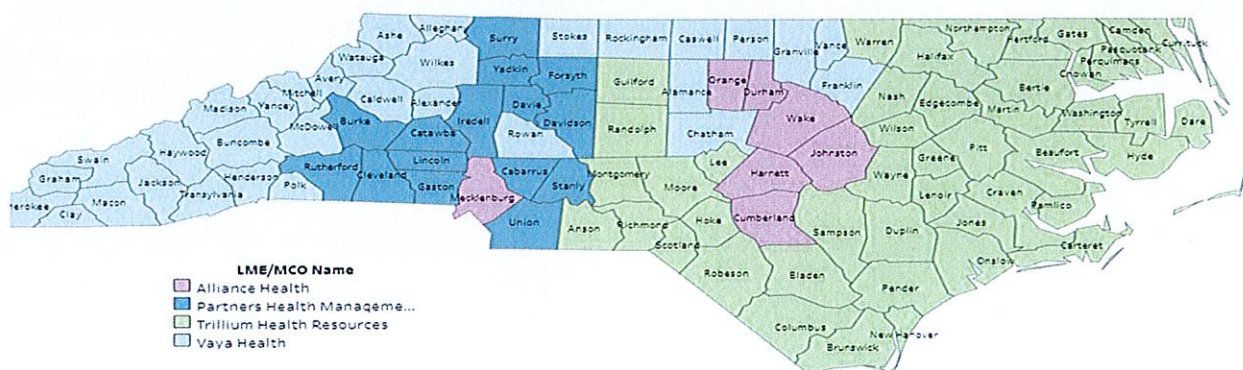
What is a Tailored Plan?

North Carolina must move NC Medicaid to managed care.
The launch of Standard Plans (Healthy Blue, AmeriHealth Caritas, United Healthcare or WellCare) was the first step. Tailored Plans began July 1, 2024.

- Tailored Plans are a new kind of NC Medicaid Managed Care health plan. They cover mental health, severe substance use, I/DD, TBI and prescriptions in one plan.
- The assigned Tailored Plan is based on the county that manages the Medicaid benefits for the Member. You cannot choose a different Tailored Plan.



Who Manages Tailored Plans?



This map shows LME/MCO configuration effective 2/1/24.

Approved: May 5, 2025

Services offered by Tailored Plans

If a Member opts out of Tailored Plans, these services are not paid for by other NC Medicaid Managed Care health plans.

Here are some examples:

- Child and adolescent day treatment services
- Intensive in-home services
- Multi-systemic therapy services
- Psychosocial rehabilitation
- Residential treatment facility services
- Community living and supports (specific to I/DD & TBI)
- Supported employment (available to I/DD, TBI, and behavioral health)
- Respite (specific to I/DD, TBI, serious emotional disturbance and severe SUD)
- State-funded behavioral health, I/DD, and TBI services

Vaya Total Care: Non-Emergency Medical Transportation - NEMT

- Non-Medical Transportation Perks: Up to 24 trips per year from Modivcare for going to grocery stores/markets, libraries, parks, community activities, business offices and other places to support Member.
- Non-Emergency Medicaid Transportation(NEMT) for Physical and Behavioral Health appointments - Vaya will be responsible for Member transportation which can be scheduled by a Care Manager, Provider and/or Member. Scheduling can be done through mobile app, call in number, or on-line scheduler. State-wide transportation vendor is Modivcare. All Tailored and Standard Plans use Modivcare per state contract.

Healthy Opportunities Pilot

The federal government authorized up to \$650 million for five years in state and federal Medicaid funding to test evidence-based, non-medical interventions designed to improve health outcomes and reduce health care costs for a subset of Medicaid enrollees. Who is Eligible for the HOP?

- Be enrolled in a Vaya Total Care Health Medicaid Health Plan or Standard Plan.
- Have at least one qualifying physical or behavioral health condition and one qualifying social risk factor.
- Live in one of the following counties: Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Transylvania, Swain, and Yancey.

Healthy Opportunity Pilot Supports

Impact Health is the Administering Agency working with a variety of community-based organizations to deliver these supports.

Housing Supports: Tenancy supports and sustaining services, housing quality and safety improvements and one-time securing home payment.

Food Supports: Healthy food boxes, medically tailored meals, linkage to nutrition programs and counseling/coaching on nutrition & cooking.

Transportation Supports: Linkage to existing public transit and payment for transit to access Pilot supports.

Toxic Stress & Interpersonal Violence Supports: Linkage to legal services for interpersonal violence issues, evidence-based parenting support programs and evidence-based home visiting programs.

Vaya Health Helene Response

- Immediately identified members based on claims data that were high risk (in need of time sensitive medication, complex medical conditions, etc.) and began making outreach
- Outreached 100% of Priority Population members
- Contacted over 1,000 providers and evaluated over 3,000 sites for operational readiness/areas of need to make sure they received the supplies and support necessary to return to operations
- Made over \$6.8 million in direct stabilization/hardship payments to providers
- Funded a position through Hope Coalition to solely provide crisis counseling and case management for individuals staying in the shelter
- Vaya Donations Center at the Ridgefield office

NOMINATIONS AND APPOINTMENTS

1. EMS Peer Review Committee – 1 vac.

Chairman Lapsley made the motion to nominate Dr. Jason Barter for reappointment to position #6. All voted in favor, and the motion carried.

2. Farmland Preservation Task Force – 5 vacs.

Commissioner McCall nominated Brent Coston for appointment to position #4.

Chairman Lapsley motioned to appoint Brent Coston to position #4, and to nominate Gary Steiner for reappointment to position #6, Randy Newman to position #8, and Alan Ward to position #12. All voted in favor, and the motion carried.

Approved: May 5, 2025

3. Henderson County Historic Courthouse Corporation dba/Heritage Museum – 1 vac.

There were no nominations, and this item was carried to the next meeting.

4. Henderson County Planning Board – 3 vacs.

Commissioner McCall nominated Gary Griffin for appointment to position #3.

Chairman Lapsley motioned to appoint Gary Griffin to position #3, and to nominate Hunter Marks for reappointment to position #9. All voted in favor, and the motion carried.

5. Hendersonville City Zoning Board of Adjustment – 1 vac.

There were no nominations, and this item was carried to the next meeting.

6. Historic Resources Commission – 1 vac.

There were no nominations, and this item was carried to the next meeting.

7. Hospital Corporation Board of Directors/UNCH – 1 vac.

Commissioner McCall made the motion to nominate Chip Gould for appointment to position #9. All voted in favor, and the motion carried.

8. Laurel Park Zoning Board of Adjustment – 1 vac.

There were no nominations, and this item was carried to the next meeting.

9. Nursing/Adult Care Home Community Advisory Committee – 11 vacs.

There were no nominations, and this item was carried to the next meeting.

COMMISSIONER UPDATES

Chairman Lapsley and Commissioners Egolf and McCall did not have updates to share.

Commissioner Franklin informed the Board of her resignation from the MSD Board and nominated Jim Player to fill the vacancy.

Commissioner Franklin nominated Jim Player for appointment to position #2 on the Metropolitan Sewerage District of Buncombe County (MSD). All voted in favor, and the motion carried.

GENERAL ASSEMBLY UPDATE

Mr. Mitchell provided updates on the legislative agenda.



COUNTY MANAGER'S REPORT

Mr. Mitchell provided a brief report on recent events.

Approved: May 5, 2025

Motion: Commissioner Egolf made the motion to go into Closed Session pursuant to NCGS 143.318.11(a)(3)(4). All voted in favor, and the motion carried.

ADJOURN


Denisa A. Lauffer, Clerk to the Board
William G. Lapsley, Chairman

Enactments

Wednesday, April 16, 2025

2025.049 Resolution – Line Worker Appreciation Day

2025.050 Parks and Recreation Trust Fund Grant Application – Berkeley Sports Complex

2025.051 Public Hearing - Amendments to Chapter 45 Farmland Preservation

2025.052 Public Hearing – Renaming of Rights-of-Way “Lavender Court” and “Lynwood Cabin Way”

2025.053 Conditional Rezoning Application #R-2025-01-CD – The Cottages at Sugarloaf Meadows

Henderson County Board of Commissioners

1 Historic Courthouse Square • Suite 1 • Hendersonville, NC 28792
Phone (828) 697-4808 • Fax (828) 692-9855 • www.hendersoncountync.gov

William G. Lapsley
Chairman
J. Michael Edney
Vice-Chairman



Rebecca K. McCall
Sheila W. Franklin
J. Jay Egolf

RESOLUTION – PROCLAIMING FRIDAY, APRIL 18, 2025, AS LINE WORKER APPRECIATION DAY IN HENDERSON COUNTY

WHEREAS, on April 10, 2013, a resolution was passed in the United States Senate to recognize April 18 annually as National Lineman (Line Worker) Appreciation Day; and

WHEREAS, the profession of the electrical line worker is steeped in personal, family, and professional tradition; and

WHEREAS, line workers are often first responders during storms and other catastrophic events, working to make the scene safe for other public safety officials, and to expedite the return of vital electrical power to our communities; and

WHEREAS, these brave men and women work with thousands of volts of electricity high atop power lines 24 hours a day, 365 days a year, risking and sometimes losing their lives to keep electricity flowing; and

WHEREAS, line workers are often faced with dangerous conditions, far from their families, as they work to construct and maintain energy infrastructure throughout the State of North Carolina and the United States; and

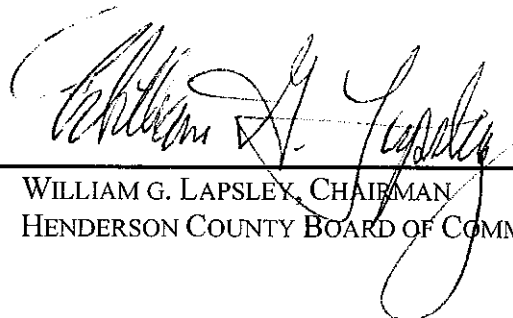
WHEREAS, line workers must use their technical knowledge, physical strength and ingenuity to achieve success in challenges they face every day; and

WHEREAS, the Henderson County Board of Commissioners thanks these skilled and heroic line workers who brave hurricanes, ice storms, snowstorms, floods, and other natural disasters to maintain our community's energy grid.

NOW, THEREFORE, BE IT RESOLVED that the Henderson County Board of Commissioners do hereby proclaim Friday, April 18, 2025, as Line Worker Appreciation Day in Henderson County.


In witness whereof I have hereunto set my hand and caused the seal of the County of Henderson to be affixed.

Adopted this the 16th day of April 2025.



WILLIAM G. LAPSLEY, CHAIRMAN
HENDERSON COUNTY BOARD OF COMMISSIONERS

ATTEST:



DENISA LAUFFER, CLERK TO THE BOARD

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: April 16, 2025

SUBJECT: Amendments to Chapter 45 Farmland Preservation

PRESENTER: Autumn Radcliff, Planning Director
April Hoyt, Conservationist/Education Coordinator

ATTACHMENTS: 1. Draft Amendments to Chapter 45

SUMMARY OF REQUEST:

The Farmland Preservation Taskforce has been working over the course of several meetings on amendments to Chapter 45 in the County Code of Ordinances for Farmland Preservation. The amendments deal with administrative changes necessary in the ordinance, adds the process for agricultural conservation easements, expands the membership and role of the Agricultural Advisory Board, and supports the duties of a farmland preservation coordinator.

The Agricultural Advisory Board reviewed the draft amendments at its meeting on February 26th, 2025, and voted unanimously to recommend the Board of Commissioners adopt the draft amendments. On March 10th, 2025, the Farmland Preservation Taskforce voted unanimously to recommend the Board of Commissioners adopt the draft amendments.

The bylaws for the Agricultural Advisory Board will need to be amended to reflect the changes in Chapter 45. The Agricultural Advisory Boards next regular meeting will be April 23rd, 2025, and they will review and make a recommendation on the amended bylaws. Staff anticipates that the amended bylaws will be on the Board of Commissioners May 5th meeting as a consent item, at which time the Board can reappoint and add new position appointments to the expanded Agricultural Advisory Board, provided the required criteria is met.

PUBLIC NOTICE:

A public notice for this hearing was submitted to be advertised in the Hendersonville Lightning on Wednesday, April 2nd, 2025, and Wednesday, April 9th, 2025.

BOARD ACTION:

The Board is requested to review the amendments to Chapter 45, Farmland Preservation.

Suggested Motion:

I move that the Board of Commissioners approve the proposed amendments to Chapter 45 Farmland Preservation with any changes as discussed.

Red Text = Proposed Amendments

Chapter 45 - Farmland Preservation

[HISTORY: Adopted by the Board of Commissioners of Henderson County. Amended 12-18-1991; 11-18-1998; 9-02-2008; 9-04-2012; 1-03-2022.]

Article I – General Provisions

45-1. Purpose; Statutory Authority; Title.

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

B. Pursuant to **the** authority conferred by Article 61 of Chapter 106 of the North Carolina General Statutes and for the purpose of promoting the health, safety, morals, and general welfare of Henderson County, the Board of Commissioners of Henderson County, North Carolina, does enact the following sections, which shall be known as the "~~Voluntary~~ Farmland Preservation Program Ordinance of Henderson County, North Carolina."

~~Article II – Agricultural Advisory Board~~

45-2. Definitions

The following terms are defined for purposes of this Chapter:

Agricultural Conservation Easement. An agricultural conservation easement (sometimes herein "ACE" or "Conservation Easement") shall have the meaning defined in N.C. Gen. Stat. §106-744 and to the extent not inconsistent with N.C. Gen. Stat. §106-744 generally means a written agreement between a landowner and a qualified conservation organization or public agency under which:

- 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
- The qualified conservation organization or public agency shall monitor the agricultural conservation easement to ensure the easement terms are met.

No limitations shall be stated or interpreted to prevent a landowner from conducting agricultural activities, including, but not limited to, the production of crops, forestry products, horticultural crops or products, tillage, 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 program's purpose.

Board ~~or~~ Advisory Board. The Henderson County Agricultural Advisory Board.

Board of Commissioners. The Henderson County Board of Commissioners.

Chairman. The Chairman of the Agricultural Advisory Board.

Conservation Agreement. Defined per N.C. Gen. Stat. § 121-35 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 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.

District. A voluntary agricultural district.

Enhanced Voluntary Agricultural District. The enhanced voluntary agricultural district (“EVAD”) shall have the meaning defined in N.C Gen. Stat. §106-743.1.

Farmland Preservation Coordinator. This refers to a Henderson County employee in the Henderson County Soil and Water Conservation District office who administers the Agricultural Preservation Program and supports the Agricultural Advisory Board.

Preservation Agreement. A voluntary agreement between a landowner and Henderson County for participation in the Voluntary Agricultural District Program.

Qualified Land Conservation Organization. A tax-exempt organization with a mission dedicated to conservation or preservation and experience in real property acquisition, a land trust, or a government entity.

Voluntary Agricultural District. The Voluntary Agricultural District (“VAD”) shall have the meaning defined in N.C. Gen. Stat. §106-738.

Article II – Agricultural Advisory Board

45-3. Establishment

A County Agricultural Advisory Board, to consisting of **nine (9)** ~~5~~ members appointed by the Board of Commissioners, is hereby established.

45-4. Residency Requirements; Qualifications; Terms; Vacancies; Removal.

- A. Each Board member shall be a resident of Henderson County and shall be selected **to provide the broadest possible representation of the geographical regions and to represent, to the extent possible, all segments of agricultural production existing within Henderson County as per** ~~in accordance with~~ N.C. Gen. Stat. §106-739.
- B. **The Board shall consist of nine (9) members. The membership shall consist of five (5) members actively engaged in agriculture (as defined by NC § 106-581.1.), two (2) at-large members with some form of agricultural knowledge, and two (2) at-large members from one of the following related professions or fields: real estate, engineering, surveying, environmental consulting, or finance. The Board of Commissioners shall appoint the members. Preference shall be given to applicants who have experience with conservation easements.** ~~3 of the 5 members should be actively engaged in farming, and they may be selected for appointment by the Board of Commissioners from a list of possible candidates submitted to the Board of Commissioners by the Henderson County Soil and Water Conservation District, Henderson County Cooperative Extension, Farm Service Agency County Committee, and AgriBusiness Henderson County. Appointments should be made with an effort to have the broadest geographical representation possible. All members are to serve for terms of three (3) years and no more than two (2) consecutive terms.~~
- C. All members are to serve for **three (3) year terms and no more than two (2) consecutive terms** ~~terms of 4 years, except that the initial Board is to consist of 1 appointee for a term of 2 years; 2 appointees for terms of 3 years and 2 appointees for terms of 4 years. Thereafter, all appointments are to be for terms of 4 years, with reappointments permitted.~~
- D. Any vacancy on the Agricultural Advisory Board is to be filled by the Board of Commissioners for the remainder of the unexpired term. **The Agricultural Advisory Board may submit a recommendation for appointment.**
- E. Any member of the Agricultural Advisory Board may be removed with or without cause by the Board of Commissioners.

- F. Each member of the Board shall receive ethics training annually through Henderson County, the School of Government, the Henderson County Soil and Water Conservation District, or the North Carolina Soil and Water Conservation Commission.

45-5. Officer, Bylaws; Fiscal Year; Meetings; Recordings; Support Services.

- A. The Board is to elect a Chairman and Vice Chairman each year at its first meeting of the ~~calendar~~ **fiscal** year. The Chairman shall preside over all regular or special meetings of the Board. The Board shall adopt its own bylaws, and such bylaws or amendments thereto must be approved by the Henderson County Board of Commissioners.
- B. The Board will use the ~~calendar~~ **fiscal** year as its meeting year. Meetings of the Board shall be publicized and conducted in accordance with provisions of the North Carolina Open Meetings Law. Such meetings shall be held at the call of the Chairman and at such other times as **specified in the Board's** ~~in its rules of procedure may specify~~.
- C. The Board shall keep minutes of the proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- D. The Henderson County Agricultural Advisory Board shall contract with the Soil and Water Conservation District office to serve the Board for recordkeeping, correspondence, and application procedures under this Chapter and whatever other services the Board needs to complete its duties.

45-6. Powers and Duties.

- A. The Agricultural Advisory Board shall:
 - 1. Review and approve applications for ~~qualified~~ **qualifying** farmland and Voluntary Agricultural Districts, **Enhanced Voluntary Agricultural Districts, and Agricultural Conservation Easements**, and make recommendations concerning the establishment and modification of agricultural districts, subject to the appeal of such decisions to the Board of Commissioners pursuant to N.C. Gen. Stat. §106-739(a)(1).
 - 2. Hold public hearings pursuant to Article VI of this Chapter.
 - 3. Advise the Board of Commissioners on projects, programs or issues affecting the agricultural economy or activities within the County that will affect agricultural districts.
 - 4. Execute agreements with landowners necessary for enrollment of land in a voluntary agricultural district.
 - 5. Perform other related tasks or duties assigned by the Board of Commissioners.
- B. Each district shall be assigned to a member of the Board who shall monitor and represent that district in all business conducted by the Board. Individual members will represent those districts closest to them geographically. No member will represent more than **thirty percent (30%)** of the total number of districts in the County or **thirty percent (30%)** of the total land area.
- C. **Each member shall state if there is a conflict of interest with any Agricultural Conservation Easement application the Agricultural Advisory Board reviews. If a Board member applies and requests federal, state, or local funding, that member shall not participate in reviewing or approving any application for the same review cycle as the Agricultural Advisory Board is considering their application.**

Article III – Voluntary Agricultural Districts ~~Qualifying Farmland~~

45-7. Qualifying Farmland

As used in this Article, qualifying farmland ~~per N.C. Gen. Stat. §106-737~~, must:

- A. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion-control practices that are addressed to said highly erodible land; and
- B. Be located in the unincorporated area of Henderson County; and
- C. Either:
 1. ~~Be participating~~ in the farm present-use-value taxation program established by N.C. Gen. Stat. Chapter 105, Article 12, or is otherwise determined by the county to meet all the qualifications of this program set forth in N.C. Gen. Stat. §105-277.3; or,
 2. Both:
 - a. Be engaged in "agriculture," as ~~that term is~~ defined in [N.C. Gen. Stat. §106-581.1](#); and,
 - b. Qualify as a "bona fide farm" under N.C. Gen. Stat. §160D-903(a).

45-8. Districts Not Permitted in ~~Incorporated Areas~~ ~~County Growth Areas~~

- A. Voluntary agricultural districts will not be permitted in ~~designated County growth areas~~ **incorporated areas, except by a separate agreement or memorandum of understanding**, ~~as delineated in the most recently adopted County Land Use Plan, such plan being adopted after the effective date of this Chapter.~~

Article IV – Voluntary Agricultural Districts and Enhanced Voluntary Agricultural Districts

Part One - Voluntary Agricultural Districts

45-97. Purpose

The purpose of voluntary agricultural districts, ~~per N.C. Gen. Stat. §106-738(b)~~, **are** formed by landowners shall be to encourage the economic and financial well-being of farming areas, decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors, undesirable nonfarm development, ~~and~~ other negative impacts on participating farms, and to increase the identity and pride in the agricultural community and its way of life.

45-108. Application Procedure

- A. An agricultural district shall initially consist of at least **fifty (50)** or more contiguous acres of qualifying farmland or at least **five (5)** qualifying farms, which collectively will create a district with Page 3 of 13 Chapter 45 - Farmland Preservation Published on Henderson County North Carolina (<https://www.hendersoncountync.gov>) 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.
- B. An agreement to sustain, encourage, and promote agriculture must be executed by each applicant in the district and submitted to the Agricultural Advisory Board for approval.
- C. Landowners may apply to participate in existing districts and are encouraged to do so.
- D. To secure County certification as **in** an agricultural district, a landowner, for such designation, ~~will~~ **shall** apply to the ~~Chairman of the~~ Agricultural Advisory Board. Application forms may be obtained from the ~~Chairman at the~~ Soil and Water Conservation District office ~~or at the office of the Henderson County Planning Department.~~

- E. Upon receipt of an application, ~~the Henderson County Soil and Water Conservation District office, Farmland Preservation Coordinator, or its designee will evaluate each application~~ the Chairman will forward copies immediately to the Henderson County Assessor's office and the Henderson County Soil and Water Conservation District office for evaluation pursuant to Article IV. Said offices ~~parties~~ shall evaluate, complete, and return their copies to the Chairman ~~Agricultural Advisory Board at the subsequent meeting~~ within 30 days of receipt.
- F. ~~Within 30 days of receipt of respective reports from the County Assessor and the Soil and Water Conservation District office,~~ The Board will meet and render a decision regarding the application. The Chairman ~~Board~~ will notify the applicant by mail of the Board's decision.
- G. If the application is ~~denied~~ by the Agricultural Advisory Board ~~denies the application~~, the petitioner has ~~thirty (30)~~ days to appeal the decision to the Henderson County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

Article V—Revocation of Preservation Agreement

45-1144. Notice.

- A. ~~Expand~~ By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Article IV ~~H~~ **Part 1** of this Chapter, or the Board may revoke the same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of eligibility to participate in a Voluntary Agricultural District.

Part Two. Enhanced Voluntary Agricultural Districts

45-1240. Purpose

The purposed of Enhanced Voluntary Agricultural Districts is to provide, pursuant to N.C. Gen. Stat. §106-743.1 et seq., all the benefits to the County of Voluntary Agricultural Districts under Part 1 of this Article, with additional benefits to the County and to its farmland beyond that available in a voluntary agricultural district established under Part 2 of this Article, when the owner of the farmland agrees to the condition imposed hereunder.

- A. Enhanced Voluntary Agricultural Districts must meet all the requirements of Part 1 of this Article.
- B. Landowners who desire inclusion of their land in an Enhanced Voluntary Agricultural District must not only meet all the requirements of Part 1 of this Article but must also enter into an irrevocable agricultural easement and conservation agreement (pursuant to N.C.G.S. §121-35) for a term of ~~ten (10)~~ years with Henderson County through its Agricultural Advisory Board, as specified below. Such easement shall contain a provision that at its expiration, the easement automatically renews for subsequent ~~three (3)~~ year periods unless either party gives the other written notice prior to such expiration to Henderson County and its Agricultural Advisory Board.
- C. The form of the agreement required under A., above, shall be approved by the Henderson County Agricultural Advisory Board and shall meet the requirements of N.C.G.S. §106-743.2.

45-1343. Benefits

- A. The benefits ~~set forth~~ **outlined** in this Part shall be available to the farmland that is the subject of the conservation agreement for the duration of the easement and conservation agreement and for so long as the benefits of such agreement have not been withdrawn under the provisions of this Part due to non-compliance with the terms of such easement and conservation agreement.
- B. Property that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 that remains in effect may receive up to ~~twenty-five (25)~~ percent of its gross sales from the sale of nonfarm products

and still qualify as a bona fide farm that is exempt from zoning regulations under N.C. Gen. Stat. §153A-340(b). For purposes of N.C. Gen. Stat. §153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed **twenty-five (25)** percent of its gross sales.

- C. Pursuant to N.C. Gen. Stat. §106-743.4 (b), a person who farms land that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 under N.C.G.S. Chapter 160 that remains in effect is eligible, Article 72 to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to N.C.G.S Chapter 143, Article 21, Part 9, for funds to benefit that farmland.
- D. All assessments for utilities provided by Henderson County are held abeyance, without interest, for farmland subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 that remains in effect until improvements on the farmland property are connected to the utility for which the assessment was made. When the period of abeyance ends, such assessment is payable in accordance with the terms of the assessment resolution. Pursuant to N.C. Gen. Stat. §106-743.5(c), statutes of limitations are suspended during the time that any assessment is held in abeyance under this section without interest.

45-1450. Application Procedures for Enhanced Voluntary Agricultural District

~~The Henderson County Agricultural Advisory Board shall adopt procedures based upon the model procedures promulgated by North Carolina State University College of Agriculture & Life Sciences for both voluntary and enhanced voluntary agriculture districts for the following:~~

- A. ~~Application~~ **Eligible landowners may apply to participate in existing districts and are encouraged to do so.**
- B. **To secure county certification in an Enhanced Voluntary Agricultural District, a landowner with such designation will apply to the Agricultural Advisory Board. Application forms may be obtained at the Soil and Water Conservation District office.**
- C. **Upon receipt of an application, the Henderson County Soil and Water Conservation District office, Farmland Preservation Coordinator, or its designee will evaluate each application pursuant to Article IV. Said offices shall evaluate, complete, and return copies to the Agricultural Advisory Board at their next meeting. The Board will meet and render a decision regarding the application. The Board will notify the applicant by mail of the Board's decision.**
- D. ~~B.~~ **Approval of Agriculture Easement and Conservation Agreement for the Enhanced Voluntary Agricultural District terms. Such agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board and with the Henderson County Register of Deeds. Permitted uses for the land subject to such Easement and Conservation Agreement include agriculture, horticulture, forestry, and outdoor recreation. The Easement and Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner according to its terms, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Easement and Conservation Agreement.**
- E. ~~C. Enforcement, including methods for determining compliance and for revocation by the County for non-compliance.~~ **If the Agricultural Advisory Board denies the application, the petitioner has thirty (30) days to appeal the decision to the Henderson County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.**

Part Three – Procedures

45-15. Condemnation of ~~Participating Farmland~~ Qualifying Farmland

- A. Pursuant to N.C. Gen. Stat. §106-740, no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland **enrolled in a Voluntary or Enhanced Voluntary Agricultural** District until it has requested the Henderson County **Agricultural** Advisory Board to hold a public hearing on the proposed condemnation.
- B. Procedure **for Public Hearing**
 - a. ~~Upon~~ **Within 5 twenty (20)** business days ~~of~~ receiving a request, the Henderson County **Agricultural** Advisory Board shall **submit notice a press release** describing the proposed action **and date of hearing** in the newspaper of record within Henderson County ~~within 5 business days of the request and will in the same notice notify the public of a~~ **The** public hearing on the proposed condemnation, ~~to~~ **shall** be held within ~~40~~ **twenty-five (25)** days ~~of receipt of the request.~~
 - b. The Advisory Board shall meet to review:
 - b. Whether 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
 - c. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the **Agricultural** District within which the proposed action is to take place.
 - c. The **Agricultural** Advisory Board **may** consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.
 - d. Within **five (5)** days after the hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action **and forward** to the decision making body of the agency proposing the acquisition.
 - e. The total time period from the day that a request for a hearing ~~has been~~ **is** received to the day that a final report is issued to the decision making body of the agency proposing the acquisition shall not exceed **thirty (30)** days. 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.
 - f. ~~The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.~~
 - ~~g. There will be a period of 10 days allowed for public comment on the report of the Advisory Board.~~
 - ~~h. After the 10 day period for public comment has expired, 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.~~
 - ~~i. The total time period from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition shall not exceed 30 days. 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.~~
 - ~~j. Pursuant to N.C. Gen. Stat. §106-740, no State or local agency may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district or an enhanced voluntary agricultural district until such agency has requested a public hearing.~~

Article V – Public Information and Notices

45-169. Maps; Public Notice.

Voluntary ~~and Enhanced Voluntary~~ Agricultural Districts will be marked on official maps maintained by the Henderson County Soil and Water Conservation District office and displayed for public view. **Maps are also available on the county's website.** ~~in the following County offices:~~

- ~~A. Registrar of Deeds.~~
- ~~B. Code Enforcement.~~
- ~~C. Tax Collector.~~
- ~~D. Soil and Water Conservation District.~~
- ~~E. Cooperative Extension.~~
- ~~F. Land Records.~~
- ~~G. Any other office deemed necessary by the Board of Commissioners.~~

45-1721. Records; Notice of Proximity to District.

- ~~A. At such time as Henderson County's has a computerized Land Records system, it shall be required that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within 1/2 mile of the property line of any tract of land enrolled in a Voluntary Agricultural District.~~

45-1810. Major Land Development and Subdivisions; Notice to Purchasers and Planned Unit Developments.

- A. Developers of major subdivisions **(as that term is used in the Henderson County Land Development Code)** ~~or planned unit developments~~ shall designate on preliminary development plans the existence of Voluntary Agricultural Districts **and Enhanced Voluntary Agricultural Districts** within 1/2 mile of the proposed development.
- B. In addition, developers shall comply with all applicable provisions of the Henderson County Land Development Code, including but limited to those regarding Farmland Preservation Districts.**
- C. As used in this Article, unless the context clearly indicates otherwise, the terms "Voluntary Agricultural District" and "Enhanced Agricultural District" shall have the same meaning as the term "Farmland Preservation District" as used in the Henderson County Land Development Code.**

45-11. Public Information Program.

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

45-1929. Public information program.

The County may take such action as it deems appropriate through the Agricultural Advisory Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including a public information program to reasonably inform landowners of the farmland preservation program. Official Henderson County electronic land records shall indicate the boundary of the area within 1/2 mile of a voluntary agriculture district. **and The Land Development Code shall further indicate any required setbacks from such district** ~~required by the Land Development Code.~~

Article VII - Special Requirements

45-2017 Purpose.

The purpose of this article is to **outline additional requirements of Henderson County's Soil and Water Preservation Districts** ~~help meet the needs of agriculture as an industry and to prevent conflicts between voluntary agricultural district participants and nonfarm landowners in proximity to districts.~~

45-2119. State Agency Notification and Consultation with Other Agencies.

- A. The **Agricultural Advisory Board, or its designee, may** ~~shall~~ consult ~~as much as possible~~ with the **North Carolina Cooperative Extension, the Natural Resources Conservation Service office,** the North Carolina Department of Agriculture **and Consumer Services,** the North Carolina Division of Soil and Water Conservation, and any other entity the Board deems ~~ed~~ necessary to the proper conduct of its business.
- B. **A copy of this ordinance shall be sent to the Office of the North Carolina Commissioner of Agriculture and Consumer Services, the North Carolina Cooperative Extension, and the Henderson County Soil and Water Conservation District office after adoption. The Henderson County Soil and Water Conservation District office is responsible for any required reporting.**

45-2220. Filing with Commissioner Of Agriculture; Annual Reports.

~~A. A copy of this Chapter shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year, the County shall submit a written report to the Commissioner of Agriculture's office indicating the status, progress, and activities of the County's farmland preservation program, including voluntary agricultural districting information regarding:~~

- 1. Number of landowners, acres, and farms enrolled.
- 2. Number of acres applied.
- 3. Number of acres certified.
- 4. Number of acres denied.
- 5. Date each agricultural district was certified.

~~B. Copies of the reports cited in Subsection A will be sent to:~~

- ~~1. North Carolina Commissioner of Agriculture.~~
- ~~2. North Carolina Department of Transportation.~~
- ~~3. North Carolina Department of Commerce.~~
- ~~4. Hendersonville Chamber of Commerce.~~
- ~~5. Any other entities the Board deems appropriate.~~

45-2352. Through 45-3375. (Reserved)

Article VII – County Land Use Planning

45-34. County Land Use Planning

- A. **It shall be the duty of the Agricultural Advisory Board to advise the Board of Commissioners and any other 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. They also should coordinate the formation and maintenance of the VAD, EVAD, and agricultural conservation easements with the County's land use planning activities, the County's Comprehensive Plan, and the County's Agricultural Preservation Plan.**

45-35 through 45-40. Reserved

Article VIII – Agricultural Conservation Easements

45-41. Agricultural Conservation Easement Program

- A. Purpose. Preserving the County’s agricultural lands in a manner that directs and accommodates growth and development is a high priority for County residents. To this end, the County establishes the following goals:
 - 1. To permanently protect and conserve those land in the County best suited for 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.
- B. The Henderson County Soil and Water Conservation District staff and the Farmland Preservation Coordinator shall make recommendations to the Agricultural Advisory Board on selecting properties for the purchase and/or donation of agricultural conservation easements. Subject to the availability of local, state, and federal funding, the Henderson County Soil and Water Conservation District may acquire or support the acquisition of agricultural conservation easements consistent with this ordinance. It may seek assistance from any appropriate qualified conservation organization.

45-42. Purchase or Seeking Funding for Agricultural Conservation Easements

- A. General. Subject to the availability of funds, the County may purchase or facilitate the purchase of agricultural conservation easements for agricultural and/or forestry lands. All applications for the purchase of agricultural conservation easements will be evaluated based on a ranking system. Applications may be ranked based on various site factors determined by the Henderson County Soil and Water Conservation District staff and Farmland Preservation Coordinator. Agricultural conservation easements may be purchased in accordance with the ranking of agricultural properties and the availability of funding.
- B. Description. The purchase of agricultural conservation easements is legally binding, restricting the owners and future owners to agricultural and/or forestry land use. The agricultural conservation easements will be held by either Henderson County, the Henderson County Soil and Water Conservation District, Cooperative Extension, or in public trust by a qualified conservation organization. Agricultural conservation easements will be in perpetuity and compliance with the North Carolina Conservation and Historic Preservation Agreements Act and applicable federal and state laws.
- C. Authority. Henderson County may apply for grant funding for its agricultural preservation program. The County may enter into cooperative agreements with a qualified conservation organization, the United States Department of Agriculture Natural Resource Conservation Service (USDA NRCS), the North Carolina Department of Agriculture and Consumer Sciences Agricultural Development & Farmland Preservation Trust Fund (NCDA&CS, ADFPTF) or other agencies to facilitate the agricultural conservation easement purchase.
- D. Minimum eligibility criteria. There is no minimum acreage eligibility requirement to apply, but grant funding sources may have minimum acreage criteria.
- E. Application procedure. An application must be submitted to the Henderson County Soil and Water Conservation District staff, Farmland Preservation Coordinator, or its designee. Applications will be accepted year-round, reviewed, and ranked for funding during two (2) annual reviews held six (6) months apart.
- F. Review and ranking of applications. The Henderson County Soil and Water Conservation District staff and the Farmland Preservation Coordinator are responsible for developing and maintaining a system to rank and evaluate projects fairly and impartially. The agricultural preservation ranking system will be used to rank and prioritize applications received from landowners seeking the purchase of an agricultural conservation easement. The Farmland Preservation Coordinator, in coordination with the

Henderson County Soil and Water Conservation District staff, will rank each application and present it to the Agricultural Advisory Board for approval.

45-43 Donation of Agricultural Conservation Easements

- A. General. Henderson County may accept a voluntary donation of agricultural conservation easements or work with partners to facilitate these donations.
- B. Description. Donating agricultural conservation easements is legally binding, restricting owners and future owners to agricultural and/or forestry land use. The agricultural conservation easements will be held by either Henderson County or the Henderson County Soil and Water Conservation District or in public trust by a qualified conservation organization. They will be in perpetuity and compliance with the North Carolina Conservation and Historic Preservation Agreements Act and applicable federal and state laws.
- C. Minimum eligibility criteria. There is no minimum acreage eligibility requirement to apply.
- D. Application procedure. Upon contact by a landowner, a meeting will be set with the Henderson County Soil and Water Conservation District staff and the Farmland Preservation Coordinator or its designee to discuss the donation of an agricultural conservation easement.
- E. Funding. Any application seeking funding shall be ranked under 45-87.

45-44 Baseline Documentation and Monitoring

- A. Baseline documentation purpose. This policy establishes the procedure for collecting, compiling, and storing baseline documentation for agricultural conservation easements managed by Henderson County, the Henderson County Soil and Water Conservation District, or a qualified conservation organization. The County must have baseline documentation for all properties it protects. This information establishes the condition of a property at the time of easement acquisition or donation, allowing comparisons with findings during subsequent monitoring events.
- B. Baseline data collection. The volume and specificity of the information included in the baseline documentation report may vary depending on the easement terms and the property's conservation objectives. Henderson County's policy is that the Henderson County Soil and Water Conservation District staff, the Farmland Preservation Coordinator, or their designee will collect baseline data.
- C. Baseline data collected during a site visit will generally include:
 - 1. Boundary photos as well as photos of special features, structures, and other improvements and/or human modifications.
 - 2. Data and locations on a map of each photo, special feature, structure, and other improvements (Global Positioning System (GPS) is preferred);
 - 3. Other natural resource information documenting the conservation values of the site, such as soil maps, land cover data, natural community descriptions, ecological data, and other relevant agricultural or forestry information.
- D. The easement grantee shall keep a copy of the baseline documentation report on file, which the landowner must review prior to closing.
- E. Monitoring purpose. To protect conservation values and maintain safety on its fee simple properties, the Henderson County Soil and Water Conservation District staff, the Farmland Preservation Coordinator, or its designee will regularly monitor and maintain detailed records of inspections, problems on the property, and actions taken to address such issues.
 - a. Monitoring personnel. The easement holder is responsible for overall monitoring supervision, which will be coordinated with the Henderson County Soil and Water Conservation District staff and the Farmland Preservation Coordinator.
 - b. Monitoring procedure. Comprehensive monitoring shall be performed at least annually, with additional monitoring visits and reports to be generated as needed. Property owners will be notified prior to the scheduled monitoring visit.

45-45. Miscellaneous

- 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 Henderson 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 result in a civil action and removal of the non-qualifying land from the Henderson County Voluntary Agricultural District or Enhanced Agricultural District program. Recreational use of land that does not interfere with agricultural uses as defined in N.C. Gen. Stat. §106-581.1 shall not be considered non-compliant with this Article unless otherwise stated in the agricultural conservation agreement.
- C. Amendments. This ordinance and its articles may be amended by the Board of Commissioners.

45-46 through 45-99. Reserved.

Article IV—Certification for Qualifying Farmland

45-12. Requirements.

~~To secure County certification as qualifying farmland, a farm must meet the requirements of N.C. Gen. Stat. §106-737 as the same may be amended. 45-13. Application A landowner may apply to the Chairman for such certification at the same time he applies for approval as an agricultural district.~~

45-13. Application.

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

Article V—Revocation of Preservation Agreement

45-14. Notice.

~~Expand By written notice to the Board, a landowner of qualifying farmland may revoke the preservation agreement formulated pursuant to Article III of this Chapter, or the Board may revoke the same preservation agreement based on noncompliance by the landowner. Such revocation shall result in loss of eligibility to participate in a voluntary agricultural district~~

Article VI—Public Hearings

45-15. Purpose.

~~Pursuant to N.C. Gen. Stat. §106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district until such agency or unit has requested the local Agricultural Advisory Board to hold a public hearing on the proposed condemnation, this article provides for such hearings. This Chapter shall not be interpreted or construed to limit the County's authority to acquire land within or outside a voluntary agricultural district for a public purpose, whether by purchase or condemnation~~

45-16. Procedure.

- ~~A. Upon receiving a request for condemnation, the Agricultural Advisory Board shall, within 2 days, publish a notice in a newspaper having general circulation in Henderson County describing the proposed condemnation. The notice shall state the time, date and location of the public hearing on the proposed condemnation. Such hearing shall be held within 14 days of receipt of the request.~~
- ~~B. The Board will meet to review:
 - ~~1. If the need for the condemnation has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and~~
 - ~~2. Alternatives to the proposed condemnation that are less disruptive and of less impact to the agricultural activities and farm land base of the voluntary agricultural district within which the condemnation action is to take place.~~~~
- ~~C. The Board will consult with the County Cooperative Extension Service, United States Department of Agriculture Natural Resources Conservation Service, and may consult with any other individuals, agencies or organizations, public or private, necessary to the Board's review of the proposed condemnation.~~
- ~~D. Within 10 days after the public hearings, the Board will make a report containing its findings and recommendations regarding the proposed condemnation. The report will be made available to the public for comment prior to its being conveyed to the decision making body of the agency proposing condemnation.~~
- ~~E. Pursuant to N.C. Gen. Stat. §106-740, the County will not, within its scope of authority, permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the Advisory Board within these time limitations.~~

Article VII—Special Requirements

45-17 Purpose:

The purpose of this article is to help meet the needs of agriculture as an industry and to prevent conflicts between voluntary agricultural district participants and nonfarm landowners in proximity to districts.

45-18. Districts Not Permitted In County Growth Areas.

Voluntary agricultural districts will not be permitted in designated County growth areas, as delineated in the most recently adopted County Land Use Plan, such plan being adopted after the effective date of this Chapter.

45-19. Consultation with Other Agencies.

The Board shall consult as much as possible with the North Carolina Department of Agriculture, the North Carolina Division of Soil and Water Conservation and any other entity the Board deems necessary to the proper conduct of its business.

45-20. Filing with Commissioner Of Agriculture; Reports.

A. A copy of this Chapter shall be recorded with the North Carolina Commissioner of Agriculture's office after adoption. At least once a year the County shall submit a written report to the Commissioner of Agriculture's office indicating the status, progress and activities of the County's farmland preservation program, including voluntary agricultural districting information regarding:

- ~~6. Number of landowners, acres and farms enrolled.~~
- ~~7. Number of acres applied.~~
- ~~8. Number of acres certified.~~
- ~~9. Number of acres denied.~~

~~10. Date each agricultural district was certified.~~

~~B. Copies of the reports cited in Subsection A will be sent to:~~

- ~~6. North Carolina Commissioner of Agriculture.~~
- ~~7. North Carolina Department of Transportation.~~
- ~~8. North Carolina Department of Commerce.~~
- ~~9. Hendersonville Chamber of Commerce.~~
- ~~10. Any other entities the Board deems appropriate.~~

45-21. Records; Notice of Proximity to District.

~~At such time as Henderson County has a computerized land records system, it shall be required that such records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within 1/2 mile of the property line of any tract of land enrolled in a voluntary agricultural district.~~

Article VIII—Agricultural Districts

Part One—Voluntary Agricultural Districts

45-25. Purpose.

~~Expand The purpose of voluntary agricultural districts shall be as stated in N.C. Gen. Stat. §106-738(b).~~

45-26. Application Procedure.

- ~~A. An agricultural district shall initially consist of at least 100 or more contiguous acres of qualifying farmland or at least 3 qualifying farms, which collectively will create a district with each said farm lying within 1 mile of any other such farm. An agricultural district may be enlarged by adding qualifying farms subsequent to initial formation.~~
- ~~B. An agreement to sustain, encourage and promote agriculture must be executed by each applicant in the district and submitted to the Agricultural Advisory Board for approval.~~
- ~~C. Landowners may apply to participate in existing districts and are encouraged to do so.~~
- ~~D. To secure County certification as an agricultural district, a landowner, for such designation, will apply to the Chairman of the Agricultural Advisory Board. Application forms may be obtained from the Chairman at the Soil and Water Conservation District office or at the office of the Henderson County Planning Department.~~
- ~~E. Upon receipt of an application, the Chairman will forward copies immediately to the Henderson County Assessor's office and the Henderson County Soil and Water Conservation District office for evaluation pursuant to Article IV. Said offices shall evaluate, complete and return their copies to the Chairman within 30 days of receipt.~~
- ~~F. Within 30 days of receipt of respective reports from the County Assessor and the Soil and Water Conservation District office, the Board will meet and render a decision regarding the application. The Chairman will notify the applicant by mail of the Board's decision.~~
- ~~G. If the application is denied by the Agricultural Advisory Board, the petitioner has 30 days to appeal the decision to the Henderson County Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.~~

45-27. Maps; Public Notice.

- ~~A. Voluntary agricultural districts will be marked on official maps maintained by the Land Records Office of the Henderson County Tax Assessor, displayed for public view in the following County locations:~~

1. Register of Deeds.
2. Soil and Water Conservation.
3. Henderson County Tax Assessor's offices.
4. Official Henderson County electronic land records.
5. Any other office deemed necessary or advisable by the Board of Commissioners.

~~B. The following notice, of a size and form suitable for posting, shall be posted in the office of the Register of Deeds, and any other office or agency the Advisory Board deems necessary: *Henderson 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, 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 the North Carolina Cooperative Extension Service office, the office of the Register of Deeds, the County Planning office, the Land Records Section of the Tax Assessor's Office, or the Natural Resources Conservation Service office.*~~

45-28. Land Development; Notice to Purchasers.

- A. Developers of major subdivisions (as that term is used in the Henderson County Land Development Code) or planned unit developments shall designate on preliminary development plans the existence of voluntary agricultural districts within 1/2 mile of the proposed development.
- B. In addition, developers shall comply with all applicable provisions of the Henderson County Land Development Code, including but limited to those regarding Farmland Preservation Districts.
- C. As used in this Article, unless the context clearly indicates otherwise the terms "voluntary agricultural district" and "enhanced agricultural district" shall have the same meaning as the term "Farmland Preservation District" as used in the Henderson County Land Development Code.

45-29. Public information program.

The County may take such action as it deems appropriate through the Agricultural Advisory Board or other body or individual to encourage the formation of voluntary agricultural districts and to further their purposes and objectives, including a public information program to reasonably inform landowners of the farmland preservation program. Official Henderson County electronic land records shall indicate the boundary of the area within 1/2 mile of a voluntary agriculture district, and shall further indicate any setbacks from such district required by the Land Development Code.

45-30. Qualifying Farmland

As used in this Article, qualifying farmland must:

- A. Be managed, if highly erodible land exists on the farm, in accordance with the Natural Resources Conservation Service defined erosion control practices that are addressed to said highly erodible land; and
- B. Be located in the unincorporated area of Henderson County; and
- C. Either:
 1. Be participating in the farm present use value taxation program established by N.C. Gen. Stat. Chapter 105, Article 12, or is otherwise determined by the county to meet all the qualifications of this program set forth in N.C. Gen. Stat. §105-277.3; or,
 2. Both:
 - a. Be engaged in "agriculture" as that term is defined in [N.C. Gen. Stat. §106-581.1](#); and,

- b. Qualify as a "bona fide farm" under N.C. Gen. Stat. §160D-903(a).

Part Two—Enhanced Voluntary Agricultural Districts

45-40. Purpose

The purpose of Enhanced Voluntary Agricultural Districts is to provide, pursuant to N.C. Gen. Stat. §106-743.1 et seq., all the benefits to the County of Voluntary Agricultural Districts under Part 1 of this Article, with additional benefits to the County and to its farmland beyond that available in a voluntary agricultural district established under Part 2 of this Article, when the owner of the farmland agrees to the condition imposed hereunder.

- D. ~~Enhanced Voluntary Agricultural Districts must meet all the requirements of Part 1 of this Article.~~
- E. ~~Landowners who desire inclusion of their land in an Enhanced Voluntary Agricultural District must not only meet all the requirements of Part 1 of this Article but must also enter into an irrevocable agricultural easement and conservation agreement (pursuant to N.C.G.S. §121-35) for a term of 10 years with Henderson County through its Agricultural Advisory Board, as specified below. Such easement shall contain a provision that at its expiration, the easement automatically renews for subsequent 3-year periods unless either party gives the other written notice prior to such expiration to Henderson County and its Agricultural Advisory Board.~~
- F. ~~The form of the agreement required under A., above, shall be approved by the Henderson County Agricultural Advisory Board and shall meet the requirements of N.C.G.S. §106-743.2.~~

45-41. Reserved.

45-42. (Deleted pursuant to N.C. Session Law 2021-78.)

45-43. Benefits

- E. ~~The benefits set forth in this Part shall be available to the farmland that is the subject of the conservation agreement for the duration of the easement and conservation agreement and for so long as the benefits of such agreement have not been withdrawn under the provisions of this Part due to non-compliance with the terms of such easement and conservation agreement.~~
- F. ~~Property that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 that remains in effect may receive up to 25 percent of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under N.C. Gen. Stat. §153A-340(b). For purposes of N.C. Gen. Stat. §153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 is a bona fide farm purpose. 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.~~
- G. ~~Pursuant to N.C. Gen. Stat. §106-743.4 (b), a person who farms land that is subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 under N.C.G.S. Chapter 160 that remains in effect is eligible, Article 72 to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to N.C.G.S. Chapter 143, Article 21, Part 9, for funds to benefit that farmland.~~
- H. ~~All assessments for utilities provided by Henderson County are held abeyance, without interest, for farmland subject to a conservation agreement under N.C. Gen. Stat. §106-743.2 that remains in effect until improvements on the farmland property are connected to the utility for which the assessment was made. When the period of abeyance ends, such assessment is payable in accordance with the terms of the assessment resolution. Pursuant to N.C. Gen. Stat. §106-743.5(c), statutes of limitations are suspended during the time that any assessment is held in abeyance under this section without interest.~~

45-44. Notice

~~Enhanced voluntary agricultural districts shall be marked on County maps listed in § 45-27.~~

45-45. Education

~~The Henderson County Agricultural Advisory Board shall encourage the formation of the Districts and Enhanced Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program.~~

45-46. Through 45-49. (Reserved)

Part Three – Procedures

45-50. Procedures

~~The Henderson County Agricultural Advisory Board shall adopt procedures based upon the model procedures promulgated by North Carolina State University College of Agriculture & Life Sciences for both voluntary and enhanced voluntary agriculture districts for the following:~~

- ~~F. Application~~
- ~~G. Approval of Agriculture Easement and Conservation Agreement terms. Such agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the Advisory Board and with the Henderson County Register of Deeds. Permitted uses for the land subject to such Easement and Conservation Agreement include agriculture, horticulture, forestry, and outdoor recreation. The Easement and Conservation Agreement for the Enhanced Voluntary Agricultural District shall be binding upon all successors in interest to the landowner according to its terms, except for successors in interest resulting from the exercise of rights under a security interest or lien that preceded the Easement and Conservation Agreement.~~
- ~~H. Enforcement, including methods for determining compliance and for revocation by the County for non-compliance.~~

45-51. Condemnation of Qualifying Farmland

- ~~C. Pursuant to N.C. Gen. Stat. §106-740, Henderson County may not formally initiate any action to condemn any interest in qualifying farmland within a District until it has requested the Henderson County Advisory Board to hold a public hearing on the proposed condemnation.~~
- ~~D. Procedure~~
 - ~~b. Upon receiving a request, the Henderson County Advisory Board shall publish notice describing the proposed action in the newspaper of record within Henderson County within 5 business days of the request and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within 10 days of receipt of the request.~~
 - ~~c. The Advisory Board shall meet to review:~~
 - ~~a. Whether 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 disruptive to the agricultural activities of the District within which the proposed action is to take place.~~
 - ~~d. The Advisory Board shall consult with the County Agricultural Extension Agent, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies, or organizations deemed by the Advisory Board to be necessary for its review of the proposed action.~~

- ~~e. Within 5 days after the 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 prior to its being conveyed to the decision-making body of the agency proposing the acquisition.~~
- ~~f. There will be a period of 10 days allowed for public comment on the report of the Advisory Board.~~
- ~~g. After the 10 day period for public comment has expired, 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.~~
- ~~h. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition, shall not exceed 30 days. 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.~~
- ~~i. Pursuant to N.C. Gen. Stat. §106-740, no State or local agency may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district or an enhanced voluntary agricultural district until such agency has requested a public hearing.~~

45-52. Through 45-75. (Reserved)