



**HENDERSON
FARMLAND
PRESERVATION**

**HENDERSON COUNTY
FARMLAND PRESERVATION GUIDE**

CONTENTS

GLOSSARY	1
VOLUNTARY AGRICULTURAL DISTRICTS	4
ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS	5
AGRICULTURAL CONSERVATION EASEMENTS	6
BEFORE BEGINNING THE PROCESS	8
STEPS IN THE EASEMENT PROCESS	9
AGRICULTURAL EASEMENT FAQ	11
LANDOWNER EASEMENT LETTER OF INTENT.....	i

GLOSSARY

Agriculture: As explained by N.C. General Statute 106-581.1, agriculture is defined as “the cultivation of soil for production and harvesting of crops” including fruits, vegetables, trees/timber, livestock, sod, flowers, ornamental plants, bees, and aquaculture. When performed on a designated farm, agriculture also includes packing, treatment, processing, storage, and all other activities necessary to maintain the functioning of the farm, as well as the marketing and sale of agricultural products including the accompanying agritourism.

Bona fide farm: Bona fide farms include the production and activities defined in N.C. General Statute 106-681.1 (see **Agriculture**). Bona fide farms are exempt from county zoning ordinances by providing proof of agricultural production. Approved proof includes any of the following:

- A farm sales tax exemption certificate issued by the Department of Revenue (*N.C. General Statute 105-164.13E*)
- Participation in Present-Use Value Tax Programs (PUV) and the corresponding property tax listing (*N.C. General Statute 105-227.3*)
- Federal Schedule F tax return
- A forest management plan, if applicable

Agricultural District: Henderson County is composed of 9 agricultural districts outside of municipal boundaries: Blue Ridge, Edneyville, French Broad, Fruitland, Green River, Jeter Mountain, Lower Hoopers Creek, Mills River, and Mountain Page. Please refer to the map on Page 3.

Agricultural Advisory Board: The Henderson County Agricultural Advisory Board reviews and approves applications for all decisions regarding conservation programs and makes recommendations for updates or modifications to the existing agricultural districts. The Board consists of 9 appointed members who meet the fourth Wednesday of every other month.

ADFP: The North Carolina Agricultural Development and Farmland Preservation Trust Fund (ADFP) was created by the N.C. Department of Agriculture and Consumer Services in 2005 through the passage of State House Bill 607 by former Governor Mike Easley. The ADFP funds projects dedicated to the preservation of North Carolinian farmland through the promotion of sustainable farming practices, purchasing of agricultural conservation easements and

agreements, and the funding of programs that assist farmers in maintaining their farm production and activities.

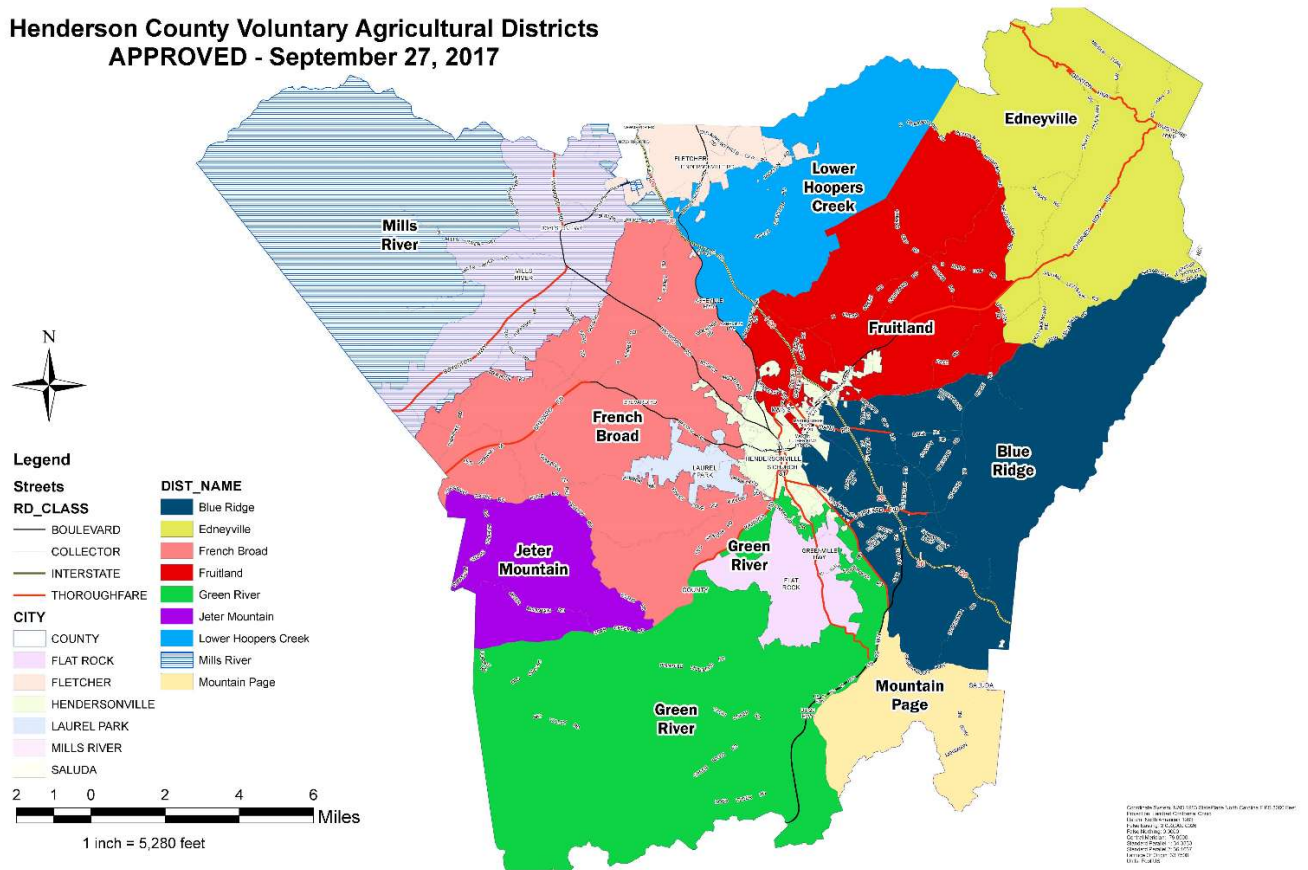
Present-Use Value (PUV) Tax Program: Value of the land in its current use as agriculture, horticulture, or forestry. “The land meeting the eligibility requirements is taxed on the present-use value instead of market value of the land.” To be eligible or approved, land must meet qualifications listed in N.C. G.S. 105-277. Program is managed by the Henderson County Tax Offices.

Condemnation and Zoning: Previously, N.C. G.S. 106-740 required all local governments to notify local agricultural advisory boards of proposed condemnation of farmland enrolled as a Voluntary Agricultural District (VAD) or Enhanced Voluntary Agricultural District (EVAD), through an amendment in State Law (N.C. State Law 2025-12) approved on June 20, 2025, and put into effect October 1, 2025, local governments are required to notify the local agricultural advisory board and provide an opportunity to review, comment, and hold a public hearing regarding any rezoning efforts by the local agency. If condemnation or rezoning is proposed, and your farmland is included in this proposal, the county Farmland Preservation Coordinator will contact you about further steps and procedures.

AGZ and Grant: Local Agricultural Growth Zones (AGZ) allow counties and conservation organizations to purchase conservation easements through funding by the ADFP (see **ADFP**). Local AGZs were created to focus on farmland preservation on a smaller scale to work within North Carolina’s differing landscapes and needs of specific communities. AGZs provide a buffer between urban/suburban sprawl and protected farmland, preserving the rural character of an area. Henderson County was approved grant funds from the ADFP to begin purchasing agricultural conservation easements.

Below is a map of current Agricultural Districts within Henderson County. When applying for preservation options, one of these districts will be assigned to you based on your farmland location.

**Henderson County Voluntary Agricultural Districts
APPROVED - September 27, 2017**



VOLUNTARY AGRICULTURAL DISTRICTS

Voluntary Agriculture Districts (VADs) are established areas where agriculture is protected within an agricultural zone. These districts protect farms from nuisance suits, ensure that neighbors are aware they are in an agricultural community, and celebrate the farmer's commitment to the farm heritage in the county.

To qualify for a VAD designation, a property must meet the following qualifications:

- Be located in an unincorporated area or in the Town of Mills River

-AND-

- Be currently enrolled in the Present-Use Value (PUV) Program with the County Tax Office
- Be *qualified* for the PUV program, if not already enrolled, by meeting the following requirements:
 - Agriculture production follows a management plan, or a forestry management plan
 - Must have at least *one* qualifying tract that has produced a minimum of \$1,000 for the last 3 years
 - Must meet the acreage requirement
 - 10 acres of agricultural use
 - 5 acres of horticultural use
 - 20 acres of forestry use

-OR-

- Be engaged in agriculture as defined by N.C. Statute 106-581.1 (see **Agriculture**) and provide a gross revenue of at least \$2,000 per acre in the year prior to applying, or average \$2,000 per acre in the 5 years prior to applying.

Parcels in VAD can be upgraded to an Enhanced Voluntary Agriculture District (EVAD). If a VAD is active, it qualifies for enhancement.

ENHANCED VOLUNTARY AGRICULTURAL DISTRICTS

Enhanced Voluntary Agriculture Districts, like VAD, are established areas where agriculture is protected within a specific agricultural zone. These districts also protect farms from nuisance suits, ensure that neighbors are aware they are in an agricultural community, and celebrate the farmer's commitment to the farm heritage in the county while also requiring different applications and providing additional benefits.

EVAD is voluntary to join but, unlike VAD, requires a **10-year irrevocable** conservation agreement. This agreement is legally binding and written into the deed of the land for a 10-year timeframe. In exchange for the irrevocable agreement, the landowner receives:

- Potential for 90% cost-share through the Agriculture Cost Share Program
- Additional points for the ADFP Trust Fund Grants
- Potential to receive up to 25% of gross sales from non-farm products
- Utility assessments held in abeyance without interest

If the parcel is sold or transferred while the EVAD contract is still in effect, the contract will be binding upon successors. Those who have been enrolled in VAD for extended periods of time are encouraged to inquire or apply for EVAD as a long-term option and for extended benefits.

To qualify, landowners must meet requirements listed above for VAD. Applications are voted on by the Agricultural Advisory Board.

AGRICULTURAL CONSERVATION EASEMENTS

Agricultural Conservation Easements (ACEs) are **permanent, legally enforceable** agreements between a landowner and a public agency or conservation group.

These agreements keep land available and restricted to agricultural production and prevent subdivision and non-agricultural development through the purchase or donation of landowner development rights. These contracts are flexible and can be tailored to meet the landowner's goals or needs before being enclosed within the deed and land title. The benefits of a conservation easement for the landowner depend on the individual contract.

If an easement is *donated*

- When a conservation easement is entered the value of the property is lowered (due to the forfeit of development rights), potentially
 - Lowering property tax
 - Lowering estate tax
- Assuming all tax requirements are met, an additional 40% of the land value may be excluded when calculating the estate tax
- It qualifies for a charitable tax deduction as a portion of the federal income tax return; the amount of deduction is dependent on the value of the land donated

If an easement is *purchased*

- Landowner receives a payment dependent on the value of the land determined by the surveying and appraisal during the application process
- The value of the property is lowered, potentially lowering the property and estate tax

To maintain PUV status, to-be-determined portion of the land included in the easement **must be donated**. This donated portion maintains the qualification for the PUV program with Henderson County, as well as qualifies as a charitable donation. It is important to note that regardless of ownership, sale, inheritance, etc., conservation easements are **permanent**. This means that if the land is sold, the easement will remain, and the new landowners will inherit the contract. The entirety of the land parcel **does not** have to be included in the easement, as portions may be (and are often) excluded for personal development.

Rights the landowner will retain*:

- Right to Residential Use
- Right to Farm
- Right to Privacy

- Right to Sell and Lease
- Right to Hunt and Fish
- Right to Use Property for Rural Enterprises and Agritourism
- Right to Utility and Septic Services
- Water and Land Rights and Applications

However, **the land is restricted against***:

- Development and Subdivision
- Industrial Use
- Non-agricultural commercial use

*These lists are not exhaustive

Landowners are still expected to pay taxes, upkeep and maintain management plans, and provide notice of sale or transfer.

The goal of these easements is to preserve our valued lands within the County. It is our priority to protect our agricultural value, soil, waterways, habitats, and heritage as a historical agricultural producer and environmental haven.

The Agricultural Conservation Easement Program with Henderson County is new and will begin taking applications in the Spring/Summer of 2026. If you are currently interested in conservation efforts for your farm, please contact the Henderson County Soil and Water Conservation District (HCSWCD) or the Farmland Preservation Coordinator about your options. Additionally, you can find the letter of intent for the easement program at the end of this packet.

Please note, neither the Soil and Water Conservation District nor the Farmland Preservation Coordinator are authorized to provide legal or tax advice. We ask that you have representation and consult with a trusted specialist or counsel before making decisions. While we are here to give you all the information needed to make the right decision for you and your family, please discuss all options with your own advisors before reaching a decision.

BEFORE BEGINNING THE PROCESS

To adhere to the requirements of the North Carolina AGZ Grant, easement applications are ranked based on conservation and agricultural values. These values include*:

- Prime agricultural soils
- Water quality
- Wildlife habitats
- Proximity to other protected lands
- Active working farms
- Century farm status

*This list is not exhaustive

When considering an easement for your land, it is important to disclose specific information about your land, such as:

- Mortgages or liens on the property
- Environmental hazards
- Deed restrictions
- Existing road or utility easements on property
- Legal access to a public road for the property
- Active judgments against any owner

These considerations and disclosures are why it is **highly recommended** that landowners meet with their families, a personal/business attorney, and accountant **before** beginning the process. If you have questions about this information, neither the Farmland Preservation Coordinator nor any other employee of Henderson County Soil and Water is qualified to give advice regarding legal or financial action.

If you do not currently have representation from an attorney or an accountant, there is a list of professionals in the Henderson/Asheville area that are specialized in easement contracts and have worked with Buncombe County and nearby non-profit land trusts. This list can be provided upon request.

STEPS IN THE EASEMENT PROCESS

1. Application

The landowner **must submit an application** to the Farmland Preservation Coordinator. During this stage in the process, it is wise for the landowner to speak to family and discuss future plans for the farm, as well as speak with an attorney and financial advisor.

The Farmland Preservation Coordinator will schedule a site visit with the landowner to walk the property, answer any questions about the process, and gather additional information regarding the land.

A restricted/brief appraisal must be completed to get the amount that will be requested from the grant funding from the Agricultural Advisory Board. The appraiser will schedule a site visit with the landowner. If you need help with these conversations, the Farmland Preservation Coordinator can assist in facilitating and giving recommendations for representation.

2. Approval by the Agricultural Advisory Board

After application submission, the proposed land is evaluated and brought before the board for voting. Members of the board can request to visit the property before voting, and landowners are to attend the meeting at which their land will be voted on to answer any questions. Once approval from the Advisory Board is given, the project is submitted to the Henderson County Board of Commissioners for final review and approval of transaction costs.

3. Survey and Assessment

After approval, the property should be surveyed to ensure that all boundaries recorded are correct and to document any future building plans. Additionally, hired consultants will determine if there are any environmental hazards to the property. These things include, but are not limited to, buried oil tanks, spilled contaminants, and hazardous materials. If hazards are found, the landowner can still participate in the easement, but hazards must be remediated before moving forward.

4. Documentation Report

Documents must be submitted to staff, or hired consultants if desired, regarding the property. Documentation includes things such as property records, property tax, deeds, titles, historical records, and agricultural production history. This allows a report to be

written detailing the current conditions of the farm and records the landowners' wishes for the conservation values.

5. Appraisal

An appraisal will be completed to determine the easement value of the property to compensate the landowner (if needed). **Compensation is dependent on the easement value of the land;** this value is determined by subtracting the protected value (value of land after the development rights are purchased) from the fair market value.

Fair Market Value - Protected Value = Easement Value

6. Clean Title

The property must have a title free of any encumbrances or liens to be enrolled in an easement. **If a property has a mortgage, a subordination agreement must be reached.** These agreements take place between the landowner and the lender, in which the lender agrees that if the mortgage is foreclosed and property is sold, it will be sold subject to the conservation easement. The Farmland Preservation Coordinator can provide further explanation of next steps if needed.

7. Deed

The easement deed is drafted by an attorney specialized in easement creation. It is reviewed by staff, the landowner, and the landowner's legal representation to ensure that the landowner is fully aware of the easement agreement. The deed sets the parameters of the restrictions and outlines subsequent protections, monitoring, and enforcement of the easement. After the easement deed is finalized, it is signed, notarized, and recorded in the Henderson County Register of Deeds Office.

The Henderson County Agricultural Conservation Easement Program is funded through the North Carolina Agricultural Growth Zone Grant with additional funds from the County matching agreement. This means that upon signing the deed, the landowner receives 75% of the easement value compensation. The finalized documents, including the signed deed, are then submitted to the State for recording and the release of the remaining 25% of the compensation. The final 25% typically takes 1 to 2 months to get released by the State.

This is a brief overview of the steps involved, not an expansive walkthrough.

AGRICULTURAL EASEMENT FAQ

Why would I want an agricultural easement?

Easements ensure that your land is permanently protected as agricultural and forested lands against rising development. If your land is currently under pressure due to nearby development, or if you simply want to ensure that it will remain agriculture for the following generations, an easement will grant that protection.

What does it mean to participate in an easement?

Easements are the only legal and guaranteed method of permanently ensuring that your land will be protected as agricultural producing. Through entering an easement, you get to keep ownership of your land and offload the burden of being pressured by neighboring development.

What is the difference between easements and the VAD/EVAD program?

Agricultural easements are **permanent, legally binding** agreements between the landowner and HCSWCD. Land in the VAD program can be removed from a district upon the owner's request at any point in time. Land in the EVAD program cannot be removed for 10 years, but after the contract is completed it can be removed.

Will I still own my land?

Yes. Easements are conducted through either the purchase or donation of development rights. The landowner retains all ownership and rights, *except for* the right to develop, subdivide, and participate in non-agricultural industrial/commercial use.

Does all of my property have to be included in the easement?

No. One of the appeals of easements is that they can be tailored to the landowner's wishes. It is quite common that owners draw parcels out of the easement where their homes or future homes will sit and leave them out of the easement agreement.

What's the difference between a purchased and a donated easement? Which one do I pick?

Purchased easements include a one-time payment for the development rights of the land. Donated easements do not include a payment but are classified as a charitable donation and are qualified for federal/state tax benefits. In both cases, the developmental rights are transferred over and the restrictions are written into the deed of the land.

How will I know if I qualify?

Henderson County Soil and Water and the Farmland Preservation Coordinator will help determine if your land qualifies for an easement and assist with the application process. The qualifications are ranked using a rubric provided by the State of North Carolina and their Agricultural Growth Zone Grant.

What happens if I sell or pass down my land?

Easement agreements are permanently written into the deed of the land. Regardless of who the owner is, the land is permanently entered into the agreement and will remain in agricultural use. The agreement, and subsequent restrictions, will be made known to anyone who inherits or purchases the land.

Do I need to have a succession plan in place?

Though not required, it is **strongly recommended** to have a farmland succession plan in place while working through the easement process. This ensures that all members of the family are on the same page and aware of what the easement means regarding inheritance and the passing down of land. If you do not have a succession plan, the Farmland Preservation Coordinator is certified in Farmland Succession Planning and can help you begin these conversations.

How long does this process take?

Ideally easement agreements take 2 years to complete from start to finish. However, that number changes depending on donation/purchase (with donation easements taking less time), funding sources, and the personal factors of the landowner.

What if I don't currently have legal or financial representation?

It is required that landowners consult with a financial advisor and an attorney that specializes in easement agreements. This search can be stressful and time-consuming. To help, the farmland Preservation Coordinator can provide a list of attorneys and CPAs in the Henderson/Asheville area that have worked with Buncombe County on their farmland preservation program and easement agreements.

How much is the compensation for the developmental rights?

The amount given for the developmental rights (if purchased) is dependent upon the appraisal of the land during the application process. The amount is determined based on the formula: Fair Market Value - Protected Value = Easement Value

Protected value is the value of the land *after* developmental rights are handed over.

LANDOWNER EASEMENT LETTER OF INTENT

Name: _____

Mailing Address: _____

Email: _____

Phone: _____

Dear Farmland Preservation Coordinator,

I am writing to formally express my intent to apply for participation in the Farmland Preservation Easement Program administered through Henderson County and the North Carolina Department of Agriculture and Consumer Services (NCDA&CS).

Through this letter, I acknowledge my understanding of the purpose of the farmland preservation program—to conserve working farmland for future generations, protect agricultural operations from non-agricultural development pressures, and maintain the rural heritage of North Carolina. I am committed to the long-term stewardship of this land and am interested in placing a permanent conservation easement on the property.

I understand that this letter of intent is **not** a binding agreement but is intended to initiate communication with the county and relevant program administrators. I also understand that the acceptance of this letter does not guarantee funding or acceptance into the easement program. I am willing to provide any additional documentation needed and to participate in the required evaluation and selection process.

Please keep me informed of the next steps in the application process. I welcome the opportunity to work with your office to preserve this land for agricultural use and ensure its viability for future generations.

Sincerely,

Title or Role (if representing a farm or entity)

LANDOWNER EASEMENT LETTER OF INTENT

1. Name: _____

2. Farm Address/Parcel ID: _____

3. Total Acres: _____

4. Interested in an easement on:

☐ All the land above

☐ Partial of the total acres; how much: _____

5. Agricultural purpose (select all that apply)

☐ Row crop

☐ Forestry/Timber

☐ Orchard/Vineyard

☐ Ornamental

☐ Pasture

☐ Livestock

☐ Other: _____

6. How long has the land been farmed/Century Farm Enrollment:

7. Located in district:

☐ Blue Ridge

☐ Jeter Mountain

☐ Edneyville

☐ Lower Hoopers Creek

☐ French Broad

☐ Mills River

☐ Fruitland

☐ Mountain Page

☐ Green River

LANDOWNER EASEMENT LETTER OF INTENT

8. Which, if any, best describes your interest

- ☐ I am a new farmer
- ☐ My farm is located on Prime or soil of importance
- ☐ My farm is facing pressure from nearby development
- ☐ I have been enrolled in VAD/EVAD and would like to know about future options
- ☐ Other: _____

Optional Enclosures:

- Parcel Map
- Property Description
- Photographs
- Proof of Agricultural Use

Angela Price
aprice@hendersoncountync.gov
(828) 697-4949

If mailing, please send to:

Angela Price
Farmland Preservation Coordinator
Henderson County
61 Triple Springs Road
Hendersonville, NC 28792