

Chapter 3.1

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Chapter 3.1

AGRICULTURAL AND FORESTAL DISTRICTS

Sec. 3.1-1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory committee" means the agricultural and forestal districts advisory committee.

"Agricultural products" means crops, livestock and livestock products, including but not limited to: field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

"Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, and includes the processing or retail sales by the producer of crops, livestock or livestock products which are produced on the parcel or in the district.

"Agriculturally and forestally significant land" means land that has recently or historically produced agricultural and forestal products, is suitable for agricultural or forestal production or is considered appropriate to be retained for agricultural and forestal production as determined by such factors as soil quality, topography, climate, markets, farm structures, and other relevant factors.

"Application" means the set of items a landowner or landowners must submit to the governing body when applying for the creation of a district or an addition to an existing district.

"District" means an agricultural, forestal, or agricultural and forestal district.

"Forestal production" means the production for commercial purposes of forestal products and includes the processing or retail sales, by the producer, of forestal products which are produced on the parcel or in the district. "Forestal products" includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees and other tree and wood products for sale or for farm use.

"Landowner" or "owner of land" means any person holding a fee simple interest in property but does not mean the holder of an easement. (Ord. 11-4-98)

Sec. 3.1-2. Enactment of ordinances; application form and fees; maps.

A. The governing body may, by ordinance, create one or more agricultural and forestal districts within the County in accordance with Title 15.2, Chapter 43 of the Virginia

Code. The zoning administrator shall, subject to the approval of the governing body, promulgate forms in substantially the form prescribed in Virginia Code Sec. 15.2-4303. Each application submitted pursuant to this chapter shall be accompanied by a fee of \$500 or the costs of processing and reviewing an application, whichever is less.

B. Each application shall include but need not be limited to the following information:

1. The general location of the district;
2. The total acreage in the district or acreage to be added to an existing district;
3. The name, address, and signature of each landowner applying for creation of a district or an addition to an existing district and the acreage each owner owns within the district or addition;
4. The conditions proposed by the applicant pursuant to § 15.2-4309;
5. The period before first review proposed by the applicant pursuant to § 15.2-4309; and
6. The date of application, date of final action by the governing body and whether approved, modified or rejected.

C. The application form shall be accompanied by a United States Geological Survey 7.5 minute topographic map that clearly shows the boundaries of the district and each addition and boundaries of properties owned by each applicant. A Department of Transportation general highway map for the locality that shows the general location of the proposed district shall also accompany each application form. (Ord. 11-4-98; Ord. 5-19-10)

Sec. 3.1-3. Agricultural and forestal districts advisory committee.

Upon receipt of the first agricultural and forestal districts application, the governing body shall establish an advisory committee which shall consist of four landowners who are engaged in agricultural or forestal production, four other landowners of the County, the commissioner of revenue, and a member of the governing body. The members of the committee shall be appointed by and serve at the pleasure of the governing body. The advisory committee shall elect a chairman and a vice-chairman and elect or appoint a secretary who need not be a member of the committee. The advisory committee shall serve without pay. The committee shall advise the planning commission and the governing body and assist in creating, reviewing, modifying, continuing or terminating districts within the

County. In particular, the committee shall render expert advice as to the nature of farming and forestry and agricultural and forestal resources within the district and their relation to the entire County. (Ord. 11-4-98)

Sec. 3.1-4. Application for creation of district in one or more localities; size and location of parcels.

On or before November 1 of each year, any owner or owners of land may submit an application to the County for the creation of a district or addition of land to an existing district within the County. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district if the nearest boundary of the parcel is within one mile of the boundary of the core, or if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core. No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one county, provided that (i) separate application is made to each county involved, (ii) each governing body approves the district, and (iii) the district meets the size requirements of this Sec.. In the event that the governing bodies of one or more such counties disapproves the creation of a district within its boundaries, the creation of the district within Fluvanna County shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subSec. be construed to create two districts. (Ord. 11-4-98)

Sec. 3.1-5. Criteria for evaluating application.

Land being considered for inclusion in a district may be evaluated by the advisory committee and the planning commission through the Virginia Land Evaluation and Site Assessment (LESA) System. The following factors shall be considered by the planning commission and the advisory committee, and at any public hearing at which an application that has been filed pursuant to this chapter is being considered:

1. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;
2. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;
3. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;

4. Local developmental patterns and needs;
5. The comprehensive plan and applicable provisions of the zoning ordinance;
6. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and
7. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant. (Ord. 11-4-98)

Sec. 3.1-6. Planning commission review of application; notice; hearing.

Upon the receipt of an application for a district or for an addition to an existing district, the governing body shall refer such application to the planning commission which shall:

1. Provide notice of the application by publishing a notice in a newspaper having general circulation within the district and by providing for the posting of such notice in five conspicuous places within the district. The planning commission shall notify, by first-class mail, adjacent property owners as shown on the maps of the County used for tax assessment purposes. The notice shall contain: (i) a statement that an application for a district has been filed with the governing body and referred to the planning commission pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the County Administrator; (iii) a statement that any owner of additional qualifying land may join the application within thirty days from the date the notice is first published or, with the consent of the governing body, at any time before the public hearing the governing body must hold on the application; (iv) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the governing body, at any time before the governing body acts pursuant to Sec. 3.1-8; (v) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter; (vi) a statement that the application and proposed modifications will be submitted to the advisory committee; and (vii) a statement that, upon receipt of the report of the advisory committee, a public hearing will be held by the planning commission on the application and any proposed modifications;

2. Refer such application and proposed modifications to the advisory committee;

3. Report its recommendations to the governing body including but not limited to the potential effect of the district and proposed modifications upon the County's planning policies and objectives;

4. Hold a public hearing as prescribed by law; and

5. Publish in a newspaper having general circulation within the district a notice describing the district or addition, any proposed modifications and any recommendations of the planning commission and the advisory committee and send the notice by first-class mail to adjacent property owners of the district or addition. (Ord. 11-4-98)

Sec. 3.1-7. Advisory committee review of application.

The advisory committee shall review and make recommendations concerning the application and modifications to the planning commission. (Ord. 11-4-98)

Sec. 3.1-8. Hearing; creation of district; conditions; notice.

A. The governing body, after receiving the report of the planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate.

B. As a condition to creation of the district, any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. The following shall not be prohibited as a more intensive use, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district:

- (1) construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner; or
- (2) divisions of parcels for such family members as provided in Sec. 19-2-1 of the County Code; or
- (3) divisions of land into two or more lots no one of which is less than 22 acres in area.

C. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

D. The governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from November 1.

E. Upon the adoption of an ordinance creating a district or adding land to an existing district, the governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated. (Ord. 11-4-98)

Sec. 3.1-9. Additions to a district.

Additional parcels of land may be added to an existing district by following the process prescribed for the creation of a new district. Such additions shall be reviewed at the time previously established for review of the district to which they are added. (Ord. 11-4-98)

Sec. 3.1-10. Review of districts.

The governing body may complete a review of any district created under this Sec., together with additions to such district, no less than four years but no more than ten years after the date of its creation and every four to ten years thereafter. If the governing body determines that a review is necessary, it shall begin such review at least ninety days before the expiration date of the period established when the district was created. In conducting such review, the governing body shall ask for the recommendations of the advisory committee and the planning commission in order to determine whether to terminate, modify or continue the district. When each district is reviewed, land within the district may be withdrawn at the owner's discretion by filing a written notice with the governing body at any time before it

acts to continue, modify or terminate the district. The planning commission or the advisory committee shall schedule as part of the review a public meeting with the owners of land within the district, and shall send by first-class mail a written notice of the meeting and review to all such owners. The notice shall state the time and place for the meeting; that the district is being reviewed by the governing body; that the governing body may continue, modify, or terminate the district; and that land may be withdrawn from the district at the owner's discretion by filing a written notice with the governing body at any time before it acts to continue, modify or terminate the district. The governing body shall hold a public hearing as provided by law. The governing body may stipulate conditions to continuation of the district and may establish a period before the next review of the district, which may be different from the conditions or period established when the district was created. Any such different conditions or period shall be described in a notice sent by first-class mail to all owners of land within the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance continuing the district. Unless the district is modified or terminated by the governing body, the district shall continue as originally constituted, with the same conditions and period before the next review as that established when the district was created.

If the governing body determines that a review is unnecessary, it shall set the year in which the next review shall occur. (Ord. 11-4-98)

Sec. 3.1-11. Effects of districts.

A. Land lying within a district and used in agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, if the requirements for such assessment contained therein are satisfied.

B. The County shall not exercise any of its powers to enact local laws or ordinances within a district in a manner which would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the purposes of this chapter unless such restrictions or regulations bear a direct relationship to public health and safety. The comprehensive plan and zoning and subdivision ordinances shall be applicable within said districts, to the extent that such ordinances are not in conflict with the conditions to creation or continuation of the district set forth in the ordinance creating or continuing the district or the purposes of this chapter. Nothing in this chapter shall affect the authority of the County to regulate the processing or retail sales of agricultural or forestal products, or structures therefor, in accordance with the comprehensive plan or any ordinance. Ordinances, comprehensive plans, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to any district shall take into account the existence of such district and the purposes of this chapter.

C. No special district for sewer, water or electricity or for nonfarm or nonforest drainage may impose benefit assessments or special tax levies on the basis of frontage, acreage or value on land used for primarily agricultural or forestal production within a district, except a lot not exceeding one-half acre surrounding any dwelling or nonfarm structure located on such land.

(Ord. 11-4-98)

Sec. 3.1-12. Proposals as to land acquisition or construction within district.

A. Any agency of the Commonwealth or any political subdivision which intends to acquire land or any interest therein other than by gift, devise, bequest or grant, or any public service corporation which intends to: (i) acquire land or any interest therein for public utility facilities not subject to approval by the State Corporation Commission, provided that the proposed acquisition from any one farm or forestry operation within the district is in excess of one acre or that the total proposed acquisition within the district is in excess of ten acres or (ii) advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures, shall at least ninety days prior to such action notify the governing body and all of the owners of land within the district. Notice to landowners shall be sent by first-class or registered mail and shall state that further information on the proposed action is on file with the governing body. Notice to the governing body shall be filed in the form of a report containing the following information:

1. A detailed description of the proposed action, including a proposed construction schedule;
2. All the reasons for the proposed action;
3. A map indicating the land proposed to be acquired or on which the proposed dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures are to be constructed;
4. An evaluation of anticipated short-term and long-term adverse impacts on agricultural and forestal operations within the district and how such impacts are proposed to be minimized;
5. An evaluation of alternatives which would not require action within the district; and
6. Any other relevant information required by the governing body.

B. Upon receipt of a notice filed pursuant to subSec. A, the governing body, in consultation with the planning commission and the advisory committee, shall review the proposed action and make written findings as to (i) the effect the action would have upon the preservation and enhancement of agriculture and forestry and agricultural and forestal resources within the district and the policy of the Agricultural and Forestal Districts Act; (ii) the necessity of the proposed action to provide service to the public in the most economical and practical manner; and (iii) whether reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts on agricultural and forestal resources within the district.

C. If the governing body finds that the proposed action might have an unreasonably adverse effect upon either state or local policy, it shall (i) issue an order within ninety days from the date the notice was filed directing the agency, corporation or political subdivision not to take the proposed action for a period of 150 days from the date the notice was filed and (ii) hold a public hearing, as prescribed by law, concerning the proposed action. The hearing shall be held where the governing body usually meets or at a place otherwise easily accessible to the district. The County shall publish notice in a newspaper having a general circulation within the district, and mail individual notice of the hearing to the political subdivisions whose territory encompasses or is part of the district, and the agency, corporation or political subdivision proposing to take the action. Before the conclusion of the 150-day period, the governing body shall issue a final order on the proposed action. Unless the governing body, by an affirmative vote of a majority of all the members elected to it, determines that the proposed action is necessary to provide service to the public in the most economic and practical manner and will not have an unreasonably adverse effect upon state or local policy, the order shall prohibit the agency, corporation or political subdivision from proceeding with the proposed action. If the agency, corporation or political subdivision is aggrieved by the final order of the governing body, an appeal shall lie to the circuit court having jurisdiction of the territory wherein a majority of the land affected by the acquisition is located. However, if such public service corporation is regulated by the State Corporation Commission, an appeal shall be to the State Corporation Commission. (Ord. 11-4-98)

Sec. 3.1-13. Withdrawal of land from a district; termination of a district.

A. At any time after the creation of a district within the County, any owner of land lying in such district may file with the County a written request to withdraw all or part of his land from the district for good and reasonable cause. The governing body shall refer the request to the planning commission and the advisory committee for their recommendations and shall hold a public hearing. Land proposed to be withdrawn may be reevaluated through the Virginia Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district

is located. This Sec. shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (iv) of subdivision 1 of Sec. 3.1-7 or Sec. 3.1-10.

B. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to roll-back taxes as are provided in § 58.1-3237.

C. Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subSec. B of Sec. 3.1-11.

D. Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the governing body and the commissioner of the revenue within two years of the date of death of the owner.

E. Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the governing body shall delete the identification of such parcel from the zoning map, where applicable.

F. The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to Sec. 3.1-10 of this chapter. (Ord. 11-4-98)