

## Chapter 44 - Local Agricultural and Forestal Districts Act

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## Chapter 44 - Local Agricultural and Forestal Districts Act

### § 15.2-4400

#### Short title

This chapter shall be known and may be cited as the "Local Agricultural and Forestal Districts Act."

### § 15.2-4401

#### Declaration of policy findings and purpose

It is state policy to encourage localities of the Commonwealth to conserve and protect and to encourage the development and improvement of their agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also state policy to encourage localities of the Commonwealth to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, aesthetic quality and other environmental purposes. It is the purpose of this chapter to provide a means by which localities may protect and enhance agricultural and forestal lands of local significance as a viable segment of the local economy and as an important economic and environmental resource.

### § 15.2-4402

#### Definitions

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

"Advisory committee" means the agricultural and forestal 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, but not processing or retail merchandising of crops, livestock or livestock products.

"Agriculturally and forestally significant land" means land that has historically produced agricultural and forestal products, or land that an advisory committee considers good agricultural and forestal land based upon such factors as soil quality, topography, climate, markets, farm improvements, agricultural and forestry economics and technology, and other relevant factors.

"Clerk" means the clerk of the local circuit court or the clerk of the local governing body.

"Forestal products" includes, but is not limited to, lumber, pulpwood, posts, firewood, Christmas trees and other 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. "Participating locality" means any county having the urban county executive form of government, any adjacent county having the county executive form of government and counties with a population of no less than 63,400 and no more than 73,900 and no less than 85,000 and no more than 90,000.

#### § 15.2-4403

Power of participating localities to enact ordinances; application form and fees

A. Participating localities shall have the authority to enact ordinances and to promulgate forms to effectuate this chapter. The participating locality may charge a reasonable fee for all applications submitted pursuant to this chapter; such fee shall not to exceed fifty dollars or the costs of processing and reviewing an application, whichever is less.

B. The participating locality shall prescribe application forms for agricultural and forestal districts that include but are not limited to the following information:

1. The general location and boundaries of the district;
2. A summary of the acreage in the district including (i) estimated total acreage in the district and (ii) acreage owned by persons proposing the district;
3. The name, address, total acreage owned within the proposed district and signature of each landowner proposing the district; and
4. The date of application, date of final county action and whether approved, modified or rejected.

C. The application form shall be accompanied by maps or aerial photographs, or both, prescribed by the participating locality which clearly show the boundaries of the proposed district, boundaries of properties within the proposed district owned by each applicant, and any other features as prescribed by the participating locality.

#### § 15.2-4404

Agricultural and forestal districts advisory committee

Upon receipt of the first agricultural and forestal district application submitted as permitted under an ordinance adopted pursuant to this chapter, the local governing body shall establish an advisory committee as prescribed in §15.2-4304, which section shall apply mutatis mutandis. If an advisory committee has already been established pursuant to §15.2-4304, it shall carry out the duties prescribed in Chapter 43 (§15.2-4300 et seq.) as well as in this chapter.

#### § 15.2-4405

## Creation of districts of local significance

A. A participating locality shall have the authority to create agricultural, forestal, or agricultural and forestal districts of local significance by the adoption of a general ordinance establishing a local districts program according to the provisions of this chapter.

B. In participating localities where such an ordinance has been adopted by the local governing body, any owner or owners of land may submit an application pursuant to §15.2-4403 to the locality for the creation of an agricultural, forestal, or an agricultural and forestal district of local significance within such locality. No application for an individual district of local significance shall be comprised of less than the minimum acreage specified in the general ordinance, which minimum acreage in no case shall be less than twenty acres. No owner of land shall be included in any agricultural, forestal, or agricultural and forestal district of local significance without the owner's written approval. A separate application may be made by any owner or owners of land for additional contiguous qualifying lands to be included in an already created district at any time following such creation.

C. Upon receipt of a proposal for a district of local significance, the local governing body shall refer the proposal to the planning commission which shall:

1. Provide notice of the proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in three conspicuous places within the jurisdiction in which the proposed district is located. The notice shall state that an application for an agricultural, forestal, or agricultural and forestal district of local significance has been submitted to the local governing body, that a copy of the application is on file open to public inspection in the office of the clerk, that any proposals for modifications of the district shall be filed within thirty days, that any owner included in the proposal may withdraw his land, in whole or in part, at any time until the local governing body makes a final decision as to the constitution of the district pursuant to subsection D, and that hearing dates of the planning commission and local governing body shall be published and posted within thirty days.

2. Refer such proposal and modifications to the advisory committee.

D. Within one year of the date of filing of the application for such original proposal, the proposal: shall be reviewed by (i) the advisory committee, which shall report to the local planning commission its recommendations concerning the proposal and proposed modifications; (ii) the planning commission, which, after receiving the report of the advisory committee, shall hold a public hearing as prescribed in subsection E, and shall report its recommendations concerning the proposal and proposed modifications to the local governing body; and (iii) the local governing body, which, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as prescribed below, and may create the district or any modification of the district by the adoption of a district ordinance as described in subsection E, or reject the creation of a district as it deems appropriate. All districts shall meet the minimum requirements set forth in the participating locality's general ordinance for the creation of districts of local significance.

E. Public hearings required to be held by the planning commission and local governing body shall be conducted in the following manner:

1. The hearing as prescribed by law shall be held where the local governing body usually meets or at a place otherwise readily accessible to the proposed district;

2. The notice of the public hearing as prescribed by law shall contain a description of the proposed district, any proposed modifications and any recommendations of the local planning commission or the advisory committee; and

3. The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing complete with proposed modifications to those municipalities whose territory encompasses or is part of the proposed district.

F. The general ordinance establishing the program to create agricultural, forestal, or agricultural and forestal districts of local significance shall state the criteria which shall be considered by the advisory committee and the local planning commission in advising the local governing body and by the local governing body in making its decision on whether or not to create a district. These criteria shall be based on and consistent with the following factors:

1. The agricultural and forestal significance within the proposed district and in areas adjacent thereto;
2. The presence of any significant agricultural lands or significant forestal lands within the proposed district and adjacent thereto that are not now in active farming or production;
3. The nature and extent of land uses other than active farming or forestry within the proposed district and adjacent thereto;
4. Local developmental patterns and needs including zoning and the comprehensive plan;
5. The scenic and historic features of land uses within the proposed district and adjacent thereto;
6. The environmental benefits of preserving the lands in the district in their existing use; and
7. Any other matter which may be relevant.

In judging significance, any relevant agricultural and forest maps may be considered as well as soil, climate, topography, quality of tree cover, other natural factors, markets for farm and forest products, the extent and nature of farm and forest improvements, evidence of commitment to long-term farm and forest use, anticipated trends in agricultural and forest economic conditions and technology, and such other factors as may be relevant. Criteria for judging the significance of lands in local agricultural and forestal districts to be created pursuant to this chapter may differ from those for judging the significance of lands in statewide districts to be created pursuant to Chapter 43 (§15.2-4300 et seq.).

#### § 15.2-4406

##### Provisions of district ordinances for districts of local significance

Any district ordinance adopted by the local governing body in order to create or renew an agricultural, forestal, or agricultural and forestal district shall include the following provisions:

1. That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance creating the district for eight years from the date of adoption of such ordinance;
2. That no parcel added to an already created district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight years from the date of adoption of the original district ordinance;
3. That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land 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, whether or not a local land-use plan or local ordinance pursuant to §58.1-3231 has been adopted;

4. That the district shall be reviewed by the local governing body at the end of the eight-year period and that it may by ordinance renew the district or modification thereof for another eight-year period; and

5. Any other provisions to the mutual agreement of the landowner and the local governing body that further the purposes of this chapter.

#### § 15.2-4407

##### Withdrawal of land from district of local significance

A. At any time after the creation of an agricultural, forestal, or an agricultural and forestal district of local significance within any county having the urban county executive form of government, any owner of land lying in such district may file a written notice of withdrawal with the local governing body which created the district, and upon the filing of such notice, the withdrawal shall be effective. In no way shall this section affect the ability of an owner to withdraw his land from a proposed district as is authorized by subsection C of §15.2-4405.

B. Any person withdrawing land from a district located in a county having the county executive form of government which is adjacent to any county having the urban county executive form of government, and any county with a population no less than 85,000 and no more than 90,000 or no less than 63,400 and no more than 73,900 shall follow the withdrawal procedures required by §15.2-4314.

C. Upon withdrawal of land from a district, the real estate previously included in such district shall be subject to roll-back taxes, as are provided in §58.1-3237, and also a penalty in the amount equal to two times the taxes determined in the year following the withdrawal from the district on all land previously within the district.

D. Upon withdrawal of land from a district no provisions of the ordinance which created the district shall any longer apply to the lands previously in the district which were withdrawn.

E. The withdrawal of land from a district shall not itself serve to terminate the existence of the district. Such district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to §15.2-4405.