

Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007

ACCOMACK COUNTY AGRICULTURAL AND FORESTAL DISTRICT ORDINANCE

Sec. 1. Intent and Purpose.

It is the policy of the Board of Supervisors to conserve, protect, and encourage the development and improvement of the County's agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also the policy of the Board of Supervisors to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, shellfish and fisheries production, watershed protection, wildlife habitat, and aesthetic purposes. It is the purpose of this ordinance to provide a means for a mutual undertaking by landowners and the County to protect and enhance agricultural and forestal land as a viable segment of the County's economy and as an economic and environmental resource of major importance. To effectuate these purposes, the Board of Supervisors enacts this Agricultural and Forestal District Ordinance, pursuant to VA Code Ann. §§ 15.2-4303 *et seq.*

Sec. 2. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings set forth below, except where the context clearly indicates a different meaning.

Advisory Committee means the Agricultural and Forestal District Advisory Committee.

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.

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 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 must submit to the board of supervisors 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

Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007

produced on the parcel or in the district. The term “forestal products” includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees, and other tree and wood products for sale or farm use.

Landowner and owner of land means any person holding a fee simple interest in property but does not mean the holder of an easement.

Sec. 3. Application for Creation or Addition to District.

Application for creation of an Agricultural and Forestal District (“District”) or the addition of a parcel of land to a District shall be on a form provided by the Director of Planning pursuant to VA Code Ann. § 15.2-4303. The Board of Supervisors may set reasonable fees of not more than \$500 for the processing of applications to create or join a District.

(Statutory Reference: VA Code Ann. § 15.2-4303.)

Sec. 4. Composition of District.

Each Agricultural and Forestal District shall be composed of a core of not less than 200 acres, composed of one parcel or numerous contiguous parcels. Other parcels that are within one (1) mile of the core parcel may be part of the district, 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. New parcels may be added at any time, as provided in Sec. 6 (“**Preliminary Process for Creation or Addition to a District**”) below and VA Code Ann. § 15.2-4306.

Criteria to be considered for admission to the district shall include the following:

1. The agricultural and forestal significance of land within the addition and in areas adjacent to it;
2. The presence of significant agricultural lands or significant forestal lands within or adjacent to the addition that are not now in active agricultural or forestal production;
3. The nature and extent of land uses other than agriculture or forestry within or adjacent to the addition;
4. Local development patterns and needs;
5. Relevant provisions of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance;
6. Environmental benefits of retaining the addition for agricultural and forestal uses;
7. Size of the proposed addition;

**Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007**

8. Any other relevant consideration.

(Statutory References: VA Code Ann. §§ 15.2-4305 and 4306.)

Sec. 5. Appointment of Advisory Committee.

The Board of Supervisors shall appoint an Agricultural and Forestal District Advisory Committee for the County pursuant to VA Code Ann. § 15.2-4304. It shall be composed of four (4) landowners engaged in agricultural or forestal production in the County, four (4) other landowners in the County, the Assessor, and a member of the Board of Supervisors. The members shall serve at the pleasure of the Board of Supervisors.

(Statutory Reference: VA Code Ann. § 15.2-4304.)

Sec. 6. Preliminary Process for Creation or Addition to a District.

A. Applications to create or add to a district shall be received by the Director of Planning and forwarded to the Planning Commission. A copy shall also be filed with the Clerk of the Board of Supervisors. The application shall be published in a newspaper of general circulation in the District and posted in five conspicuous places in the District. The Planning Commission shall notify, by first-class mail, adjacent property owners that:

1. An application for a District has been filed with the Board of Supervisors and referred to the Planning Commission;
2. The application shall be on file, open to public inspection in the Office of the Clerk of the Board of Supervisors;
3. Any political subdivision whose territory encompasses or is part of the District may propose a modification which must be filed with the Planning Commission within 30 days of the date the notice is first published;
4. Any owner of additional qualifying land may join the application within 30 days from the date the notice is first published, or, with the consent of the Board of Supervisors, at any time before the Board of Supervisors' public hearing;
5. 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 Board of Supervisors at any time before it acts on the application;
6. Additional qualifying lands may be added to an already created District at any time upon separate application;
7. The application and proposed modifications will be submitted to the Advisory Committee; and

**Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007**

8. 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.

B. After the 30-day period has closed, the Planning Commission shall forward the application to the Advisory Committee for review and recommendations. The Advisory Committee shall make its recommendations to the Planning Commission before its public hearing.

C. The Planning Commission shall then hold a public hearing in accord with its bylaws and other applicable law and make recommendations to the Board of Supervisors, to include the potential affect of the District and proposed modifications on the County's planning policies and objectives.

D. After the public hearing, the Planning Commission shall publish in a newspaper having general circulation within the District a notice describing the District or addition, any modifications proposed by the Planning Commission or the Advisory Committee, and send the notice by first-class mail to adjacent property owners and to those political subdivisions whose territory encompasses all or part of the District or addition.

(Statutory References: VA Code Ann. §§ 15.2-4307 and 4308.)

Sec. 7. Action by Board of Supervisors.

After review and recommendations are made by the Planning Commission and the Advisory Committee in accord with Section 5 (Preliminary Process for Creation or Addition to a District), the Board of Supervisors may enact an ordinance creating or adding to the Agricultural and Forestal District with such modifications as are deemed appropriate before (180 days from November 1) of the following year. The ordinances creating a District(s) may be separately codified.

(Statutory References: VA Code Ann. §§ 15.2-4309 and 4310.)

Sec. 8. Period of Existence; Review.

A. Each District shall be created for a period of four (4) years. Prior to the termination of the four (4) year period, the Board may review the District to consider an additional four (4) year period.

B. At least 90 days before the District is set to expire, the Board of Supervisors may begin a review. The Board 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. The landowners shall be notified by first-class mail of their right to attend a public meeting with either the Advisory Committee or the Planning Commission. The notice shall state the time and place of the meeting; that the District is being reviewed by the Board of

Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007

Supervisors; that the Board may terminate, modify, or continue the District; and that land may be withdrawn from the District at the owner's discretion by filing written notice with the Board at any time before it acts on the District.

C. Criteria to be considered for renewal of the district and properties within the district shall include the following:

1. The agricultural and forestal significance of land within the addition and in areas adjacent to it;
2. The presence of significant agricultural lands or significant forestal lands within or adjacent to the addition that are not now in active agricultural or forestal production;
3. The nature and extent of land uses other than agriculture or forestry within or adjacent to the addition;
4. Local development patterns and needs;
5. Relevant provisions of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance;
6. Environmental benefits of retaining the addition for agricultural and forestal uses;
7. Size of the proposed addition;
8. Lots or parcels, created after November 20, 1996, which are less than five (5) acres and which were not created as a family subdivision are not eligible for renewal consideration;
9. Any other relevant consideration.

D. Any changes the Board makes in the conditions or period of the District shall be described in a notice sent by first-class mail to all landowners in the District and published in a newspaper of general circulation in the District at least two weeks prior to adoption of the ordinance.

(Statutory Reference: VA Code Ann. § 15.2-4311.)

Sec. 9. Tax Assessment Within a District.

The Assessor shall establish land use values of property within a District. Such land use values shall remain in effect until the next general reassessment of real estate.

(Statutory Reference: VA Code Ann. §§ 15.2-4312 and 58.1-3229 *et seq.*)

**Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007**

Sec. 10. Notification to Succeeding Owners.

It shall be the obligation of each owner of land within a District to notify a prospective purchaser that such land is a part of the District prior to entering into any contract or other agreement of sale. The owner shall make such notification by recording evidence of the District in the chain of title for the property in the land records of the County.

Sec. 11. Subdivision of Parcel.

Land lying within a District shall not be subdivided during the period that such District exists, except that with the prior approval of the Board, lots meeting the criteria of VA Code Ann. § 15.2-2244 and Accomack County Code § 78-12 may be subdivided for use by an immediate family member of the owner of such land. Further, land may be divided or subdivided and sold for continued agricultural and forestal use, so long as it continues to meet the requirements of this ordinance and the District.

(Statutory Reference: VA Code Ann. § 15.2-2244 (Family Subdivision Ordinances)).

Sec. 12. More Intensive Uses.

No parcel of land within a District shall, without the prior approval of the Board, be developed to any more intensive use, including the placement of buildings and dwellings thereon, other than uses resulting in more intensive agricultural or forestal production, during the period which said parcel remains within the District.

(Statutory Reference: VA Code Ann. §§ 15.2-4303 and 4311).

Sec. 13. Rezoning of Parcel.

No parcel of land within a District shall be rezoned to any residential, commercial, or industrial classification while the parcel is within the district. Withdrawal from the District is not a precondition for application for rezoning to these uses, but rezoning will withdraw the land from the District by operation of law.

Statutory Reference: (VA Code Ann. §§ 15.2-4303 and 4311.)

Sec. 14. Uses of Right, Conditional Use Permits and Special Use Permits.

Agricultural and forestal activities are uses of right in any Agricultural and Forestal District. Except as provided in Section 12 ("More Intensive Uses") no conditional use permit or special use permit shall be issued for such property except for agricultural and forestal use not in conflict with the policies and purposes of the Act.

(Statutory Reference: VA Code Ann. §§ 15.2-4301, 4303, and 4311.)

Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007

Sec. 15. Withdrawal of Parcel from a District.

During the Review Period by the Board of Supervisors noted in Section 8 (above, “Period of Existence; Review”), a landowner may withdraw his land from the district unilaterally by filing written notice with the Director of Planning. Otherwise, no portion of a parcel within a District shall be authorized for withdrawal except by leave of the Board of Supervisors. At any time after the creation of the District, any owner of land lying in the District may file with the Board a written request to withdraw all or part of such land from the District either within two (2) years of the death of the owner or upon demonstration of other good and reasonable cause. The Board shall process the written request in keeping with VA Code Ann. §§ 15.2-4314 and 58.1-3237. The landowner seeking to withdraw land from a district, if denied favorable action by the Board, shall have an immediate right of appeal de novo to the circuit court of Accomack County. The land may also be withdrawn from the District by operation of law through rezoning.

(Statutory Reference: VA Code Ann. §§ 15.2-4314 and 58.1-3237.)

Sec. 16. Roll-Back Taxes.

Any parcel or portion of a parcel, receiving land use tax assessment, which is removed from a District may become subject to roll-back taxes pursuant to VA Code Ann. § 58.1-3237.

(Statutory Reference: VA Code Ann. § 58.1-3237.)

**Accomack County Agricultural and Forestal District Ordinance
Adopted May 16, 2007**

Accomack County Agricultural and Forestal District Fee Schedule

- | | |
|--|----------|
| 1. Application to create an Agricultural and Forestal District | \$500.00 |
| 2. Application to add a parcel(s) to an Agricultural and Forestal District | \$500.00 |