

# Chapter 48 Agricultural and Forestal District

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## Chapter 48 Agricultural and Forestal District

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[HISTORY: Adopted by the Board of Supervisors of Clarke County 03-17-1992. Amendments noted where applicable.]

### General References

State Code 15.2-4300 thru 4314

#### *§ 48-1. Renewal.*

The Clarke County Agricultural and Forestal District is modified and renewed in accordance with the provisions of § 15.2-4300 Agricultural and Forestal Districts Act of the Code of Virginia §15.2 –4300 thru 4314

- A. Only lands currently zoned Agricultural-Open Space-Conservation (AOC) and Forestal Open-Space Conservation (FOC) shall be included in the District.
- B. Land situated within incorporated town limits shall not be included in the District.

#### *§ 48-2. Addition of lands to District.*

[Amended 1998-03-17]

##### A. Addition of lands to the District:

- 1) At the time of District review. Qualifying lands may be added to the District at the time of District review in accordance with the procedures set forth in the Agricultural and Forestal Districts Act of the Code of Virginia (§15.2-4300 thru 4314).
- 2) During the District term. Qualifying lands may be added to the District during the District term in accordance with the procedures set forth in the Agricultural and Forestal Districts Act of the Code of Virginia (§15.2-4300 thru 4314). Applications to add qualifying lands to the District during the District term shall be considered on an annual basis subject to procedures established by the Board of Supervisors.

- B. Qualifying lands. The Land Evaluation and Site Assessment (LESA) System shall be employed as the dominant decision-making tool as to the qualification for land the District as follows except for land considered as open space. Though referred to generically as LESA, there are two separate scoring systems -- one for agricultural parcels and another for forestal parcels. The difference in the two systems is the indicator species used to classify productive soils.

- 1) Parcels having a composite LESA score of 72 or higher for parcels less than 40 acres, a LESA score of 68 or higher for parcels between 40 and 129.99 acres or a LESA score of 64 or higher for parcels 130 acres or greater shall qualify for inclusion in the District.
  - 2) 2) Parcels having a composite LESA score of lower than 60 shall not be qualified for inclusion in the District unless they qualify as described in Subsection D below.
- C. Other qualifying lands. Tracts which are adjacent to and operated contiguously with farming or forestry properties qualifying as in Subsection B(1) above and which are owned by one or more individuals who also own the qualifying farming property, shall be qualified for inclusion provided that the adjacent tract does not lie within the corporate limits of Berryville or Boyce.
- D. Qualifying open space lands. Parcels proposing to be included in the District as open space shall meet the following criteria:
- 1) The parcel shall not contain any commercial use except that which is allowed as a Principal Use and/or Structures by the County Zoning Ordinance.
  - 2) The parcel shall consist of a minimum of 5 acres.
    - a) The Board may make an exception to 5 acre minimum upon recommendations from the Advisory Committee and Planning Commission if the parcel is adjacent to a perpetual conservation easement, historical easement and/or is considered an environmentally sensitive area as determined by the County Natural Resource Planner or a County approved environmental or historical professional.
  - 3) The parcel shall contain at least one unused dwelling unit right.
  - 4) The parcel shall not use or transfer the dwelling unit right(s) during the term of the District.

*§ 48-3. Term of District.*

The term of the Clarke County Agricultural and Forestal District shall be 6 years.

*§ 48-4. Effects on land use.*

A. Within the District.

- 1) Subdivisions. A minor subdivision that creates no more than one additional lot shall be permitted for any parcel within the District during the term of the

District except for property requesting inclusion to the District as open space. Requirements for open space is set forth in Section 48-2 (E) of this code.

2) Boundary Line Adjustments:

- a) Involving District parcels. Boundary line adjustments between parcels within the district shall be permitted.
- b) Involving District and non-district parcels. Boundary line adjustments between parcels where one of the parcels is not in the District shall be permitted if the parcel in the District is receiving land. If the District parcel is transferring land either with or without a dwelling unit right then the District parcel shall be limited to only one such boundary line adjustment during the term of the District and such boundary line adjustment shall be in lieu of the District parcel's subdivision right as set forth in Chapter 48-4 (A)(1).

3) Rezoning. No parcel within the District shall be rezoned to other than an Agricultural-Open Space-Conservation (AOC) and/or Forestal Open-Space Conservation (FOC) zoning category.

4) Special use permits.

- a) A special use permit shall not be granted for any parcel within the District other than special use permits for livestock auction markets, small-scale processing of specialty fruits and vegetables, and veterinary services, animal hospitals and breeding kennels.
- b) All other principal uses and structures and accessory uses and structures, as set forth in the Schedule of District Regulations, AOC and FOC District, of Chapter 188, Zoning, shall be permitted by right of parcels within the District.

B. Adjacent to the District. The establishment and existence of the District shall not subject any adjacent tracts to restrictions and/or regulations other than those already applicable through Chapter 188, Zoning, and Chapter 161, Subdivision of Land, and other land use ordinances and plans in effect. The LESA System shall be employed as a primary tool in the decision making process with respect to proposed rezonings and other proposed changes in land use for tracts adjacent to the District, including evaluating any applications for including additional lands in the District.

*§ 48-5. Withdrawal from District.*

[Amended 1998-03-17]

- A. During the term of the District, withdrawals for good and reasonable cause shall be permitted as follows:
- 1) For financial hardship approaching confiscation of property, such hardship to be documented in writing. In the case where a portion of the enrolled land is proposed to be subdivided and would not meet criteria for enrollment in the District, all minor subdivisions (1 or 2 lots) will be withdrawn during the Clarke County Agricultural and Forestal District regular renewal period. For all major subdivisions (3 or more lots), those proposed lots not meeting the District requirements for inclusion into the Agricultural and Forestal District, must be withdrawn from the District prior to subdivision approval by the approving authority.
  - 2) Upon death of a landowner of record, no less than an entire tract of record as it existed on the date of renewal of the District may be withdrawn.
- B. At the end of the term. At the expiration of the term, but prior to renewal, each landowner shall be allowed to withdraw from the district, for any reason, upon written application stating such reasons.

*§ 48-6. Notification to prospective purchaser.*

The owner of property in the District is advised to notify a prospective purchaser of the property that the property is located in the District.

*§ 48-7. List of parcels*

The Clarke County Agricultural and Forestal District shall include the list of parcels, a copy of which is on file in the County Planning Department.

## Amendments Chapter 48

1992-03-17

Adopted by the Board of Supervisors of Clarke County

1998-03-17

§ 48-2. Addition of lands to District. Remove 2-C-(3); Add to § 48-5-A-(1) subdivision requirements.

2004-03-16

Clarke County Agricultural renamed Clarke County Agricultural and Forestal District and add FOC throughout Chapter.

2010-03-16

County Code amended to include open space category with criteria for acceptance, criteria for boundary line adjustments and formal renaming of District from Agricultural District to Agricultural and Forestal District.

2016-02-16

Chapter amended throughout technical edits for clarity and consistency purposes; §48-1 Renewal add District; §48-2 Addition of lands to District, §48-4 Effects on land use, §48-6 Notification to prospective purchaser CC-2016-01