



# Albemarle County

## Legislation Details (With Text)

**File #:** 19-213      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Passed  
**File created:** 2/25/2019      **In control:** Board of Supervisors  
**On agenda:** 3/20/2019      **Final action:** 3/20/2019

**Title:** 19-03(1) – Agricultural and Forestal Districts. Ordinance to amend Division 2, Districts, of Article II, Districts of Statewide Significance, of the Albemarle County Code, to review the Hardware AFD, and to make corrections to the Hardware AFD regulations to identify all those tax map parcels within the district, as specified below:  
a) AFD 2017-02 Hardware AFD – District Review. The proposed ordinance would amend Section 3-218, Hardware Agricultural and Forestal District, to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of March 20, 2024, to identify TMPs 86-16F1 and 86-16F2 as being in the district (these parcels were created by subdivision of another parcel in the district), to identify TMPs 88-3M, 88-3R, 88-3T, 88-3U, 88-3V, 88-6A, 88-20A, 88-20B, 88-20C, 88-20D, 88-20F, 88-23, 88-23E, 88-23F, 88-24, 88-24A, 88-24B, 88-26B, 88-29, 88-40, and 88-42 as being in the district (these parcels were inadvertently omitted from the district in Ordinance 17-03(1), adopted on December 13, 2017), and to remove TMPs 86-14, 86-16E, and 88-26B, as well as any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance.

The review of the district will be reduced from once every ten years to once every five years, so that the next review of the district after the current review will occur prior to March 20, 2024 (the “next review”).

A condition to continuation of this district is that the Board of Supervisors may modify the district during its next review by removing parcels with no development rights that cannot be further divided to create one or more parcels less than 21 acres in size, but which qualify for open-space use valuation because of their being in the district.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Att.A Ordinance, 2. Att.B Planning Commission Report

| Date      | Ver. | Action By            | Action  | Result |
|-----------|------|----------------------|---------|--------|
| 3/20/2019 | 1    | Board of Supervisors | adopted | Pass   |

**AGENDA DATE:** 3/20/2019

**TITLE:**

Agricultural and Forestal Districts (AFD's); periodic review of the Hardware District

**SUBJECT/PROPOSAL/REQUEST:** Adoption of an ordinance to amend County Code § 3-218, Hardware Agricultural and Forestal District, pertaining to the periodic review of the Hardware AF District.

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Herrick, Benish, Clark, Lynch

**PRESENTER (S):** Scott Clark

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** Localities are enabled to establish agricultural and forestal districts (AFD's) under the Agricultural and Forestal Districts Act (Virginia Code § 15.2-4300 et seq.). AFD's serve two primary purposes: (1) to conserve and protect agricultural and forestal lands; and (2) to develop and improve agricultural and forestal lands. Land within an AFD is prohibited from being developed to a more intensive use, other than a use resulting in more intensive agricultural or forestal production, without prior Board approval. In addition, the County is prohibited from exercising its zoning power in a way that would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the Agricultural and Forestal Districts Act unless those restrictions or regulations bear a direct relationship to public health and safety (Virginia Code § 15.2-4312).

**District Reviews** Virginia Code § 15.2-4311 requires the periodic review of AFD's to determine whether they should continue, be modified, or be terminated, unless the Board determines that review is unnecessary. During the review process, land within the District may be withdrawn at the owner's request by filing a written notice with the Board any time before the Board acts on the review. The Board has set a 10-year review period for all AFD's of statewide significance in the County and an eight-year review period for the AFD of local significance in the County. In addition, Virginia Code § 15.2-4311 requires that the Board conduct a public hearing on AFD reviews, and that they also be reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations. The Advisory Committee and the Planning Commission reviewed the following request and recommend renewal of the Hardware AFD for ten years. The October 24, 2017 staff report to the Planning Commission is attached (Attachment C).

**Hardware AFD** The Hardware AFD is generally located between North Garden in the south and Dick Woods Road in the north, along and to the west of US29, and is undergoing its periodic 10-year review. Two landowners submitted requests to withdraw a total of three parcels (TMPs 86-14, 86-16E, and 88-26B) consisting of a total of 309.22 acres from the District.

**STRATEGIC PLAN:** *Rural Area Character:* Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

**DISCUSSION:** The Hardware AFD, which was created in 1987 and currently includes 42 parcels and 3,383 acres, primarily consists of forest and pasture land. There are currently ten parcels in the District under conservation easement, and 1,121 acres being taxed at conservation-easement rates. In addition, 1,946 acres are being taxed at use value rates, as follows: (1) 470 acres devoted to agricultural use; (2) 730 acres devoted to forestry use; and (3) 746 acres devoted to open-space use. There are 40 dwellings in the District. Conservation of this area will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, mountain resources, critical slopes, and wildlife habitat. With the withdrawal of TMPs 86-14, 86-16E and 88-26B, the District would include 39 parcels and 3,074 acres.

The Hardware AFD is the first AFD coming to the Board after the Board's adoption of the comprehensive amendments to Chapter 3 (Agricultural and Forestal Districts) of the County Code on November 7, 2018. One of the new factors to be considered during AFD review is:

“Whether any parcel has one or more development rights that would allow the creation of one or more parcels less than 21 acres in size; in considering whether to include any parcel in a district, the policy of the County is to not include any parcel determined to have no development rights and cannot be further divided to create one or more parcels less than 21 acres in size.” *County Code § 3-201(F), made applicable to district reviews by County Code § 3-204(E)(3).*

The Board's direction on November 7 was to reduce the review interval from once every 10 years to once every five years. This is addressed in County Code § 3-218(C). The Board's further direction was to provide that, during its next review of the district, the Board would consider modifying it by removing parcels with no development rights as described in the quoted text above, but which qualify for open-space use valuation because of their being in an AFD. This condition is included in County Code § 3-218 as well. It does not bind the Board to act in any particular way when the Hardware AFD is reviewed in 2024. It does, however, provide notice to affected landowners and the public.

Notice of this Hardware AFD review was mailed to all Hardware District landowners as required by State law. The notice included that when the Board next reviews the Hardware District in 2024, it will consider modifying the district by removing parcels with no development rights, but which qualify for open-space use valuation because of their being in the district.

**BUDGET IMPACT:** There is no budget impact.

**RECOMMENDATION:**

Staff recommends that the Board adopt the attached proposed ordinance (Attachment A) after the public hearing.

**ATTACHMENTS:**

A - Proposed Ordinance

B - October 24, 2017 PC Staff Report