



# Albemarle County

## Legislation Text

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**File #:** 18-559, **Version:** 1

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**AGENDA DATE:** 11/7/2018

**TITLE:**

Ordinance to Amend County Code Chapter 3, Agricultural and Forestal Districts

**SUBJECT/PROPOSAL/REQUEST:** Adoption of an Ordinance to Amend County Code Chapter 3, Agricultural and Forestal Districts

**ITEM TYPE:** Regular Action Item

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

**PRESENTER (S):** Greg Kamptner, Scott Clark

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** The Board has directed the County Attorney's Office to conduct a comprehensive review and recodification of the County Code. Chapter 3 contains provisions related to the County's agricultural and forestal district ("AFD") program by which the County protects its agricultural and forestal lands of statewide and local significance.

**STRATEGIC PLAN:** Quality Government Operations: Ensure County's government capacity to provide high quality service that achieves community priorities.

**DISCUSSION:** The process of recodifying the County Code includes making formatting, style, organizational, and substantive changes. These changes are being addressed at the chapter level before the Board considers adopting a complete, recodified County Code.

At the Board's April 11, 2018 work session on Chapter 3, three issues were brought to the Board for its consideration:

1. Whether the uses and activities allowed on a parcel in an AFD should be further restricted. The consensus of the Board was to remove only by-right borrow areas and borrow pits as allowed uses. These uses are allowed by-right only when the aggregate volume is 50,000 cubic yards or less. This issue is addressed in the proposed ordinance (Attachment A) in County Code §§ 3-202(A)(3)(j) and 3-303(A)(3)(j) on pages 11 and 40, respectively.

2. How parcels in a district with no development rights but qualifying for open-space use valuation should be evaluated during district review. The Board did not reach a consensus on this issue. Generally, three Board members expressed support for removing parcels without development rights but qualifying for open-space valuation, unless the owners of those parcels entered into some meaningful stewardship program that provided a soil conservation benefit to the County. Two other Board members did not support removing these parcels from a district. One Board member did not express a position on the issue. Staff has further explored

possible stewardship programs including Open-Space Use Agreements and programs through the Thomas Jefferson Soil and Water Conservation District, and concluded that these options would not provide material soil conservation benefits. The proposed ordinance does not directly address this issue. Instead, the proposed ordinance identifies the factors to be considered during district review, and include whether a parcel has development rights (the same factor considered when creating, or adding land to, a district). These factors are identified in County Code §§ 3-204(C), (D), and (E) and 3-304(C), (D), and (E) on pages 13 and 14 and 41 and 42, respectively.

If the Board reaches a consensus that parcels with no development rights qualifying for open-space use valuation should be evaluated for possible removal from the district during district review, staff recommends that the Board direct staff to limit the evaluation to those parcels that had no development rights when they were added to the district. This limitation would allow those parcels that were lawfully divided (and development rights were used up) after they had been added to a district to remain in the district. Staff also recommends that the Board consider a further limitation by imposing a cut-off date, before which staff will not examine the status of the parcel when it was added. Staff will further address this issue during its presentation.

### 3. Whether appointees to the Advisory Committee should be subject to term limits.

The current term limits prohibit more than two consecutive four-year terms. Current members whose terms expire are allowed to hold over until a successor is appointed. The consensus of the Board was to remove the term limits if, after six months, a successor was not appointed by the Board. This issue is addressed in County Code § 3-104(B)(2) on page 4.

More broadly, the proposed ordinance adds definitions to Chapter 3 (County Code § 3-106 on page 5) and a procedure to appeal decisions of the Director of Planning to the Board of Supervisors (County Code § 3-107 on pages 5 and 6). The proposed ordinance also would clarify the rules pertaining to the effect of creating a district by more comprehensively describing the uses and development permitted in a district by codifying a series of consistent interpretations of Chapter 3 (County Code §§ 2-202(A)(3) and 3-302(A)(3) on pages 10 and 11 and 39 and 40, respectively). These three changes will improve the administration of Chapter 3.

Lastly, the proposed ordinance would amend the procedure for reviewing an existing district by more fully describing the procedure for hearing and action by the Board and, as previously noted, by identifying the factors to be considered during district review (County Code §§ 3-204, 3-304 on pages 13 and 14 and 41 and 42, respectively).

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

### **RECOMMENDATION:**

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

### **ATTACHMENTS:**

A - Proposed Ordinance