

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 653

An Act to amend and reenact §§ 15.2-4405 and 58.1-3233 of the Code of Virginia, relating to use value assessment for agricultural, forestal, or agricultural and forestal districts of local significance.

[S 81]

Approved April 12, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-4405 and 58.1-3233 of the Code of Virginia are amended and reenacted as follows:

§ 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~~ *Each individual district of local significance shall be comprised of have a core of no less than the minimum acreage specified in the general ordinance, which minimum acreage in no case shall be less than ~~twenty~~ 20 acres in one parcel or contiguous parcels, provided that (i) any noncontiguous parcel that is not part of the core may be included in a district of local significance if the nearest boundary of such noncontiguous parcel is within one-quarter of a mile of the core and (ii) such noncontiguous parcel had previously been included in a district of local significance.* 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, *or noncontiguous lands that meet the conditions of clauses (i) and (ii),* 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~~ 30 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~~ 30 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.).

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;

2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § 3.2-2600 or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. *However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § 15.2-4405 shall be deemed to be contiguous to any other real property that is located in such district.* For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § 58.1-3230, or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240. Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § 15.2-4314 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.