



**Amherst County Board of Supervisors
County Ordinance No. 2022-0002**

AN ORDINANCE, NO. 2022-0002

Amending and reenacting the Amherst County Code by amending and reenacting Appendix A, Zoning and Subdivisions, Article X, Administration, Section 1003, Zoning Permits.

Approved as to form and legality by the Amherst County Attorney

**FIRST READING: Board of Supervisors, March 1, 2022
PUBLIC HEARING: Board of Supervisors, March 15, 2022**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Section 1003.03 of the Code of Amherst County, 1987, as amended, is amended, reenacted, and recodified as follows:

WHEREAS, the Amherst County Board of Supervisors wishes to provide itself with additional authority to terminate approved special exceptions when the terms of such special exceptions are not being complied with by the property owner; and

WHEREAS, Section 15.2-2286(A)(4) of the Code of Virginia (1950, as amended) grants localities the authority to adopt zoning ordinance provisions to reasonably regulate the administration and enforcement of such an ordinance; and

WHEREAS, the Amherst County Board of Supervisors deems it appropriate to reserve until itself the authority to revoke a special exception under certain terms and conditions.

NOW, THEREFORE, BE IT HEREBY ORDAINED that the Amherst County Board of Supervisors does hereby amend and reenact the Amherst County Code by amending and reenacting Appendix A, Zoning and Subdivisions, Article X, Administration, Section 1003, Zoning Permits, as follows:

1003. Zoning permits.

Zoning permits shall be issued in accordance with the following provisions and procedures:

1003.01. Issuance and display. The zoning administrator shall issue a zoning permit, in conjunction with a building permit, if necessary, for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. The zoning permit

shall indicate whether the use is a permitted use, a special exception, or a variance and shall be conspicuously posted and displayed on the premises during the period of construction or reconstruction. A zoning permit must be obtained from the zoning administrator prior to the issuance of a building permit by the building inspector. The zoning administrator shall establish the form of the permit application, and may modify that as necessary. Any application submitted by a person other than the property owner of record shall include documentation satisfactory to the zoning administrator demonstrating the applicant's control of the real property proposed to be subject to the permit.

1003.02. Application procedures for permitted uses. Applications for a zoning permit shall be submitted to the zoning administrator according to the following provisions:

1. An application for a zoning permit for a permitted use shall be accompanied by site plan documentation as required under Article XI herein.
2. If the proposed documentation is in conformity with the provisions set forth herein, and other appropriate codes and regulations of the county then in effect, the zoning administrator shall sign and return one (1) copy of the site plan to the applicant and shall issue a zoning permit. The zoning administrator shall retain the application and one (1) copy of the site plan for his records.
3. If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the zoning administrator shall not issue a zoning permit, but shall sign and return one (1) copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this ordinance with which the submitted site plan does not comply. The zoning administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal.

1003.03. Application procedures for special exception. Applications for a zoning permit for a special exception shall be submitted to the zoning administrator, who shall refer the application to board of supervisors for a public hearing. Applications for zoning permits for special exceptions must be submitted in accordance with the following procedures:

1. An application shall be accompanied by site plan documentation as required under Article XI hereunder.
2. The application shall be sent to the commission and the board of supervisors following the commission's recommendation. The commission shall have one hundred (100) days within which to review and submit a recommendation to the board of supervisors, except that the commission shall, within ninety (90) calendar days of the date the application is filed with the zoning administrator, complete its review of, and submit to the board of supervisors its recommendation regarding, any application filed by or on behalf of a religious assembly or religious institution for a special exception permit for one (1) or more off-site directional signs subject to the requirements contained in Sections 907.02 and 907.04 of the sign ordinance. The commission shall hold a public hearing on the application for a special exception in accordance with Section

15.2-2204 of the Code of Virginia, 1950, as amended. If the commission fails to submit a report within the applicable one hundred-day or ninety-day period, it shall be deemed to have approved the proposed special exception.

3. The board of supervisors shall consider the proposed special exception after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed special exception within twelve (12) months from the date of the public hearing, except that the board of supervisors shall, within ninety (90) days of the date the commission's recommendation is filed with the board of supervisors, take action on any application filed by or on behalf of a religious assembly or religious institution for a special exception permit for one (1) or more off-site directional signs subject to the requirements contained in Sections 907.02 and 907.04 of the sign ordinance.
4. In addition to the specific requirements for special exceptions as specified in this article, the board of supervisors shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:
 - a. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the county's comprehensive plan and/or this article;
 - b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - c. Will not be hazardous or disturbing to existing or future neighboring uses;
 - d. If applicable, will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structure, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - e. Will not create excessive additional requirements at public costs for public facilities and services and will not be detrimental to the economic welfare of the community;
 - f. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or water pollution;
 - g. If applicable, will have vehicular approaches to the property which shall be so designed as not to create any interference with traffic on surrounding public streets or roads; and
 - h. Will not result in the destruction, loss or damage of a natural scenic or historic feature of major importance.

5. This section and Article XI of the zoning ordinance establish the minimum conditions for approval of a proposed special exception. In approving a proposed special exception, the board of supervisors may stipulate such additional requirements as are necessary to the public interest. The board of supervisors may require the applicant to furnish a performance bond in an amount sufficient for, and conditional upon, the fulfilling of any and all conditions and requirements stipulated by the respective board.
6. If the board of supervisors approves the application for a zoning permit for a proposed special exception, the zoning administrator shall issue a zoning permit in accordance with paragraph 1003.02 herein, indicating the special nature of the use.
7. If the board of supervisors disapproves the application for a zoning permit for a proposed special exception, the board of supervisors shall inform the applicant of the decision in writing within sixty (60) days from the date of the public hearing, stating the reasons for disapproval, except that any such disapproval of an application for a zoning permit for a proposed special exception for one (1) or more off-site directional signs filed by or on behalf of a religious assembly or religious institution shall be communicated to the applicant no later than twenty (20) days after the date of the public hearing held to consider such application. The zoning administrator shall retain one (1) copy of the site plan and two (2) copies of the refusal, and keep them as a public record.
8. A property owner, or his appointed agent, shall not initiate action for zoning permit relating to the same special exception affecting the same parcel of land more often than once every twelve (12) months.
9. Prior to an expansion of an approved special exception, the owner, or his agent, must submit an application for an amended zoning permit for a special exception, in accordance with the special exception provisions herein, whenever the cumulative expansion, or expansions, exceeds twenty-five (25) percent in the aggregate of floor area of the structure, or use, originally approved for the current special exception.

10. Scope of approval.

- a. Unless otherwise specified by the conditions of the permit, failure to establish the special use authorized by the permit within two (2) years from the date of approval by the board of supervisors shall cause the permit to terminate and to become void.
- b. The provisions of this section 1003.03 are cumulative with the power of injunction and other remedies afforded by law to the county and, further, shall not be so interpreted as to vest in any applicant any rights inconsistent or in conflict with the power of the county to rezone the subject property or to exercise any other power provided by law.

11. Revocation of special exception permits.

- a. The board of supervisors may, by resolution, initiate a revocation of a special exception permit. When initiated, the revocation process shall be

handled as would a new application for a special exception permit to include the holding of respective public hearings by both the planning commission and board of supervisors as provided for in Section 15.2-2204 of the Code of Virginia, 1950, as amended.

- b. After review by the zoning administrator and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special exception permit. Grounds for revocation shall include, but are not limited to, the following:
- (i) A change in conditions affecting the public health, safety and welfare since the adoption of the special exception permit; or
 - (ii) Repeated violations of this article, including any conditions attached to the special exception permit, by the owner/operator of the use; or
 - (iii) Fraudulent, false or misleading information or an error or mistake in fact supplied by the applicant (or his agent) for the special exception permit.

1003.04. Expiration. Any zoning permit shall automatically expire twelve (12) months from the date of issuance if the persons, firm, or corporation to which the permit was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of twelve (12) months.

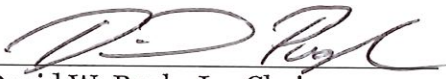
1003.05. Certificate of zoning compliance. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator, or his appointed agent, stating that the proposed use of the building or land conforms to the requirements of this ordinance in accordance with the approved zoning permit or variance. A certificate of use or occupancy, as required in Section 119.0 of the county building code, shall not be issued by the building inspector until a certificate of zoning compliance has been issued. For convenience and at the discretion of both the zoning administrator and the building inspector, the certificate of zoning compliance and certificate of use or occupancy may be combined as one (1) certificate.

1003.06. Delinquent charges. Applications for a special exception permit, variance, rezoning, or land disturbing permit, including erosion and sediment control permits, shall be considered incomplete if any of the following charges associated with the subject property are unpaid:

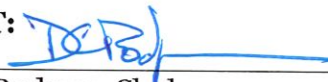
1. Real estate taxes.
2. Personal property taxes.
3. Business taxes.

2. That this ordinance shall be in force and effect upon adoption.

Adopted this 15th day of March 2022.


David W. Pugh, Jr., Chair
Amherst County Board of Supervisors

Member	Vote
David W. Pugh, Jr., Chair	ABSENT
Tom Martin, Vice-Chair	AYE
L. J. "Jimmy" Ayers, III	AYE
Claudia D. Tucker	ABSENT
Drew Wade	AYE

ATTEST: 

Dean C. Rodgers, Clerk
Amherst County Board of Supervisors