



**Amherst County Board of Supervisors  
County Ordinance No. 2013-0016**

**AN ORDINANCE, NO. 2013-0016**

Amending §§ 302, 408, 1104 and 1203 of the Amherst County Code to define dam break inundation zones and to establish requirements for the identification of such zones on site plans and preliminary plats; and adding § 713 to the Amherst County Code to establish the dam break inundation zone overlay district and specific requirements governing development in such districts.

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Approved as to form and legality by the County Attorney

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**FIRST READING: Planning Commission, November 7, 2013**

**PUBLIC HEARING: Planning Commission, November 21, 2013**

**FIRST READING: Board of Supervisors, January 7, 2014**

**PUBLIC HEARING: Board of Supervisors, January 21, 2014**

**THE COUNTY OF AMHERST HEREBY ORDAINS:**

**§ 1.** That Section 302, and Sections 408, 1104 and 1203, specifically subsections 408.04, 1104.02 and 1203.02, of Appendix A to the Code of the County of Amherst be and hereby are amended, as follows:

**Sec. 302. Specific Definitions.**

*Dam break inundation zone.* The area downstream of a dam that would be inundated or would sustain other damages as a result of the dam's failure.

**Sec. 408. Additional dwelling on single lot.**

Two (2) additional single-family dwellings may be permitted on the same lot or parcel of land as that of the main dwelling, upon application to and approval by the zoning administrator, provided that:

*408.01.* The main dwelling is located either in R-2 Residential District, A-1 Agricultural District, or Public Lands.

*408.02.* Each additional dwelling conforms to the minimum lot area, minimum lot width, maximum lot coverage and yard requirements for such a dwelling as set forth in Article VIII herein.

*408.03.* Each additional dwelling has access to a public street by means of a passageway open to the sky at least fifteen (15) feet in width.

408.04. When three (3) or more residential dwelling units are constructed on the same lot or parcel of land within a dam break inundation zone, the requirements contained in Section 713 of Appendix A to the Amherst County Code shall apply.

#### **1104. Documentation.**

The following requirements shall govern documents submitted for site plan review:

*1104.01.* Plot plans shall be legibly drawn and shall clearly indicate the area, shape and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.

*1104.02.* The following requirements shall govern documents submitted for minor site plan review:

1. The scale shall be no less than one (1) inch equals to one hundred (100) feet. The zoning administrator or planning director may accept a scale which is sufficient to clearly show all required details on the plat.
2. Drawings may be submitted on paper size as small as eleven (11) inch by seventeen (17) inch (11" × 17") if all notes are clearly legible.
3. The names and addresses of owner, developer, a scale and north arrow shall be included on all maps.
4. The following information shall be included on the map of existing conditions:
  - a. Names and addresses of owners of record of all adjacent properties and tax map numbers;
  - b. Current zoning boundaries, including surrounding to a distance of three hundred (300) feet;
  - c. Easements, rights-of-way, or other reservations affecting the property;
  - d. Topography and flood plain elevation, if applicable;
  - e. Location of watercourses, marshes, rock out-cropping and wooded areas;
  - f. Location of buildings existing on the tract to be developed indicating whether existing buildings on the tract are to be retained, modified or removed; ~~and~~
  - g. Location of existing water mains, culverts, drains, pipe sizes, grades and direction of flow; and

h. The location of mapped dam break inundation zones and their impact on the development.

5. The following information shall be included on the map of proposed development:

a. Signature blocks for the zoning administrator, or his/her designee, Virginia Department of Transportation, Health Department and Amherst County Service Authority, when applicable;

b. Location and size of proposed buildings and uses thereof;

c. Proposed streets and other ingress and egress facilities (indicating curb lines, sidewalk lines and public right-of-way lines); meeting the Minimum Standards of Entrances to the State Highways;

d. Layout of off-street parking;

e. Location of proposed utility lines, indicating where they already exist and whether they will be underground;

f. Proposed planting, including all landscaping and screening per Section 1602, and indicating existing trees to be retained and areas to be left undisturbed;

g. Facilities for disposal of trash and other solid waste;

h. Elevations of buildings to be built or altered on-site; and

i. All private waste disposal systems including their reserve areas shall be located on the same property as the building site that the private waste disposal system benefits. If mass drain fields are present they shall meet provisions of Section 1104.03(3)(m);

6. The planning commission may require additional information for a special exception or rezoning to determine its eligibility under this ordinance.

**Sec. 1203. Preparation of preliminary plat.**

*1203.02. Preliminary plat information.* The preliminary plat shall include the following information:

1. Date of plat and name of surveyor preparing it, shown on each sheet;

2. Scale and north meridian, designated "true" or "magnetic" and oriented to the top of each sheet, where practical;

3. The name and signature of the owner, shown on the first sheet;

4. Sources of data used in preparing the plat, including the deed book and page number of the last instrument in the chain of title;
5. Locations, lengths, and bearings of lines of the proposed subdivision, with names of all adjoining property owners and the location of each of their common boundaries including established streets and waterways; and adjoining streets with their names;
6. All pertinent natural and historical features and landmarks; including existing and finished contour lines as needed for review of drainage and sewer facilities, and including watercourses, marshes, lakes, impoundments, and areas of significant vegetation;
7. All subdivisions, jurisdiction boundary lines, streets, alleys, or other public ways; and other landmarks, if any, within two thousand (2,000) feet of the proposed subdivision shown on an insert on the first sheet at a scale no smaller than six hundred (600) feet to one inch;
8. Total acreage of the proposed subdivision and the acreage remaining in the original tract, if any;
9. The location of existing buildings in and within one hundred (100) feet of the subdivision, and the location and description of all existing markers;
10. The proposed locations, widths, and names of all streets and alleys;
11. Proposed lot lines with proposed dimensions, building lines and easements, and the proposed use of each lot and other areas, including significant natural features, and those areas to be used for parking, open space, recreation, commercial purposes, or public or governmental use, and existing and proposed utility installations;
12. Proposed lot numbers and block letters;
13. If the proposed subdivision consists of land acquired from more than one source of title, the outlines of the several tracts shall be shown and identified on the index map;
14. A map showing the location of the proposed subdivision with respect to any designated flood plain district, including information, but not limited to, the one hundred (100) year flood elevations, boundaries of the flood plain districts, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions;
15. Indicate current zoning of the parcel of land to be subdivided as provided herein.
16. All special platting requirements of Section 710 must be shown for those portions of the property located within any Primary or Secondary Watershed District. This information shall include tributary buffer strips, drain field and reserve drain field spaces, reservoir setbacks, reservoir setback restriction statements, minimum septic tank maintenance standards and stormwater management facilities;
17. Name and signature of any owners of property over which a right-of-way traverses which is intended to provide required access to the subdivision. The signature block shall include the following statement: "The owners understand and accept the prescribed right-of-way on their property as a means of access to

a subdivision of property. It is understood and accepted that maintenance of the access road will take place within the right-of-way."

18. All lots shall have a primary and one hundred (100) percent reserve drain field unless the lot is being served by public sewer or is a single residue (the remaining portion) lot greater than or equal to twenty (20) acres. For a single residue lot twenty (20) acres or greater the following statement shall be clearly noted on the plat for this lot: "The approval of this residue lot by the County of Amherst does not certify or guarantee the owner or purchaser the presence of adequate soils to support an on-site wastewater treatment system for any development as no demonstration has been made by the developer/subdivider of the same".

19. All private waste disposal systems including their reserve areas be located on the same property as the building site that the private waste disposal system benefits. Mass drain fields may not be subject to this proposal.

20. When private on-site wastewater systems other than mass drain fields approved by the Amherst County Health Department are utilized:

1. Each system approved after October 17, 2006 shall have another on-site wastewater system area reserved for use in the event of failure of the initial on-site wastewater system;
2. In all zones, the reserve on-site wastewater system area shall be sufficient to accommodate a minimum of one hundred (100) percent of the capacity of the initial on-site wastewater system;
3. The location of all on-site wastewater system areas and reserve areas shall be shown on the plat of the subdivision and if pretreatment is proposed for the on-site wastewater system, such proposal must be clearly stated on the plat;
4. All plats of subdivision and site plans shall contain the following: The Virginia Department of Health advises that septic tanks be pumped every three (3) to five (5) years to maximize the life of the on-site wastewater system area.

21. The location of mapped dam break inundation zones, and their impact on the development.

**§2. That Section 713, Dam Break Inundation Zones Overlay District, comprised of subsections 713.01 through 713.03, be and hereby is added to Article 7 of Appendix A to the Code of the County of Amherst, as follows:**

**Sec. 713 - Dam Break Inundation Zones Overlay District**

713.01. Purpose of the Dam Break Inundation Zones Overlay District. The purpose of this district is to help mitigate the potential for damage resulting from the failure of impounding structures within dam break inundation zones.

713.02. Definitions. The following definitions are applicable in this § 713 only:

Development means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose, or is to contain three (3) or more residential dwelling units. The term “development” shall not be construed to include any property which will be devoted principally to agricultural production.

Impounding structure means a man-made device, whether a dam across a watercourse or other structure outside a watercourse, used or to be used to retain or store water or other materials, including:

(i) any dam that is twenty-five (25) feet or greater in height and creates an impoundment capacity of fifteen (15) acre-feet or greater, and

(ii) any dam that is six (6) feet or greater in height and creates an impoundment capacity of fifty (50) acre-feet or greater.

The term “impounding structure” shall not be interpreted to refer to: (a) dams licensed by the State Corporation Commission that are subject to a safety inspection program; (b) dams owned or licensed by the United States government; (c) dams operated primarily for agricultural purposes which are less than twenty-five (25) feet in height or which create a maximum impoundment capacity smaller than one hundred (100) acre-feet; (d) water or silt retaining dams approved pursuant to Virginia Code §§ 45.1-222 or § 45.1-225.1; or (e) obstructions in a canal used to raise or lower water.

#### 713.03. Review.

A. For any proposed development having a location within the boundaries of a dam break inundation zone that has been mapped in accordance with State law, the County shall, as part of a subdivision plan or plat review:

1. Review the dam break inundation zone map on file with the County for the affected impounding structure;
2. Notify the dam owner of the proposed development and County review; and
3. Within 10 days of the review start date, ask the Department of Conservation and Recreation (“Department”) to identify the potential impacts of the proposed development on the spillway design flood standards required of the dam.

B. The Department shall notify the dam owner and the County of its determination within 45 days of the receipt of the request. Upon receipt of the Department's determination, the County shall complete the review in accordance with Virginia Code §§ 15.2-2259 or 15.2-2260. If the County has not received a determination within 45 days of the Department's receipt of the request, the Department shall be deemed to have no comments, and the County shall complete its review.

C. If the Department determines that the plan of development would change the spillway design flood standards of the impounding structure, the County shall not permit the development unless:



1. The developer or subdivider agrees to modify the plan of development so that it does not affect the spillway design flood standard required of the impounding structure; or

2. The developer or subdivider submits an engineering study in conformance with standards promulgated by the Virginia Soil and Water Conservation Board ("Board") pursuant to the Virginia Dam Safety Act (Virginia Code §§ 10.1-604 et seq.) and the Virginia Impounding Structure Regulations (4 VAC 50-20). The study shall provide a contract-ready cost estimate for completing the upgrades. The Department shall verify that the study conforms to the Board's standards. Following receipt of a study, the Department shall have 15 days to determine whether the study is complete. The Department shall notify the developer or subdivider of any specific deficiencies that cause the study to be determined to be incomplete. Following a determination that a submission is complete, the Department shall notify the developer or subdivider of its approval or denial within 45 days. Any decision shall be communicated in writing and shall state the reasons for any disapproval.

D. Following the completion of the engineering studies in accordance with subdivision C.2., and prior to any development within the dam break inundation zone, the County shall require that a developer or subdivider of land pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development or subdivision, together with administrative fees not to exceed one percent of the total amount of payment required or \$1,000, whichever is less. Necessary upgrades shall not include costs associated with routine operation, maintenance, and repair, nor shall necessary upgrades include repairs or upgrades to the impounding structure not made necessary by the proposed development or subdivision.

E. Where a payment under subsection D is required, such payment shall be made by the developer or subdivider in accordance with the following provisions:

1. The County may elect to receive such payment. Upon receipt, payments shall be kept in a separate account by the County for each individual improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The County may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made to justify the extension and the extension is approved by the Virginia Soil and Water Conservation Board prior to the expiration of the six-year period. Should the County be unable to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood Prevention and Protection Assistance Fund for the provision of grants and loans. Any County maintaining an account in accordance with this section may charge an administrative fee, not to exceed one percent of the total amount of payment received or \$1,000, whichever is less.

2. If the County elects not to receive such payment, any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.19:1. The funds shall be held by the Virginia Resources Authority for each improvement project until such time as they are expended for the improvement project; however, any funds not committed by the dam owner within six years of the time of deposit shall be refunded to the developer or subdivider. The Board may issue an extension of up to an additional four years for the use of the funds if the dam owner shows that sufficient progress is being made. Should the Department of Conservation and Recreation be unable to locate the developer or subdivider following a period of 12 months and the exercise of due diligence, the funds shall be deposited in the Dam Safety, Flood

Prevention and Protection Assistance Fund for the provision of grants and loans. The Virginia Resources Authority shall not have any liability for the completion of any project associated with the moneys they manage in the Dam Safety, Flood Prevention and Protection Assistance Fund.

F. The County shall have no obligation to assume financial responsibility for upgrades except as an owner of an impounding structure.

G. The owner of the impounding structure shall retain all liability associated with upgrades in accordance with § 10.1-613.4.

H. The developer or subdivider shall provide the dam owner and all affected localities with information necessary for the dam owner to upgrade the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

**§3. That this ordinance shall be in force and effect upon adoption.**

Adopted this 21<sup>st</sup> day of January, 2014.

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Chairman, Amherst County Board of Supervisors

**ATTEST:**

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Clarence C. Monday, Clerk  
Amherst County Board of Supervisors

**Ayes** \_\_\_\_\_

**Nays** \_\_\_\_\_

**Abstentions** \_\_\_\_\_