



**Amherst County Board of Supervisors  
County Ordinance No. 2017-0001**

**AN ORDINANCE, NO. 2017-0001**

Amending §§ 302, 407, and 1301.07 of Appendix A to the Amherst County Code to clarify how the requirements governing subdivision design vary depending on whether the private streets or forest service roads accessing the subdivision are constructed in accordance with the requirements of the Virginia Department of Transportation.

---

Approved as to form and legality by the County Attorney

---

**PUBLIC HEARING: Planning Commission, December 15, 2016**  
**FIRST READING: Board of Supervisors, January 3, 2017**  
**PUBLIC HEARING: Board of Supervisors, January 17, 2017**

**THE COUNTY OF AMHERST HEREBY ORDAINS:**

**§ 1. That Sections 302, 407, and 1301.07 of Appendix A to the Code of the County of Amherst be and hereby are amended, as follows:**

**302. - Specific definitions.**

*Carport.* An accessory structure constructed on movable framing for the shelter of private passenger vehicles.

*Combined access drive.* A privately constructed driveway, owned and maintained in accordance with Section 1301.07(3) herein, which provides a means of vehicular access to more than one (1) parcel of land having frontage on a U.S. Highway or primary highway.

*Homeowners' Association Agreement or HOA.* An agreement, in such form as the County has approved, identified as a restrictive covenant on a subdivision plat, and recorded among the land records of Amherst County, that either (i) imposes on a homeowners' association the responsibility for maintenance of private streets in the subdivision governed by the HOA, or (ii) creates the authority in said association to impose on the owners or occupants of such lots requirements for the mandatory payment of fees to support the maintenance of said private streets.

**407. - Uses exempt from a zoning permit.**

The following uses may be undertaken without a zoning permit:

407.01. Incidental agriculture is permitted in ~~In~~ any district that allows residential uses, ~~provided that such any agricultural use shall which does not occupy over more than five (5) acres and shall not be objectionable by reason of~~ does not create any nuisance conditions related to odor, dust, noise, pollution and , or erosion or drainage.

407.02. Within Agricultural uses, within districts that in which agriculture is permitted by right, such agricultural uses shall not require a zoning permit, except as otherwise provided herein.

407.03. Yard sales and garage sales conducted on residential property by the resident property owner, and bazaars, flea markets and sales conducted by non-profit organizations shall be exempt from zoning permit requirements, provided such sales are limited to that each such sale, bazaar, or flea market lasts no longer than forty-eight (48) hours per sale and no more than one (1) such sale per month , and that each property owner or non-profit organization may conduct only one (1) such sale, bazaar, or flea market per calendar month.

407.04. Within districts that agriculture or commercial activity is permitted by right, wayside stands for the sale of agricultural or horticultural products shall not require a zoning permit.

407.05. Home occupations in an accessory building to the main dwelling unit, as provided in Section 905 herein, and provided the main dwelling unit is located on a parcel containing located on five (5) or more acres, and that such occupation is incidental to associated with an agricultural use only, shall not require a zoning permit.

407.06. A single carport with a maximum size of two hundred fifty six (256) square feet provided that such carport (i) is located no closer than fifteen (15) feet to the rear lot line, (ii) is located at a distance from the front lot line equal to at least half of the required front yard setback in Section 804 for the district in which the lot is located, and (iii) no other carports are located on the subject parcel. Additional carports constructed on the subject parcel shall be subject to the zoning permit process.

1301.07. Private streets/forest service road/combined access drive.

A. Requirements governing subdivisions vary depending on whether the private streets, forest service roads, or combined access drives serving the subdivision are constructed in accordance with subdivision street requirements established by the Virginia Department of Transportation.

1. Private For subdivisions served by private streets may be constructed in accordance with the Virginia Department of Transportation's subdivision street requirements. The minimum lot size for said streets is one (1) acre.:

(a) A homeowners' association, deed of easement or other agreement, shall be established to provide for the maintenance of the private streets street(s), and a copy of the homeowners' association shall be submitted as part of the subdivision plat approval process. The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots accessing the private street(s) created by the subdivision.

(b) The homeowners' association agreement, deed of easement or other agreement, shall be

submitted contemporaneously with the subdivision plat, and shall be identified as a restrictive covenant thereon. Final approval of the subdivision plat is contingent on the County's approval of the homeowners' association agreement, deed of easement or other agreement.

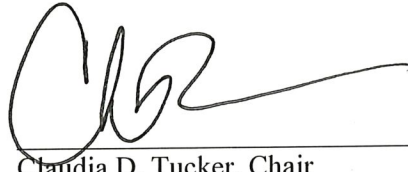
2.
  - ~~(a) A~~ For subdivisions served by (i) a private street or forest service road, and or (ii) all private streets or forest service roads connected to that private street system or forest service road system, which are not constructed in accordance with the Virginia Department of Transportation subdivision street requirements or not otherwise included in the State Secondary Road Maintenance System;
  - (a) Each such street or road may provide access to a maximum of five (5) lots all of which are shall be ten (10) acres or greater in size, except that an individual parcel which is described on May 2, 2001, by the then most current deed or other instrument conveying an estate in fee, for life, in possession or otherwise shall not be subject to any requirement for acreage size.
  - (b) A homeowners' association, deed of easement or other agreement, shall be established to provide for the maintenance of the private street(s), and a copy of the homeowners' association agreement shall be submitted as part of the subdivision plat approval process. The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots accessing the private street(s) created by the subdivision.
  - (c) The homeowners' association agreement, deed of easement or other agreement, shall be submitted contemporaneously with the subdivision plat and shall be identified as a restrictive covenant thereon. Final approval of the subdivision plat is contingent on the County's approval of the homeowners' association agreement, deed of easement or other agreement.
  - ~~(b) An individual parcel which is described on May 2, 2001, by the then most current deed or other instrument conveying an estate in fee, for life, in possession or otherwise, with regard to estates in law or in equity, or in any deed or other such instrument drawn thereafter may have a maximum of five (5) lots subdivided from that parcel which are to be accessed by private streets or forest service roads not constructed in accordance with the Virginia Department of Transportation subdivision street requirements provided that the number of lots served by any private street or forest service road may not exceed a total of five (5) whether said lots are derived from the individual parcel or other parcels.~~
3. A combined access drive may be constructed for access to lots that have frontage on a U.S. Highway or primary highway as classified by the Virginia Department of Transportation. A homeowners' association, deed of easement or other agreement, shall be established for the maintenance of the combined access drive, and a copy of the homeowners' association agreement, deed of easement or other agreement, shall be submitted contemporaneously with the subdivision plat and shall be identified as a restrictive covenant thereon. The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots created by any subdivided parcel that access the combined access drive.

~~3-B.~~ Private streets that are not constructed in accordance with the Virginia Department of Transportation standards shall be privately maintained and shall not be eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

4-C. All subdivision plats and approved deeds of subdivision, or similar instruments, for subdivisions which include private streets not constructed in accordance with Virginia Department of Transportation standards shall contain a statement ~~advertising~~ explaining that the streets in the subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Virginia Department of Transportation or Amherst County and are not eligible for rural addition funds or any other funds appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

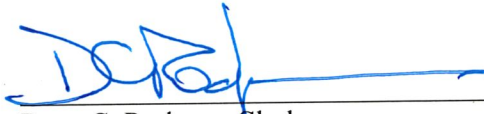
§ 2. That this ordinance shall be in force and effect upon adoption.

Adopted this 17<sup>th</sup> day of January, 2017.



Claudia D. Tucker, Chair  
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk  
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0

**ADOPTED**

1 / 17 / 17