



**Amherst County Board of Supervisors
County Ordinance No. 2017-0004**

AN ORDINANCE, NO. 2017-0004

Amending §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, July 20, 2017
PUBLIC HEARING: Board of Supervisors, August 15, 2017**

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Section 1301.07 of Appendix A to the Code of the County of Amherst be and hereby is amended, as follows:

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. For subdivisions served by private streets constructed in accordance with the Virginia Department of Transportation's subdivision street requirements:
 - (a) A homeowners' association, deed of easement or other agreement, shall be established to provide for the maintenance of the private streets. The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots 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. For subdivisions served by (i) a private street or forest service road, 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 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. A lot used for a private club may be subdivided, provided that the lot meets the underlying zoning district minimum yard requirements. This lot shall not be counted in the maximum number of lots associated with the private street system.
 - (b) A homeowners' association, deed of easement or other agreement, shall be established to provide for the maintenance of the private street(s). The homeowners' association shall include, or the deed of easement or other agreement shall burden, all lots 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.
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.


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.

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 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 15th day of August, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 5

Nays 0

Abstentions 0

ADOPTED

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