

The regular meeting of the Amherst Town Council was held on September 12, 2007 at 7:00 P.M. in the Council Chambers of the Town Hall with Mayor Jacob Bailey presiding. Council members present were: Bobby J. Bondurant; Jason D. Campbell, Haney Mottley; Harold Swisher and C. Manly Rucker, III.

Also present were Town Manager Jack Hobbs, Police Chief Kenneth Watts, Director of Public Utilities Tom Fore and Office Manager Colan R. Davis.

Police Chief Kenneth Watts gave an invocation.

Mr. Rucker made a motion that was seconded by Mr. Swisher to approve the agenda as presented. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

Mr. Glenwood Burley came forward to compliment the appearance of the Town and the work done by the Village Garden Club in the downtown area and at the traffic circle.

A duly advertised combined public hearing on an ordinance that would amend §18.1-804 of the Town Code (Minimum Yard Requirements), an ordinance that would amend §18.1-601.2 of the Town Code (Nonconforming Structures), and an ordinance that would amend §18.1-915 of the Town Code (Flood Plains) was opened at 7:10 P.M. There being no one present who wished to speak, the hearing was closed at 7:11 P.M.

Mr. Campbell made a motion that was seconded by Mr. Rucker to approve the ordinance to amend §18.1-915 of the Town Code (Flood Plains). The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". The ordinance is attached and made a part of these minutes.

Mr. Campbell made a motion that was seconded by Mr. Rucker to approve the ordinance as presented that would amend §18.1-601.2 of the Town Code (Nonconforming Structures). The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". The ordinance is attached and made a part of these minutes.

Mr. Rucker made a motion that was seconded by Mr. Mottley to adopt a revised ordinance that would amend §18.1-804 of the Town Code (Minimum Yard Requirements) so that the revised portion of the ordinance would apply only to the A-1, R-1, R-2, R-3 and R-4 zones. The motion passed 3-2. Messrs. Bondurant, Mottley and Rucker voted "Aye". Messrs. Campbell and Swisher voted "Nay". The approved ordinance is attached and made a part of these minutes.

Mrs. Kimberly Fuqua, a resident of 177 Loch Lane, asked the Council to abate a portion of her high utility bill. Mrs. Fuqua was requested to make the necessary leak repairs and to pay the average amount of her bill by September 20, 2007. Her request was referred to the Physical Development Committee.

Investigator G.P. Higginbotham from the sheriff's office came forward to give a presentation on gangs and their activity in the area in and around the Town of Amherst.

Mr. Rucker made a motion that was seconded by Mr. Bondurant to approve the minutes of the August 8, 2007 Town Council meeting as previously submitted. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

A report from the Property Maintenance Investigation Board on the complaint regarding dilapidated buildings at 135 Gregory Lane was received. The report indicated that the public health and safety risks to the residents of the Town of Amherst due to the condition of the buildings there have been removed. By consensus, Council agreed to accept the Board's recommendation and to authorize the Town Manager to thank the owner for her work to improve the situation.

A report from the Property Maintenance Investigation Board on the complaint regarding a dilapidated building at 170 Jordan Street was received. The report indicated that the public health and safety risks to the residents of the Town of Amherst due to the condition of the building at the site have been eliminated as a result of the demolition and removal of the building, that the property is now quite clean and the appearance of the neighborhood is much improved, and that the public health and safety risks to the residents of the Town of Amherst there have been removed. By consensus, Council agreed to accept the Board's recommendation and to authorize the Town Manager to thank the owner for his work to improve the situation. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

The Town Manager reported that the wireless internet repeater proposed for the Amherst County jail tower has been reviewed by everyone involved and since there are no outstanding issues the project is ready to go forward. The remaining process to effect the installation includes Town Council approval, purchasing of the equipment, installing an electrical outlet at the base of the tower, scheduling and "hanging" of the antenna by the Amherst Volunteer Fire Department and calibration and activation of the system. Mr. Rucker made a motion that was seconded by Mr. Bondurant to approve the installation. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

The Town Manager reported that all engineering, administrative and legal paperwork for the current phase of the Union Hill water tank project has been filed and is being reviewed by USDA and that the Town Council needs to have the official bond hearing and then approve the formal "bond resolution." The Council agreed to have the required bond hearing during its October 10 meeting.

The Town Manager gave a report on the inconsistency between the Town's burning law and the state's burning law. The Town Code imposes the "burn ban" during the March 1-May 15 period for the area inside the Town while the Code of Virginia (§10.1-1142B) establishes February 15-April 30 as the statewide "burn ban" period. Mr. Mottley made a motion that was seconded by Mr. Campbell to amend §6-2 of the Town Code to conform to the Code of Virginia.

The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". The ordinance is attached and made a part of these minutes.

The Town Manager reported that the Planning Commission has worked through an extensive technical study and public hearing process that has resulted in a recommended amendment to the Comprehensive Plan. If approved, the plan would establish the Town of Amherst's long-range development strategy for the Ambriar area and would affect future land use, water and sewer infrastructure development, and traffic management in the area off S. Main Street from Waughs Ferry Road to the southern corporate limits of the Town of Amherst. The Town Council agreed to have the required public hearing on the proposal during its October 10 meeting.

Councilman Campbell was asked to take the lead on developing the Town Council's 2008 legislative agenda.

The Town Manager reported that a petition for inclusion in the Town for property at 1099 Union Hill Road (TM#111-A-33) had been received from owner Ollie Whindleton. Pursuant to §17-13 of the Town Code, Mr. Rucker made a motion that was seconded by Mr. Mottley to allow the existing dwelling on the property to connect to the Town water system per Town policy. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

Mr. Campbell made a motion that was seconded by Mr. Rucker to approve a resolution in recognition of Constitution Week. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". The resolution is attached and made a part of these minutes.

There being no further business, the meeting adjourned at 9:10 P.M.

Jacob P. Bailey, Mayor

Attest:

Clerk of Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTION 18.1-915 OF THE ZONING AND SUBDIVISION ORDINANCE, THE AMENDED CODE REFERRING TO FLOOD PLAINS.

Be it Ordained by the Council of the Town of Amherst:

1. **That the Code of the Town of Amherst is hereby amended by amending Section 18.1-915 to read as follows:**

Sec. 18.1-915. Flood Plains

Sec. 18.1-915.1.1. Purpose.

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Sec. 18.1-915.1.2 Applicability.

These provisions shall apply to all lands within the jurisdiction of the Town of Amherst and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Sec. 18.1-915.1.3 Compliance and Liability.

- A. No land shall hereafter be developed and no structure shall be relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings

restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

- C. This ordinance shall not create liability on the part of the Town of Amherst or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 18.1-915.1.4 Abrogation and Greater Restrictions.

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance.

Sec. 18.1-915.1.5 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Sec. 18.1-915.1.6 Penalties.

- A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the zoning officer or any other authorized employee of the Town of Amherst shall be guilty of a misdemeanor of the first class and subject to the penalties therefore.
- B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this ordinance. The imposition of fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ordinance may be declared by the Town Council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

Sec. 18.1-915.2 Definitions.

- A. *Base Flood/One-Hundred Year Flood* - A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year, although the flood may occur in any year).
- B. *Board of Zoning Appeals* - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- C. *Development* - Any man-made change to improved or unimproved real estate, including, but limited to, buildings and other structures, the placement of

manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operation, or storage of equipment or materials.

- D. *Existing Manufactured Home Park/Subdivision* - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of these regulations.
- E. *Expansion to an Existing Manufactured Home Park or Subdivision* - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).
- F. *Flood* - A general and temporary inundation of normally dry land areas.
- G. *Flood-Prone Area* - Any land area susceptible to being inundated by water from any source.
- H. *Floodplain* - (a) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) an area subject to the usual and rapid accumulation or runoff of surface water from any source.
- I. *Floodway* - The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100)-year magnitude.
- J. *Historic Structure* - Any structure that is:
 - (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historical district;
 - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior;
or

(2) Directly by the Secretary of the Interior in states without approved programs.

K. *Manufactured Home* - This term shall take the meaning described in the definition section of the Town of Amherst Zoning and Subdivision Ordinance.

L. *Manufactured Home Park/Subdivision* - A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

M. *New Construction* - For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective of an initial FIRM (Flood Insurance Rate Map) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

O. *New Manufactured Home Park/Subdivision* - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.

P. *Recreational Vehicle* - A vehicle which is:

(a) built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) designed to be self-propelled or permanently towable by a light duty truck; and

(d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Q. *Start of Construction* - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or

foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

- R. *Substantial Damage* - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- S. *Substantial Improvement* - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

Sec. 18.1-915.3 Establishment of Flood Plain Districts

Sec. 18.1-915.3.1. Description of Districts

A. Basis of Districts

The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study for the Town of Amherst prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 19, 2007, as amended.

1. The Floodway District is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the hundred (100)-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table II of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and floodway Map or flood Insurance Rate Map.
2. The Flood-Fringe District shall be that area of the one hundred (100)-year floodplain not included in the Floodway District. The basis for the outermost boundary of the District shall be the one hundred (100)-year flood elevations contained in the flood profiles of the above-referenced Flood Insurance Study and as shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.

3. The Special Floodplain District shall be that floodplain area for which base flood elevations have been provided in the FIS and FIRM but for which no floodway has been delineated. Such areas are shown as Zone AE on the maps accompanying the FIS.
4. The Approximated Floodplain District shall be that floodplain area for which no delineated flood profiles or elevations are provided, but where the one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from other federal, state, or other acceptable source shall be used, when available. When such other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest to the construction site.

B. Overlay Concept

1. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
2. Any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the Floodplain Districts shall apply.
3. In the event any provisions concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 18.1-915.3.2 Official Zoning Map.

The boundaries of the Floodplain Districts are established as shown on the **Flood Insurance Rate Map** which is declared to be part of this ordinance and which shall be kept on file at the Town offices.

Sec. 18.1-915.3.3 District Boundary Changes.

The delineation of any of the Floodplain Districts may be revised by the town council where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Sec. 18.1-915.3.4 Interpretation of District Boundaries.

Initial interpretation of the boundaries of the floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the

Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Sec. 18.1-915.4. District Provisions

Sec. 18.1-915.4.1 General Provisions

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the Town of Amherst Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or Relocation of Watercourses

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia State Water Control Board, the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

C. Site Plans and Permit Applications

All applications for development in the Floodplain District and all building permits issued for the floodplain shall incorporate the following information.

1. For structures to be elevated, the elevation of the lowest floor (including basement).
2. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
3. The elevation of the one hundred (100)-year flood.
4. Topographic information showing existing and proposed ground elevation.

D. Manufactured Homes

1. Manufactured homes that are placed or substantially improved on sites:
 - (i) outside of a manufactured home park or subdivision.
 - (ii) in a new manufactured home park or subdivision;

- (iii) in an expansion to an existing manufactured home park or subdivision, or
 - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of paragraph one above shall be elevated so that either
- (i) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. Recreational Vehicles

Recreational vehicles placed on sites either:

- (i) Be on the site for fewer than 180 consecutive days, and
- (ii) Be fully licensed and ready for highway use,
- (iii) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in paragraph 4.1 D. above.

Sec. 18.1-915.4.2 Floodway District.

In the Floodway District no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100)-year flood elevation.

Sec. 18.1-915.4.3 Flood-Fringe, Special Floodplain and Approximated Floodplain Districts.

A. In the Flood-Fringe, Special Floodplain and Approximated Floodplain Districts the development and/or use of land shall be permitted in accordance with the regulations of the

underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

B. Standards for the Special Floodplain District. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special floodplain district, designated as Zones AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the Town.

Sec. 18.1-915.4.4 Decision Criteria for Utilities and Facilities

A. Sanitary Sewer Facilities

All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The town council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities

All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and Sidewalks

Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

Sec. 18.1-915.5. Variances: Factors to be considered.

In passing upon applications for Variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

B. The danger that materials may be swept on to other lands or downstream to the injury to others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

E. The importance of the services provided by the proposed facility to the community.

F. The requirements of the facility for a waterfront location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access by ordinary and emergency vehicles to the property in time of flood.

K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

L. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and variance is the minimum necessary to preserve the historic character and design of the structure.

M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any exceptional hardship to the applicant.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Sec. 18.1-915.6. Existing Structures in floodplain districts.

The substantial damage or improvement of any structure shall require full compliance with the provisions of section 18.1-915.

2. That this Ordinance shall be effective on September 19, 2007.

This ordinance was adopted on September 12, 2007.

Mayor

ATTEST:

Clerk of the Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTION 18.1-601.02 OF THE ZONING AND SUBDIVISION ORDINANCE, THE AMENDED CODE REFERRING TO NONCONFORMING STRUCTURES.

Be it Ordained by the Council of the Town of Amherst:

1. **That the Code of the Town of Amherst is hereby amended by amending Section 18.1-601.02 to read as follows:**

Sec. 18.1-601.02

Nonconforming structures. Where a lawful structure exists at the time of enactment or amendment of this ordinance that could not be built in the district in which it is located by reasons of restrictions on area, lot coverage, height, yard dimensions or other requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Any structure or portion thereof declared unsafe by the building inspector, or destroyed, damaged or demolished in any way by any means, may be restored to a safe condition or replaced in the same location, provided that the requirements of this section are met and the restoration or replacement work is underway with two years after the declaration, destruction, damage or demolition.
1. ~~Any structure or portion thereof declared unsafe by the building inspector, or destroyed by any means, may be restored to a safe condition, provided that the requirements of this section are met, and the ownership remains the same as before such declaration or destruction.~~
2. A nonconforming structure may be enlarged or altered as necessary, provided such enlargement(s) or alteration(s) do not exceed a cumulative fifty (50) percent of the floor area of the original nonconforming structure, and provided all yard and other appropriate requirements herein are met; any structure or portion thereof may be altered to decrease its nonconformity.
3. Notwithstanding the provisions of Section 601.02.2 above, whenever repairs on or installation of plumbing facilities in residential structures are required by law or administrative action of the health department or the building inspector, such alterations shall be permitted, provided that where such alterations require an addition to the structure, such addition shall be no nearer the lot line than permitted by the requirements of this ordinance. Where an existing residential structure exceeds these requirements the said addition shall extend no nearer the lot line than the existing building line.

4. Should a nonconforming structure be moved, it shall thereafter conform to the yard dimension requirements of the district in which it is located after it is moved.

2. **That this Ordinance shall be effective on September 12, 2007.**

This ordinance was adopted on September 12, 2007.

Mayor

ATTEST:

Clerk of the Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTION 18.1-804 OF THE ZONING AND SUBDIVISION ORDINANCE, THE AMENDED CODE REFERRING TO MINIMUM YARD REQUIREMENTS.

Be it Ordained by the Council of the Town of Amherst:

1. That the Code of the Town of Amherst is hereby amended by amending Section 18.1-804 to read as follows:

Sec. 18.1-804 Minimum yard requirements.

- a. Within the district herein defined, the following minimum yard requirements shall apply:

	Front Yard Setback	<u>Side-Yard Setback</u>		Rear Yd Setback
		Corner Lot	Other Lots	
A-1 Agricultural	50'	15'	15'	25'
R-1 Limited Residential	60'	20'	15'	35'
R-2 General Residential	50'	15'	10'	35'
T-1 Transitional Use Zone	50'	(b)	(b)	35'
R-3 High Density Res.	30'	15'	15'	35'
R-4 Manufactured Home	30'	15'	15'	35'
B-1 Light Commercial	50'	(c)	(c)	(c)
CBD Central Business District	50'	(c)	(c)	(c)
B-2 General Commercial	50'	(c)	(c)	(c)
E-1 Business Park	50'	(c)	(c)	(c)
M-1 Industrial	50'	(c)	(c)	(c)

- b. The minimum side yard shall be 15' on corner lots and 10' on other lots, except that no building or structure shall be erected within twenty-five (25) feet of a residentially zoned lot or a lot on which a residence exists.
- c. No minimum requirement except that no building or structure shall be erected within twenty-five (25) feet of a residentially zoned lot or a lot on which a residence exists.
- d. The front yard setback requirement for any lot in the Agricultural District A-1, Limited Residential District R-1, General Residential District R-2, High Density Residential District R-3, or Manufactured Home District R-4 shall be reduced when 50 percent or more of the building lots on the same side of the street within the same block are improved with buildings, and no building on that same side of the street within the same block shall be required to have a front yard setback greater than the average front yard setback of the existing buildings on the same side of the street. However, when there are buildings on the lots on both sides of the lot, the required

front yard setback for that lot shall not be greater than the average of the front yard setbacks of the buildings on such adjacent lots. The side line of a building on a corner lot shall not be a factor in these calculations. For the purposes of this section, a block shall be defined as the area between the next adjacent street intersection or 500' of the lot in question, whichever is less, on both sides of the lot in question. A property owner shall be responsible for providing the appropriate documentation to support the reduction in front yard setback requirement prior to issuance of a zoning certificate.

2. That this Ordinance shall be effective on September 12, 2007.

This ordinance was adopted on September 12, 2007.

Mayor

ATTEST:

Clerk of the Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTION 6-2 OF THE TOWN CODE, THE AMENDED CODE REFERRING TO THE REGULATION OF BURNING.

Be it Ordained by the Council of the Town of Amherst:

- 3. That the Code of the Town of Amherst is hereby amended by amending Section 6-2 to read as follows:**

Sec. 6-2. Burning of woods, brush, etc.

It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

Except as provided in the Code of Virginia, during the period February 15 through April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful, in any county or city or portion thereof organized for forest fire control under the direction of the State Forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. (Code 1965, Sec. 8-31.) (Code of Virginia 10.1-1142)

- 4. That this Ordinance shall be effective on September 12, 2007.**

This ordinance was adopted on September 12, 2007.

Mayor

ATTEST:

Clerk of the Council

A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF AMHERST TO ESTABLISH CONSTITUTION WEEK IN THE TOWN OF AMHERST.

Whereas, our Constitution stands as a testament to the tenacity of Americans throughout history to maintain their liberties and freedom, and to ensure those inalienable rights to every American, and

Whereas, the tradition of celebrating the Constitution was adopted by the U. S. Congress and signed into Public Law #915 on August 2, 1956 by President Dwight D. Eisenhower. The aims of the celebration are to (1) emphasize citizens' responsibilities for protecting and defending the Constitution, preserving it for posterity; (2) inform the people that the Constitution is the basis for America's great heritage and the foundation for our way of life; and (3) encourage the study of the historical events which led to the framing of the Constitution in September 1787, and

Whereas, bells across America will be rung at 4:00 p.m. Eastern Standard Time on Monday, September 17 to commemorate the signing of this great document; and

Whereas, Monday, September 17, 2007 begins the national celebration of Constitution Week, a weeklong commemoration of America's most important document, and

Now, Therefore, Be It Resolved that the Town Council of the Town of Amherst hereby declares Monday, September 17, 2007 to Sunday, September 23, 2007 to be Constitution Week in the Town of Amherst In celebration of the signing of the Constitution and in recognition of the Americans who strive to uphold the duties and responsibilities of citizenship; and

Be It Further Resolved, that the Clerk is directed to transmit copies of this resolution to Eva Lee H. Shober, Director, District III, Virginia Daughters of the American Revolution and to the local press as a way to remind the citizens of our community of the significance of the Constitution of the United States of America.

*This resolution was adopted by the Town Council of the Town of Amherst on **September 12, 2007**.*

Jacob P. Bailey, Mayor

ATTEST:

Clerk of Council