

TOWN OF AMHERST PLANNING COMMISSION
Wednesday, December 6, 2023
AGENDA

1. **Call to Order** – *Chair Driskill*
2. **Determination of Quorum**
3. **Citizen Comment-** *This time is provided for citizens to bring concerns or comments to the Commission that are not scheduled for a public hearing. This is not meant to be a discussion or an exchange, but rather, an opportunity for citizens to have their concerns be heard.*
4. **Approval of October 4, 2023, meeting minutes** – *Chair Driskill- The minutes of the October 4, 2023, meeting are attached.*
5. **Discussion: Code Amendment for Accessory Dwelling Units-** *Last meeting, the Commission made a recommendation to the Council on Accessory Dwelling Units. The Council has asked for a clarification on the number of additional units allowed outside of the main dwelling. Once the Commission makes a determination on this, it will go back to Council for action.*
6. **Site Plan for Amherst Presbyterian Church-** *We have received a site plan application for the Amherst Presbyterian Church addition. This is a new application and I am not expecting action from the Commission at this meeting, but want to share the plans.*
7. **Short Term Rental-** *The Council has considered an update to the Code language for Short Term Rentals. This language would continue STRs as a Special Use Permit in the R-1 and R-2 districts, but add Code requiring an application and setting standards for the use. Council requests that the Commission review this language and consider a Code amendment to incorporate it into the Ordinance.*
8. **Upcoming Requests from Staff for Code changes-** *Staff is requesting that the Commission consider several Code changes to clarify items in the Code. Staff would like to introduce these at this meeting, consider them in full at the next meeting, and work towards a public hearing in March.*
 - a. *Design standards to differentiate between the CBD and B-2 districts*
 - b. *Definitions and guidance for display and storage of goods to be sold in commercial districts*
 - c. *Consideration of an amendment to the Sign Ordinance that would allow 'open' flags and chalkboard displays*
 - d. *Consideration of a new process for minor site plans and plot plans*
 - e. *Consideration of new definitions for 'driveways' and 'parking areas'*
9. **Concerns of Commissioners**
10. **Adjournment**

Accessory Dwelling Unit Examples:

- **Sec. xx.xx- Dwellings units accessory to single-household residences.**

Dwellings units, which include guest houses, garage apartments, additional dwellings within a home, mother-in law dwellings, and other residential accommodations, may be established accessory to a single-household residence either in the principal dwelling or as a detached accessory structure subject to the following provisions:

(a) Accessory dwelling units within the home shall retain the appearance of a single-household residence, or be located in an accessory structure located in the rear yard and outside the required setback lines for principal structures.

(b) The number of dwellings shall not exceed the limits established in the applicable zoning district.

(c) One additional accessory dwelling may be allowed above the limits established in the applicable zoning ordinance, if the additional unit meets the area requirements for subdivision for the district, meets all primary dwelling setbacks, and meets the requirements for water and wastewater provision.

(d)(d) Accessory dwellings shall comply with all applicable parking, building coverage and density requirements.

(e) No lot shall contain more than two accessory dwellings, for a total of three dwellings on a lot.

(f) Before a zoning certificate will be issued for development of an accessory dwelling unit, acceptable provision for water and wastewater must be obtained.

Short Term Rental (STR)

Council has reviewed and proposed the following framework for Short Term Rentals. This concept assumes that these would be allowed with a Special Use Permit. The following items would be contained within the Ordinance for their use.

Council requests that the Planning Commission review this information, and if agreeable, work with staff towards an Ordinance that would codify these items.

The Short-Term Rental Process should have 3 key components.

1. Application
2. Management/ Maintenance
3. Enforcement

Application

Each Applicant would have to register their STR property with the Town of Amherst.

- Application Fee
- Management Plan
- Yearly Renewal
- Resident Owner signature acknowledging he/she has read all terms and conditions and understands requirements.

Town of Amherst will provide a Short-Term Rental Information Packet.

- General Information i.e., trash pick-up schedule
- Tax information and requirements
- Copy of short-term rental ordinances
- All other required documentation

Management/Maintenance

Each Applicant would have to present a management plan.

Suggested items in the management plan:

- Floor Plans designating all rooms.
- Site plan for parking and Property boundaries.
- Emergency contact.
- Occupancy Requirements.
- Must carry business insurance policy (general liability and property damage).
- Proof of fire extinguishers, and appropriate detectors on premises. Documentation of equipment being maintained.
- Keep a guest registry, digital or paper.

Enforcement

- If a violation occurs, the council reserves the right to take appropriate actions which could result in removing the Special Use Permit.
- 3 violations permit will be revoked for 2 years.
- Expanding the STR without obtaining a new permit would be a violation and subject to fines.
- Operation of an STR without a permit would be a fine.



TOWN OF AMHERST

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Question and Answer:

(Q) What is considered a Short-Term Rental?

(A) Any rental less than 30 days is considered a short-term rental.

(Q) Am I allowed to have a Short-Term Rental?

(A) Short-Term rentals are allowed in commercial zoned areas as well as R1 and R2 areas. However, they are only allowed after applying for a Special Use Permit and final approval from Town Council.

(Q) How do I apply for a Special Use Permit?

(A) Application for Special Use is available at Town Hall or on our website at www.amherstva.gov. There is also a \$300 fee associated with the application and process.

(Q) Do I need a business license?

(A) Yes. Code of Virginia considers short-term rentals under the retail sale category of business and requires a business license.

(Q) Do I have to pay Transient Occupancy Tax (Lodging Tax)?

(A) Yes. The owner is required to submit Lodging Tax forms each month by the 20th of the month for the previous month along with payment.

(Q) What if AirBnb, VRBO, etc. charged for taxes from the renters?

(A) The third-party intermediary will submit payment to us for the bookings that were made on their site. However, they do not remit tax forms or documentation to us. That is the responsibility of the owner.

(Q) Is this an annual process?

(A) Once approved, the owner does not have to apply or go through the Special Use Permit process again, however, there is an annual review process to determine if you will be able to continue to operate under the Special Use Permit and the owner must turn in their business license forms and payment annually by May 1st.

Conditions for Short-Term Rentals:

The owner will provide point-of-contact information to the Town and keep the information current. This is required per the business license application. Should any information change prior to renewal the provider must update the Town in a timely manner.

No renter/guest on-street parking is allowed.

No outside events after 10:00 PM.

No amplified sound outside.

Overnight adult-plus-teen occupancy shall not exceed the advertised number of guests or beds. If there is no advertised “guest” number, overnight occupancy shall not exceed the number of furnished bed spaces.

No rental shall be made unless the contracting renter/guest is 21 years old or older.

Accommodations provider is responsible for refuse removal into receptacles dedicated to the rental property and for ensuring the receptacles are emptied during weekly refuse pickup.

Additional requirements or restrictions on specific short-term rentals may be imposed, based on neighborhood objections, special conditions, unique environments, etc.

SHORT-TERM RENTAL POLICY

“Accommodations Intermediary”

Definitions:

Accommodations Intermediary is any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer.

Accommodations Provider is any person that furnishes accommodations to the general public for compensation.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Registration:

The accommodations provider must fill out an Application for Special Use Permit in order to operate in Town limits. This process must be advertised for public hearing and go through a discussion and voting process at the Town Planning Commission meeting prior to public hearing, discussion and vote by the Town Council. The accommodations provider must go through a

yearly renewal process to allow Council to determine if any issues have been created for the Town as a result of the Special Use Permit to allow Short-Term Rental at the registered address.

In addition to the Application for Special Use Permit, Code of Virginia specifically defines “Short-term” rentals as a business and should be reported as “retail” for business license purposes under Section 58.1-3706. Accommodations Providers are required to pay for a Business License prior to making any accommodations in the Town. This Business License renewal applications and payments are due each year by May 1st. The license tax shall be paid on all gross receipts received for operating a Short-Term rental business.

If at any time an accommodations provider is not granted renewal or fails to file a renewal business license application and payment, the accommodations provider must cease all short-term rentals in Town limits. If operations are not ceased, the accommodations provider will be subject to zoning violations and business license collection efforts.

Filing Transient Occupancy Tax:

If you use an accommodations intermediary, you will file and remit taxes on accommodations one of the following ways:

1. If all taxes for a particular month are collected by an accommodations intermediary or real estate company, you will file and report the total gross receipts from ALL sales on the monthly reporting form but will not remit any taxes since they are collected and remitted by an accommodations intermediary.
2. If you rented and collected the taxes for your property and use an accommodations intermediary or real estate company to rent and collect the taxes, you will file and report the total gross receipts from ALL sales on the monthly reporting form but will only remit the taxes for the portion of gross receipts you collected.
3. If you rented and collected all taxes for a particular month without the use of an accommodations intermediary or real estate company, you will file and report your total gross receipts on the monthly reporting form and remit the total amount of taxes collected.
4. If any taxes for a particular month are collected by an accommodations intermediary, you are required to include in your filing a copy of the report(s) you receive from the accommodations intermediary showing the total gross receipts and taxes collected by them for that month.

As the accommodations provider, you are ultimately responsible for collecting and remitting the Town’s transient occupancy tax. Should an accommodations intermediary fail to collect and/or remit the taxes correctly on your behalf, you will be responsible for any uncollected or unremitted tax liability.

Transient Occupancy Tax forms are due by the 20th of each month following the report month. Forms must be submitted regardless of any tax being owed by the accommodations provider for the filing month.

Amherst County:

1101. Intent.

Site plan review is intended to insure proper design in types of development which can have deleterious effects on their surroundings. These effects are subject to modification or reduction through the physical design of such development. Review of the design, therefore, is aimed at the greatest possible benefit to the community as a result of building and site design.

(Ord. of 7-21-09(2))

1102. Procedure for site plan review.

When the zoning administrator determines that an application involves development requiring site plan review, the zoning administrator shall notify the applicant that such review is required and shall require the documentation listed in this article. The site plan will be one (1) of three (3) categories; a plot plan, minor site plan or major site plan, as described in this article. If a site plan can be categorized under more than one (1) type of plan, it shall be reviewed under the most stringent requirements. The major and minor site plan review process shall involve review by the development review committee. Site plans that are submitted as a permitted use can be reviewed and considered for approval by staff. Site plans that are non-permitted uses will be considered for approval by the Planning Commission.

(Ord. of 7-21-09(2); Ord. No. 2021-0005, § I, 4-20-21)

1103. Developments subject to site plan review.

1103.01. A plot plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded development not requiring a minor or major site plan and subject to the plan provisions under Section 1104 of this article.

1103.02. The following types of development shall be subject to the site plan review provisions under Section 1104 for a minor site plan of this article:

1. Additions to an existing commercial or industrial structure and to an existing institutional facility such as schools, hospitals, churches and clubs where the addition is less than twenty (20) percent of the square footage of the existing structure;
2. A proposed revision to a site plan where an existing major site plan is on file;
3. Non-commercial wind turbines as specified in Section 918; and
4. All development requiring a commercial entrance permit from the Virginia Department of Transportation.

1103.03. The following types of development shall be subject to the site plan provisions under Section 1104 for a major site plan of this article:

1. All new commercial and industrial facilities, including off-street parking;
2. Additions to existing commercial or industrial facilities and all new institutional facilities such as schools, hospitals, churches and clubs where the addition is greater than twenty (20) percent of the existing structure;
3. Mobile home parks;

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4. Residential projects with more than four (4) units in one (1) building or on one (1) lot;
 5. Planned unit developments;
 6. A change of use that requires the addition of ten (10) or more parking spaces;
 7. Any development requiring public water and/or sewer connections for more than four (4) units;
 8. Wireless communication facilities; and
 9. Townhouse development projects.

(Ord. of 7-21-09(2); Ord. No. 2015-0011, § 2, 11-17-15)

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;
 - 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;

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- 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. Any site plan proposed in the V-1, Village District shall provide architectural elevations of each side, of all new or structurally altered building;
 7. The planning commission may require additional information for a special exception or rezoning to determine its eligibility under this ordinance.

1104.03. The following requirements shall govern documents submitted for major site plan review according to the scope of the request:

1. All the information required of minor site plan in Section 1104.
2. Drawings shall be prepared by a professional engineer, land surveyor or architect registered by the State of Virginia, submitted on twenty-four by thirty-six inch (24" × 36") paper. One (1) or more pages may be used, each to be numbered as "page (number) of (total number of pages)", if two (2) or more pages are used, each sheet shall show the name of the project, and match lines shall be provided to indicate where the several sheets join.
3. The following information shall be included on the plan of the proposed development:
 - a. In the case of the project being served by public utilities or within a Watershed District a signature block for the Amherst County Service Authority;
 - b. Erosion control measures as regulated by the county's Soil Erosion and Sedimentation Control Ordinance;
 - c. Proposed topography;
 - d. Vicinity map at a scale no smaller than six hundred (600) feet to one (1) inch, showing all streets and property within one thousand (1,000) feet of the property for which the application is made. All properties owned or controlled by the applicant in this area shall be identified;
 - e. Location, size and design of proposed signs;
 - f. All special site plan 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 and buffer strip restriction statements, minimum septic tank maintenance standards and storm water management facilities;
 - g. Floodplain elevations if applicable;
 - h. Delineation of easements per Section 1301.06;

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- i. Proposed storm and sanitary drainage systems, both surface and subsurface, showing pipe sizes, grades flow and design loads;
 - j. Proposed location, direction of, power, time and use of outdoor lighting;
 - k. Elevations of buildings to be proposed or altered on site;
 - l. Profiles and cross-sections of streets;
 - m. Sidewalks per Section 606;
 - n. When a mass drain field is included as part of a site plan, the following statements are required:
 - (I) For purposes of this ordinance, sewage disposal systems which serve more than one (1) property or meet the following definition, are considered mass drain fields:

A sewage disposal system which will discharge effluent to a single absorption area or multiple areas with or without combined flows such that:

 - (A) The loading rate exceeds one thousand two hundred (1,200) gallons per day for any acre, or
 - (B) The disposal system contains more than two thousand (2,000) linear feet of percolation piping.
 - (II) Any site plan for a mass drain field serving a land development that is considered by the Development Review Committee (DRC) shall be submitted to and subject to the approval of the Virginia Department of Health (VDH). The director of planning or zoning administrator shall not approve the development of the property in question until the department of health has approved the mass drain field site and dedicated reserve drain field area(s), and all subsequent provisions of this ordinance are complied with.
 - (III) No site plan shall be approved for a mass drain field unless the permit includes an approved primary drain field and an approved reserve drain field or such additional area or appurtenant easement capable of providing one hundred (100) percent of the capacity of such primary drain field. Each septic tank shall have manhole access to the downstream access portal. The manhole access shall terminate at the ground surface, and shall not be less than thirty (30) inches in diameter. The access manhole cover shall be a standard sanitary sewer manhole frame and lid, or a secured shoebox type cover. Additionally, each septic tank shall have a factory manufactured septic tank effluent filter installed on the outlet tee.
 - (IV) No site plan shall be approved for a mass drain field unless the development is subject to a Covenant of Record in the land records of the Amherst County Circuit Court Clerk's Office, requiring owners of property in the development to connect to a public sewer system should it become available on the property or an immediately adjacent easement or right-of-way at a later date.
 - (V) Any site plan including a mass drain field system shall be limited to the size and capacity required to serve the principal use explicitly described in the permit application and to which the mass drain field is appurtenant.
 - (VI) Any replacement system shall be limited to the size and capacity required to serve the existing principal use, and shall not be further expanded unless and until a revised permit has been approved by the VDH.
 - (VII) Further, the zoning administrator, or their designee shall not approve the development of the subject property unless the following statements are included on the site plan:

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1. No shrubbery or trees are permitted within the primary and reserve mass drain field area, or within twenty (20) feet of the mass drain field easement.
 2. No vehicular traffic, parking, or paving are allowed over the mass drain field or reserve drain field, except for traffic of the mowers or tractors necessary for ground cover maintenance.
 3. A ground cover of grass over the mass drain field and reserve drain field area should be mowed a minimum of twice per year, to prevent the establishment of tree seedlings.
 4. The VDH advises that all septic tanks should be pumped a minimum of once every five (5) years, to prevent the passage of solids into the mass drain field and potential damage to the system.
 5. No structures including temporary ones may be placed within the mass drain field primary or reserve system sites.
 6. The VDH requires prompt repairing or replacement of any of the mass drain field system components which fail, or otherwise cease to function.

(Ord. of 7-21-09(2); Ord. No. 2013-0016, § 1, 1-27-14; Ord. No. 2015-0011, § 2, 11-17-15; Ord. No. 2022-0009, § 1, 8-16-22)

1105. General site plan review.

For those permitted uses not requiring special site plan review under Section 1103 of this ordinance, two (2) copies of an acceptable site plan with such reasonable information shown thereon shall be submitted to the zoning administrator along with the zoning permit application. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon, location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

(Ord. of 7-21-09(2))