



Amherst County Board of Supervisors
County Ordinance No. 2012-0006

AN ORDINANCE, NO. 2012-0006

Defining and authorizing family day homes and group homes as permitted uses in single-family residential zoning districts, and defining and authorizing temporary family health care structures as permitted accessory uses in such districts.

Approved as to form by the County Attorney

READING: Planning Commission, June 7, 2012

PUBLIC HEARING: Planning Commission, June 21, 2012

READING: Board of Supervisors, July 3, 2012

PUBLIC HEARING: Board of Supervisors, July 17, 2012

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That subsections 302.19.1, 302.46.1, 302.62, 302.83.2, 302.142.1 hereby are added to the Code of the County of Amherst, as follows:

302.19.1. *Caregiver.* An adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to, or be the legally appointed guardian of, the mentally or physically impaired person for whom he is caring.

302.46.1 *Family day home:* A child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, where at least one child receives care for compensation. A family day home serving one to five children exclusive of the provider's own children and any children who reside in the home is deemed a residential occupancy by a single family.

302.62. *Group Home:* A residential facility licensed by the Department of Behavioral Health and Developmental Services in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside with one or more resident counselors or other staff persons. For purposes of this definition, the current illegal use of or addiction to a controlled substance as defined in Virginia Code § 54.1-3401 is neither a mental illness nor a developmental disability. A group home is deemed a residential occupancy by a single family. The Zoning Administrator may impose conditions on group homes to ensure their compatibility with other permitted uses; however, such conditions shall not be more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption.

302.83.2. *Mentally or physically impaired person.* A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200 of the Code of Virginia (1950), as amended, during more than half of the year.

302.142.1. *Temporary family health care structure.* A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§36-70 et seq. of the Code of Virginia (1950), as amended) and the Uniform Statewide Building Code (§§ 36-97 et seq. of the Code of Virginia (1950), as amended). Any temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence shall be deemed a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

§ 2. That sections 702 and 703 of the Code of the County of Amherst, specifically subsections 702.02 and 703.02, be and hereby are amended, as follows:

702. Agricultural Residential District A-1.

702.02. *Permitted uses.* Within the A-1 district, the following uses are permitted:

1. Agriculture and forestry operations; crop production, livestock production, except no confinement facility may be closer than one thousand (1,000) feet to a property line; sale of agricultural and forestall products grown in the county.
2. Temporary sawmills, only for timber on-site or proximate to site.
3. Single-family dwellings that are built in accordance with the statewide building code.
4. Manufactured homes as provided in Section 908.
5. Accessory structures.
6. Emergency services.
7. Home occupations.
8. Reserved.
9. Camping for less than four (4) consecutive weeks in portable facilities; i.e. tent or camper or per Section 904.
10. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone.
11. Bed and breakfast lodging.

12. Public streets.

13. Confined livestock facilities ("CLF") subject to the following conditions:

a. Located more than one thousand five hundred (1,500) feet from any house not on the property owned by the applicant;

b. Located more than two thousand five hundred (2,500) feet from a public place such as a school or church;

c. Located more than one thousand (1,000) feet from a perennial stream as indicated on the 7.5 minute U.S.G.S. topographic survey maps;

d. Located more than one thousand (1,000) feet from a state maintained road;

e. A maximum of two hundred fifty (250) animal units may be confined per fifty (50) acres of contiguous property;

f. The CLF must be approved by all necessary state agencies prior to county approval;

g. The applicant for all permits must be a county resident and the property owner;

h. It cannot be visible from a state maintained road;

i. A zoning permit must be issued prior to any development of the CLF.

14. Flag lot as provided in Section 1301.04(6).

15. Personal wireless service facilities as provided in Section 919.

16. Group home. The zoning administrator may impose conditions on group homes to ensure their compatibility with other permitted uses; however, such conditions shall not be more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption.

17. Family day home which serves no more than five children. The zoning administrator may impose conditions on such family day homes to ensure their compatibility with other permitted uses; however, such conditions shall not be more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption.

18. Temporary family health care structure. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as follows:

a. Any person proposing to install a temporary family health care structure shall first obtain a zoning permit from the County. The County may not withhold such permit if the applicant provides sufficient proof of compliance with the requirements of this section.

b. Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

- c. Any temporary family health care structure shall be removed within 30 days after which the mentally or physically impaired person is no longer receiving or is no longer in need of the caregiver's assistance.
- d. The County may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the County of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.
- e. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
- f. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

703. Limited Residential District R-1

703.02. *Permitted uses.* Within the Limited Residential District R-1 the following uses are permitted:

1. Single-family dwellings that are built in accordance with the Virginia Statewide Building Code.
2. Accessory structures.
3. Home occupations, so long as the following criteria are met, are permitted: no outside storage, no signage, no employees or customers may come to the property, no increase in neighborhood traffic or change in type of traffic may occur.
4. Utilities that are for the purpose of serving the community, not merely for transferring the utility through the community; including but not limited to sewer, water, gas, electricity, cable television, telephone.
5. Public streets.
6. Personal wireless service facilities as provided in Section 919.
7. Group home. The zoning administrator may impose conditions on group homes to ensure their compatibility with other permitted uses; however, such conditions shall not be more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption.
8. Family day home which serves no more than five children. The zoning administrator may impose conditions on such family day homes to ensure their compatibility with other permitted uses; however, such conditions shall not be more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption.
9. Temporary family health care structure. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as follows:
 - a. Any person proposing to install a temporary family health care structure shall first obtain a zoning permit from the County. The County may not withhold such permit if the applicant provides sufficient proof of compliance with the requirements of this section.

b. Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

c. Any temporary family health care structure shall be removed within 30 days after which the mentally or physically impaired person is no longer receiving or is no longer in need of the caregiver's assistance.

d. The County may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the County of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

e. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

f. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

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

Adopted this 17th day of July, 2012.

V. Frank Campbell, Chairman
Amherst County Board of Supervisors

ATTEST:

Clarence C. Monday, Clerk
Amherst County Board of Supervisors

Ayes ____ Nays ____ Abstentions ____