

# SMITHFIELD ZONING ORDINANCE



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ADOPTED MAY 19, 1998

AMENDED May 9, 2009, October 4, 2010,  
March 20, 2012, May 7, 2013, July 15, 2014, October 7, 2014, April  
21, 2015, September 15, 2015



**Town of Smithfield,  
Rhode Island  
Zoning Ordinance**

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# Zoning Ordinance

## ARTICLE 1 - GENERAL PROVISIONS

### 1.1 STATEMENT OF PURPOSE

The zoning districts and regulations set forth in this Zoning Ordinance are made in accordance with the Comprehensive Community Plan adopted by the Town of Smithfield and for the following purposes:

- A. To promote the public health, safety, and general welfare of the Town.
- B. To provide for a range of uses and intensities of use appropriate to the character of the Town and reflecting current and expected future needs.
- C. To provide for orderly growth and development which recognizes:
  1. the goals and patterns of land use contained in the aforesaid Comprehensive Community Plan of the Town adopted pursuant to Chapter 45-22.2 of the General Laws of Rhode Island;
  2. the natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
  3. the values and dynamic nature of the Town's waterbodies, freshwater ponds, streams, and freshwater wetlands;
  4. the values of unique or valuable natural resources and features;
  5. the availability and capacity of existing and planned public and/or private services and facilities;
  6. the need to shape and balance village (urban), suburban and rural development, and;
  7. the use of innovative development regulations and techniques.
- D. To provide for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- E. To provide for the protection of the natural, historic, cultural, and scenic character of the Town or areas therein.
- F. To provide for the preservation and promotion of open space and recreation resources of the Town.
- G. To provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
- H. To promote a balance of housing choices, for all income levels and groups, to assure the health, safety, and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing.
- I. To promote safety from fire, flood, and other natural or man-made disasters.

- J. To promote a high level of quality in design in the development of private and public facilities.
- K. To promote implementation of the Comprehensive Community Plan, as amended, of the Town.
- L. To provide for coordination of land uses with contiguous municipalities, other municipalities, the State and other agencies.
- M. To provide for efficient review of development proposals, and to clarify and expedite the zoning approval process.
- N. To provide for procedures for the administration of this Ordinance.

## **1.2 OFFICIAL ZONING MAP**

- A. The Official Zoning Map, consisting of seventy-five (75) plats together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- B. The Official Zoning Map shall be identified by the signature of the Town Council President and attested by the Town Clerk, and bear the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1.2 of the Zoning Ordinance" together with the date of the adoption of this Ordinance.
- C. Any Zoning Map amendment made pursuant to §11.1 of this Ordinance shall be entered on the Official Zoning Map under the direction of the Town Clerk within fourteen (14) days after the amendment has been approved by the Town Council, with an entry on the Official Zoning Map as follows:

“On [date], by official action of the Town Council,  
the following changes were made in the Official Zoning Map:  
[Text of Changes]”

which shall be signed by the Town Council President and attested by the Town Clerk.
- D. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of land, water areas, buildings, and other structures in the Town.

## **1.3 ESTABLISHMENT OF ZONING DISTRICTS**

For the purpose of this Ordinance, the Town is divided into zoning districts designated and described as follows:

- A. Residential Conservation (R-200)

This district is established to provide areas for rural density residential use, with single dwelling unit detached structures, located on lots with a minimum land area of 200,000 square feet, where limited agricultural pursuits and rural density residential uses are compatible with open space objectives.
- B. Low Density, Residential (R-80)

This district is established to provide areas for low density residential use, with single dwelling unit detached structures, located on lots with a minimum land area of 80,000 square feet to allow semi-rural residential opportunities.

- C. Medium Density, Residential (R-Med)  
This district is established to provide areas for medium to low density residential use, with single dwelling unit detached structures, located on lots with a minimum land area of 65,000 square feet to allow residential medium development in areas with no public sewer or public water and lots with a minimum land area of 40,000 square feet to allow residential medium development in areas with public sewer and public water.
- D. High Density, Residential (R-20)  
This district is established to provide areas for higher density residential use, with single dwelling unit detached structures, located on lots with a minimum land area of 20,000 square feet to allow residential development where municipal services are provided.
- E. Multi-Family, Residential (R-20M)  
This district is established to provide areas for higher density residential use, with multiple family dwelling units to allow for a variety of housing types.
- F. Mixed-Use (MU)  
This district is established to provide areas for mixed residential and limited professional and office uses, where such use is limited to the street level story and residential occupancy is mandatory.
- G. Village (V)  
This district is established to provide areas for neighborhood oriented, low intensity commercial retail uses, business services, and small scale professional offices.
- H. Commercial (C)  
This district is established to provide areas for town-wide and medium intensity commercial retail uses and business/professional services, including office buildings.
- I. Highway Commercial (HC)  
This district is established to provide areas for regional and high intensity commercial retail uses, business/professional services, office buildings, and automotive uses.\
- J. Light Industrial (LI)  
This district is established to provide areas for light industrial and office uses. The intent is to provide for less intense uses along the street frontages and heavier uses in the interior lots.
- K. Industrial - Planned (I)  
This district is to provide for general industrial and planned development cluster of such uses for general manufacturing and related activities and office uses. The intent is to provide for less intense uses along the street frontages and heavier uses in the interior lots.
- L. Planned Corporate District (PCD)  
This district is established to provide an area for planned employment uses, including planned office, as well as research and development parks, light industrial development, corporate headquarters, hotel/conference facilities, and related accessory uses to create a coordinated development approach along selected major corridors.

M. Planned Corporate District – B (PCDB)

This district is established to permit by right the manufacture of drugs and pharmaceuticals limited to those permitted in Biological Safety Level 1 or Biological Safety Level 2 facilities as those terms are defined in the guidelines promulgated by the National Institutes of Health, together with research and development associated with such manufacture. In all other respects, the provisions pertaining to a Planned Corporate District shall apply to this district.

N. Planned Development (PD)

This district is established to provide areas for large scale residential and/or commercial development within a comprehensive site plan, subject to development plan review by the Planning Board.

O. Overlay Zoning Districts

These are districts that are superimposed on existing zoning district(s) or part of a district and which impose specified requirements in addition to those otherwise applicable and/or allow alternate uses.

P. Airport Hazard Overlay District

This overlay district is intended to protect areas of land or water upon which an airport hazard might be established, if not prevented, as provided in Chapter 3 (Airport Zoning Act) of the General Laws of Rhode Island, as amended.

#### **1.4 ZONE GROUP CLASSIFICATION**

Whenever the terms R, V, C, HC, MU, LI, I, PCD, PCDB, and PD Zones are used, they shall be deemed to refer to all zones containing the same letters in their names; e.g., R Zones shall include R-200, R-80, R-Med, R-20, R-20 MA, and R-20M Zones.

#### **1.5 ZONE BOUNDARIES**

Where uncertainty exists as to the boundaries of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Zone boundaries are generally intended to follow lot lines.
- B. Zone boundaries, where indicated, are the center lines of streets, parkways, waterways, or railroad rights-of-way.
- C. Where the street layout on the ground varies from the layout as shown on the zoning map, the Zoning Official (hereinafter referred to as Official) shall interpret said map according to the reasonable intent of this Ordinance.

#### **1.6 COMPLIANCE WITH ORDINANCE**

A. Conformance with Permitted Use

No building or structure shall be erected, reconstructed, or enlarged for any use other than that which is permitted in the zone in which such building, structure or land is located. No building or structure shall be moved to new site unless that site is zoned to permit the use intended for such building or structure. Nor shall any building, structure or land be used for any use other than is permitted in the zone in which it is located.

B. Dimensional Conformance

Except as hereinafter provided, no building or structure shall be erected, enlarged, or reconstructed to exceed the dimensional limits established for the zone wherein such building or structure is located.

C. Lot Area Conformance

No new lot shall be created, nor shall an existing lot be reduced or diminished except in conformance with the dimensional requirements of this Ordinance, nor shall the number of dwelling units or occupancy thereon be increased in any manner except in conformance with the dimensional requirements of this Ordinance. The lot or yard areas of buildings existing at the time this Ordinance became effective shall not be diminished below the requirements herein provided. The required yard or parking area for a building shall not be included as a part of the required yard or parking area of any other building.

**1.7 INTERPRETATION OF ORDINANCE**

It shall be the duty of the Official to interpret and apply the provisions of this Ordinance. Such interpretation and application shall be subject to appeal to the Board. In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare.

This Ordinance shall be consistent with the Comprehensive Community Plan, as amended, of the Town of Smithfield, pursuant to Chapter 45-22.2 of the General Laws of Rhode Island, and in the instance of uncertainty in the construction or application of any section of this Ordinance, this Ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of such Comprehensive Community Plan.

## **ARTICLE 2 - DEFINITIONS**

### **2.1 GENERAL**

- A. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:
- (1) The word "*person*" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
  - (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
  - (3) The word "*shall*" is mandatory, the word "*may*" is permissive.
  - (4) The words "*used*" or "*occupied*" include the words "intended, designed, or arranged to be used or occupied".
  - (5) The word "*lot*" includes the words "*plot*" or "*parcel*".
  - (6) The word "*land*" includes the words "*water*" and "*marsh*", unless otherwise designated herein.
  - (7) The word "*structure*" includes the word "*building*".
- B. Where used in the Ordinance, the specific definition of words and terms listed in this Section shall be interpreted as stated and shall have the meaning ascribed to them.

### **2.2 SPECIFIC DEFINITIONS**

#### **1. Abutter**

One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

#### **2. Accessory Family Dwelling Unit**

An accessory dwelling unit for the sole use of one (1) or more members of the family of the occupant or occupants of the principal residence, but need not have a separate means of ingress and egress.

#### **3. Accessory Use of Structure**

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. An accessory use shall not include the storage of flammable, toxic, hazardous or explosive materials. Such accessory use shall not be permitted without the principal use to which it is related.

#### **4. Adult Entertainment**

A. Any commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. This shall also include any commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

B. Any bookstore, novelty store, video store, or any commercial establishment in which 25 percent of the in-store inventory contains, for sale or rental only, for any form of consideration, any books, magazines, periodicals, or other printed

material, or photographs, films, motions pictures, video reproductions, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- C. Any store or commercial establishment in which the in-store inventory contains for sale or rental any instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- D. “Specified anatomical areas” means any of the following:
  - 1. The human males genitals in a discernibly turgid state, even if completely and opaquely covered; or
  - 2. Less than completely and opaquely covered human genitals, pubic regions, buttocks, or a female breast below a point immediately above the areola.
- E. “Specified sexual activities” means any of the following:
  - 1. The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts; or
  - 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- F. An adult entertainment business may have other principal purposes that do not involve the activities or materials described above. However, such purposes shall not have the effect of preempting the commercial businesses from being categorized as adult entertainment so long as the depiction or description of specified sexual activities or specified anatomical areas remains one of the principal purposes.

**5. Aggrieved Party**

An aggrieved party, for purposes of this Ordinance shall be (a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering this Ordinance; or (b) Anyone requiring notice pursuant to this Ordinance.

**6. Alter, Alterations**

Any change involving the structural frame of a building or the use of a building or lot.

**7. Alteration, Exterior**

An action that changes one (1) or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to, the erection, construction, reconstruction, or removal of any structure or appurtenance.

**8. Animal Kennel**

Facilities for keeping three (3) or more animals three (3) months old or older on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, and including any shop where animals are customarily kept for sale.

**9. Applicant**

An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

**10. Application**

The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval, or permitting purpose.

**11. Appurtenances**

Features other than primary or secondary structures which contribute to the exterior appearance of a property including, but not limited to, paving, doors, windows, signs, materials, decorative accessories, fences, and landscape features.

**12. Auto Body Shop**

A building or portion of a building in which major repairs are performed on automobile, truck or motorcycle bodies or chassis, including body repair, painting or priming.

**13. Automotive Filling Station**

Building and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied or dispensed at retail, and where in addition, the following services may be rendered and sales made, and no other.

- A. Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- B. Tire servicing and repair, but not recapping or regrooving;
- C. Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, window wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- D. Radiator cleaning and flushing;
- E. Greasing and lubrication;
- F. Providing and repairing fuel pumps, oil pumps, and lines;
- G. Minor servicing and repairing of carburetors;
- H. Emergency wiring repairs;
- I. Adjusting and repairing brakes;
- J. Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- K. Provision of road maps and other informational material to customers;
- L. Provision of restroom facilities.

Uses permissible at a filling station do not include major mechanical or any body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes or smoke. An automotive filling station is not a repair garage nor an auto body shop.

**14. Basement**

A portion of a building partly or completely below the average grade plane of the adjoining land.

**15. Bed and Breakfast Home**

An owner-occupied single-family house where lodging rooms (guest rooms) are provided to transients, with or without meals provided for compensation, not to include more than five (5) lodging rooms.

**16. Bed and Breakfast Use**

A portion of an owner-occupied single-family house dedicated solely to the Bed and Breakfast Home operation, including but not limited to, lodging rooms (guest rooms), bathrooms, and common areas.

**17. Bedroom**

A habitable room other than a kitchen or living room which is intended for, or has a potential for, sleeping purposes.

**18. Billboard**

A sign advertising products, services, facilities, events or attractions not made, sold, used, served or available on the premises displaying such sign. (See also "Sign, Off-premises").

**19. Block Frontage**

All the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, waterway, end of dead-end street or Town boundary measured along the street line.

**20. Board**

The Zoning Board of Review of the Town of Smithfield, Rhode Island.

**21. Boarding House**

See "*Lodging House*".

**22. Buffer**

Land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights of-way.

**23. Buildable Land**

Land not defined as Land Unsuitable for Development. Also referred to a Land Suitable for Development.

**24. Buildable Lot Area**

See §5.3.1, "Dimensional Regulations, Calculation of Minimum Contiguous Buildable Lot Area.

**25. Building**

Any structure used or intended for supporting or sheltering any use or occupancy.

**26. Building, Accessory**

A subordinate building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use. Where a substantial part of the wall of an accessory building is part of the wall of the principal building or where an accessory building is attached to the principal building in a substantial manner as by a roof, such accessory building shall be counted as part of the principal building.

**27. Building Coverage**

The percentage of area of a lot which is occupied by the physical limits of a building or buildings; including decks, porches, carports and other attached structures, but not including roof overhangs.

**28. Building, Detached**

A building having no party wall in common with another building.

**29. Building, Principal**

The primary building on a lot or a building that houses a principal use.

**30. Building, Semi-Detached**

A building having one party wall in common with an adjoining building.

**31. Building Envelope**

The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing: building setbacks, maximum height, bulk or other regulations, and/or any combination thereof.

**32. Building Frontage**

The width of a building abutting or parallel to the street line.

**33. Building Height**

The vertical distance measured from the grade plane to the highest point of the roof structure.

**34. Cemetery**

Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**35. Club**

A building or portion thereof or an area used to meet the social and recreational needs of a non-profit group or organization to which membership is limited or controlled.

**36. Common Ownership**

Either (a) ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots; or (b) ownership by an association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.

**37. Community Center**

A building or group of buildings whose sole purpose is to house a non-profit service, fraternal, or sectarian organization including administrative offices, child and elderly programs, recreation and assembly.

**38. Community Residence**

A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

- A. Whenever six (6) or fewer mentally handicapped children or adults reside in any type of residence in the community, as licensed by the state pursuant to Rhode Island General Laws §40.1-24-1-1 et. seq.
- B. A group home providing care or supervision, or both, to not more than eight (8) mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to Rhode Island General Laws §40.1-24-1-1 et. seq.

- C. A residence for children providing care or supervision, or both, to not more than eight (8) children including those of the care giver and licensed by the state pursuant to Rhode Island General Laws §42-72.1-1 et. seq.
- D. A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families not to exceed a total of eight (8) persons requiring temporary financial assistance and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in such residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

**39. Comprehensive Plan**

The Comprehensive Community Plan adopted by the Town.

**40. Conservation Development**

A type of land development project which allows a community to guide growth to the most appropriate areas within a parcel of land to avoid impacts to the environment and to protect the character-defining features of the property. See Smithfield Land Development and Subdivision Review Regulations.

**41. Conventional Yield Plan**

A plan of a conventional (as opposed to a Conservation) subdivision or land development project that depicts the maximum number of building lots or dwelling units for single family detached dwellings that could reasonably be built on a parcel of land under current zoning, taking into account physical constraints to development, such as wetlands, etc. See Smithfield Land Development and Subdivision Review Regulations.

**42. Council**

The Town Council of the Town of Smithfield.

**43. Cul-de-Sac**

Circular turnaround at the end of a dead-end street.

**44. Day Care - Day Care Center**

Any other day care center which is not a family day care home.

**45. Day Care - Family Day Care Home**

Any home other than the individual's home in which day care or supervision is offered at the same time to six (6) or less individuals who are not relatives of the care giver, but may not contain more than a total of eight (8) individuals receiving such care.

**46. Demolition**

An act or process that destroys a structure or its appurtenances in part or in whole.

**47. Density, Residential**

The number of households or dwelling units per unit of land.

**48. Development**

As defined by Rhode Island General Laws, §45-24-31 (1956 as amended).

**49. Development Plan Review**

The process whereby the Planning Board is authorized to review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of this Ordinance.

**50. Distribution**

The movement of products, generally between storage and retail locations.

**51. District**

See “*Zoning Use District*”.

**52. Dormitory**

A building used as rooming units for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery, or other similar institution.

A dormitory (off-campus) is a non-owner occupied single-family home which has been granted a special use permit to allow the boarding of up to three (3) students and which conforms to the requirements of Zoning Ordinance Section 4.4.B.12.

**53. Drainage System**

A system of the removal of water from land by drains, grading or other appropriate means. Such techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwaters and the prevention and/or alleviation of flooding.

**54. Driveway**

That portion of a lot that consists of a travel lane used to access a parking area or garage and which is bounded on either side by an area that is not part of the parking area.

**55. Drive-In Service**

Restaurant, bank or other retail establishments providing food, drink, goods or services where the customers are either serviced in their automobiles, pick up such food, drink, goods or services by driving by a pass-out window, or where they step out of their automobile briefly to pick-up food, drink, goods or services.

**56. Dwelling Unit**

A structure or portion thereof providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and containing a separate means of ingress and egress. (See Household).

**57. Dwelling, Multi-Family**

A building or portion thereof used for occupancy by three (3) or more households living independently of each other.

**58. Dwelling, One-Household**

A building used exclusively for one household and containing only one dwelling unit.

**59. Dwelling, Two-Family**

A building used exclusively for occupancy by two (2) households living independently of each other.

**60. Established Grade**

The elevation of the street grade as fixed by the Town or the State of Rhode Island.

**61. Family**

A person or persons related by blood, marriage or other legal means. (See Household).

**62. Farming, General**

The pursuit of those activities normally associated with the raising of a crop or the care of animals for agricultural purposes.

**63. Fast Food Restaurant**

A commercial establishment where food or beverages are cooked, prepared or packaged and offered for sale inside or outside the structure by means of stand-up counter and/or drive-in service (including self-service) and primarily serves or dispenses such food or beverages in or with disposable containers and/or utensils and take away food is more than incidental.

**64. Floor Area**

See “GFA” (Gross Floor Area).

**65. Floor Area Ratio**

The GFA (Gross Floor Area) of any building or buildings on a lot, divided by the area of said lot.

**66. Fresh Water Wetland**

As defined by Rhode Island General Laws, §2-1-20 (1956 as amended).

**67. Frontage**

That portion of a lot abutting a street and measured along the street line on which the lot fronts; or in the case of a corner lot, along either street line from the side or rear lot line to the point of intersection of the abutting street lines.

**68. Garage, Parking**

Any building, except those herein defined as a private garage, used for parking of vehicles. Such buildings may include stores and other commercial establishments; providing they conform to all regulations of the zone in which they are located.

**69. Garage, Private**

A detached accessory building or portion of a principal building used for storage of vehicles, and provided that, if more than two vehicles are stored therein, the capacity does not exceed one vehicle for each 2,500 square feet of lot area.

**70. GFA (Gross Floor Area)**

The sum of the gross horizontal area of the several floors of a building measured from the exterior face of exterior walls, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor to ceiling height is less than seven (7) feet.

**71. Grade**

The finished ground level adjoining a structure at all exterior walls. In this Ordinance, except where explicitly set forth to the contrary, the "Grade Plane" and NOT the "Grade" shall be used to measure the height of a structure.

**72. Grade Plane**

A reference plane representing the average finished ground level adjoining a structure at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point within the area between the structure and the lot line or, when the lot line is more than six (6) feet from the structure, between the structure and a point six (6) feet from the structure.

**73. Group Quarters**

A dwelling unit in which individuals requiring supervision are provided living, sleeping, cooking, eating and sanitation facilities.

**74. Halfway House**

A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

**75. Height of Building**

See “*Building Height*”.

**76. Home Occupation**

Recognized professions or other occupations, but excluding manicurists, hairdressers, beauticians and cosmetologists, carried out for gain by a resident which is conducted as an accessory use in the resident's dwelling unit.

**77. Hospital**

An institution licensed by the State of Rhode Island to provide primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

**1. Hospital, Animal or Veterinary Facility**

Commercial medical facilities for keeping animals to be treated, in treatment or recovering from treatment, in accord with normal veterinary practice as established by the Rhode Island Department of Health.

**79. Hotel or Motel**

A building or portion thereof where temporary lodging is supplied and where additional services such as restaurants, meeting rooms and recreational facilities may be provided.

**80. Household**

One (1) or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term household unit shall be synonymous with the term dwelling unit for determining the number of such units allowed within any structure on any lot in a zoning district. Any individual household shall consist of any one (1) of the following:

- (a) A family, which may also include servants and employees living with the family or,
- (b) a person or group of not more than three (3) unrelated persons living together.

**81. Industrial**

A. **General Industrial** - A use engaged in the basic processing and manufacturing, predominantly from extracted or raw materials, of non-hazardous finished and/or unfinished products or parts, including processing, compounding, fabrication, stamping,

assembly, treatment, packaging, incidental storage, research and development, sales, and distribution of such products. See Article 4, J-4 of this Ordinance for further details.

- B. **Light Industrial** - A use engaged in the manufacture, predominantly from previously prepared materials, of non-hazardous finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, research and development, sales, and distribution of such products, but excluding basic industrial processing. See Article 4, J-3 of this Ordinance for further details.
- C. **Planned Industrial** - A planned, coordinated development of a tract of land with two or more separate industrial buildings as an environment for a variety of industrial and related activities. Such a site is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space. The project is developed or controlled by one proprietary interest and has an enforceable master plan and/or covenants, conditions, and restrictions. The development may be on one parcel, may be subsidized, may have condominium ownerships, or a combination of these types.

**82. Industrial Park**

An area planned for occupancy for more than one (1) industrial establishment with shared

**83. Infrastructure**

Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

**84. Junk Yard**

An open area where waste, used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper rags, rubber tires, and bottles. The term junk yard shall not include uses established entirely within enclosed buildings.

**85. Junk Yard, Motor Vehicle**

The term "Motor Vehicle Junk Yard" as used herein shall include any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered vehicles which are no longer operable or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage or other waste or discarded or secondhand material which has been a part or intended to be a part of any motor vehicle, the sum of which parts or material shall be equal in bulk to two (2) or more motor vehicles. Motor Vehicle Junk Yard shall also include any place or business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for part[s] or for use of the metal for scrap or where it is intended to burn material which are parts of a motor vehicle or cut up the parts thereof.

**86. Kennel, Animal**

See "*Animal Kennel*".

**87. Kindergarten**

A school or class of young children, usually from four (4) to six (6) years of age.

**88. Land Development Project**

Land Development Project. A project in which one (1) or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to: planned development, and/or conservation

development for residential, commercial, industrial, institutional, recreational, open space, and/or mixed uses as provided for in this Ordinance.

**89. Land Unsuitable for Development**

Land unsuitable for development means land which has severe or very severe limitations for development. The provisions of Section 6.8 of this Ordinance shall apply.

**90. Landscaped Area**

Land fully developed and maintained to present a pleasant appearance and to stabilize the soil, using primarily vegetation and natural features of the site, although these may also be supplemented by decorative paving.

**91. Life Care Facility**

See “*Residential Care Facility*”.

**92. Loading Space, Off-Street**

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

**93. Lodging House**

A building with more than two (2) but not more than ten (10) guest rooms where lodging with or without meals is provided for compensation.

**94. Lot**

Either (a) the basic development unit for determination of lot area, depth, and other dimensional regulations, or (b) a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

**95. Lot Area**

The total area circumscribed by the boundaries of a lot, except that: (a) when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street, and (b) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

**96. Lot Building Coverage**

See “*Building Coverage*”.

**97. Lot, Corner**

A lot at the junction of and fronting on two (2) or more intersecting streets.

**98. Lot Depth**

The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

**99. Lot, Frontage**

See “*Frontage*”.

**100. Lot Line**

A line of record, bounding a lot, which divides one (1) lot from another lot or from a public or private street or any other public or private space and shall include:

- A. **Front Lot Line**: any lot line separating a lot from a street right-of-way.
- B. **Rear Lot Line**: the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line, and
- C. **Side Lot Line**: any lot line other than a front or rear lot line. On a corner lot, or irregularly shaped lot, there may be more than one front lot line, and consequently, more than one rear lot line.

**101. Lot, Through**

A lot having frontage on two (2) parallel or approximately parallel streets.

**102. Lot Width**

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front line at the minimum front setback line.

**103. Major Recreational Equipment**

Travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers, boats and trailers, but not mobile homes.

**104. Manufacturing**

Fabrication of raw materials or assembly of parts of materials fabricated off-site.

**105. Mobile Home, also known as Manufactured Home**

A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted, or attached to a permanent slab foundation.

**106. Mobile Home Park or Manufactured Home Park**

Mobile Home Park shall mean any plot of ground upon which are located two (2) or more mobile homes capable of being occupied for dwelling or sleeping purposes.

**107. Modification**

Permission granted and administered by the Zoning Official, pursuant to Article 10 of this Ordinance, to grant a dimensional variance other than lot area requirements from this Ordinance to a degree not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements.

**108. Multi-Family Unit-see *Dwelling, Multi-Family*.****109. Natural Strip**

An unpaved area at least ten (10) feet in depth, landscaped with plantings indigenous to the area.

**110. Nonconformance**

A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this Ordinance and not in conformity with the provisions of such Ordinance or amendment. Nonconformance shall be of only two (2) types:

- A. **Nonconforming by Use**: A lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of this Ordinance shall be nonconforming by use;
- B. **Nonconforming by Dimension**: A building, structure, or parcel of land not in compliance with the dimensional regulations of this Ordinance. Dimensional regulations include all regulations of this Ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of this Ordinance shall be nonconforming by use, while a building or structure containing a permitted number of dwelling units by the use while a building or structure containing a permitted number of dwelling units by the use regulations of the Zoning Ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

**111. Nursing Home**

A facility licensed by the State of Rhode Island, and maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital.

**112. Office, Professional**

An office of recognized professionals, such as physicians, dentists, lawyers, engineers, artists, musicians and teachers, who are qualified to perform services of a professional nature.

**113. Overlay District**

A district that is superimposed on one (1) or more district or parts of districts and that imposes specified requirements in addition to those otherwise applicable for the underlying zone and or which allows alternate uses.

**114. Owner**

Any person, agent, firm or corporation who, alone, jointly, or severally with others: a) shall have legal or record title to any property; or b) shall have charge, care or control of any property as agent, executor, administrator, trustee or guardian.

**115. Parking Area Aisles**

A portion of paved area consisting of lanes providing access to parking spaces.

**116. Parking Space**

A portion of paved area set aside for the parking of one vehicle.

**117. Parking, Accessory Use**

Off-street parking of vehicles on the same or contiguous lot as a principal use where said parking is established or required in conjunction with the principal use.

**118. Parking, Principal Use**

Off-street parking of vehicles on one or more lots where parking spaces for more than four (4) vehicles are available for public use whether free, for compensation, or to satisfy parking requirements of a principal use on separate and noncontiguous lots.

**119. Permitted Use**

A use by right which is specifically authorized in a particular zoning district.

**120. Planned Development (PD)**

Land development project as defined herein and developed according to plan as a single entity and containing one (1) or more structures and/or uses with appurtenant common areas.

**121. Planning Board**

The Planning Board of the Town of Smithfield.

**122. Pre-application Conference**

A review meeting of a proposed development held between the applicant or applicants and officials of the Town, before formal submission of an application for a permit or for development approval.

**123. Principal Use**

See “*Use, Principal*”.

**124. Professional**

An individual engaged in an occupation requiring advanced training and educational achievement in some liberal art or science, usually involving mental rather than manual work. The occupations contemplated by this term are medicine, law, teaching, engineering and the like.

**125. Removal**

Relocation of a structure on its site or to another site.

**126. Repair**

A change meant only to remedy damage or deterioration of a structure of its appurtenances.

**127. Residential Care Facility**

A facility consisting of independent and semi-independent dwelling units, each occupied by not more than two (2) residents per dwelling unit, at least one (1) of whom is fifty-five (55) years of age or older; said facility shall have available on-site passive and recreational facilities, supervised and unsupervised activities, housekeeping assistance, and full-time medical personnel to provide medical services, including, but not limited to, dietary and nutritional assistance and nursing care.

**128. Roadside Stand**

A structure visible from a street used for display and sale of products grown or produced on the property or parcel, and without space for customers within the structure itself.

**129. Room**

An un-subdivided portion of the interior of a dwelling unit, excluding bathrooms, closets, hallways, and service porches.

**130. Rooming Unit**

A room or suite of rooms having an independent means of access within a building, with facilities intended for sleeping and living, with or without individual sanitation, and without cooking facilities.

**131. Screen**

Shield from view in the manner described in §16, Article VII (Landscaping) of the Codified Ordinances of the Town of Smithfield.

**132. Setback Line or Lines**

A line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

**133. Shared Elderly Housing**

A dwelling unit shared by six (6) or fewer residents, whether or not related to one another, each of whom is fifty-five (55) years of age or older, and who together shall be deemed one (1) household.

**134. Shed**

An accessory structure less than 200 square feet in area, with doors no greater than four (4) feet in width.

**135. Shopping Center**

An area planned for occupancy by more than one (1) or more commercial establishments which may share common facilities.

**136. Signs**

Any advertisement, announcement, direction or communication, other than an identification or announcement sign, produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting, pasting, or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface; provided, however, that signs placed or erected by the Town or the State for the purposes of showing street names or traffic directions or regulations or for other municipal or governmental purposes shall not be included herein nor shall signs which are part of the architectural design of the building; and provided further, that non-commercial decorative or national flags shall be allowed in all residential zones. See "SCHEMATICS" attached hereto as an Appendix and incorporated by reference.

- A. **Announcement Sign**: An outdoor sign within the view of persons passing of a public highway, whether a separate structure, object, or device or attached to or painted on another structure, object or device bearing an advertisement relating to the premises on which the sign is located.
- B. **Flag**: A flag, banner, pennant, burgee or other fabric or flexible device, used to convey a commercial message, including, but not limited to, flags displaying the word "OPEN," flags displaying the logo of a commercial enterprise, or flags displaying a pictorial representation of the merchandise or services offered by a commercial establishment. A commercial establishment that sells flags may only display those flags, whether commercial or not, within the limits provided in this Ordinance for the outdoor display or sale of goods, excluding the American, State of Rhode Island, or Smithfield flag.
- C. **Freestanding Sign**: A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a "sandwich sign," is also a freestanding sign.

- D. **Identification Sign**: An outdoor sign displaying the name and address of the occupant or identifying a permitted use or an accessory use, not greater than one and one-half (1-1/2) square feet in area.
- E. **Off-Premises Sign**: A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located. See also Billboard.
- F. **Overhang Sign**: A sign, banner or other advertising device which hangs or extends over a public way, sidewalk or way in which the public has a right of access. Wall signs shall not be included in this definition.
- G. **Standing Sign**: A sign standing or hanging free on its own support which may be attached to a building or fixed in or to the ground. Standing signs may have two (2) sides or faces, showing in opposite directions, with or without designs on both sides.
- H. **Temporary Sign**: See §8.7.9 of this Ordinance.
- I. **Wall Sign**: A sign fastened or affixed parallel to a wall of a building and not more than six (6) inches therefrom.
- J. **Window Sign**: A sign affixed to the inside surface of a window or displayed behind a window so as to attract attention from the outside. A sign shall be deemed a window sign if it is within the display, or showcase area of the window, or within six (6) feet of the inside surface of a window through which it is intended to be viewed.

**137. Sign Area**

The total area of the space to be used for advertising purposes, including the spaces between open-type letters and figures, including the background structure or other decorations which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. A double-faced sign shall have twice the total area of a single faced sign.

**138. Site Plan**

The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.

**139. Special Use**

A regulated use which is permitted pursuant to a Special Use Permit issued by the Board. Formerly referred to as a Special Exception.

**140. Storage**

The deposit and care of materials in a warehouse or otherwise for safekeeping and/or ultimate distribution.

**141. Story**

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof. A basement may be counted as a story.

**142. Street**

A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

**143. Street Classification**

A method of roadway organization which identifies a street hierarchy according to function within a road system, that is, types of vehicles served and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Local classifications shall use the following as major categories:

- A. **Arterial**: A major street that serves as an avenue for the circulation of traffic into, out of, or around the municipality and carries high volumes of traffic.
- B. **Collector**: A street whose principal function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
- C. **Local**: Streets whose primary function is to provide access to abutting properties.

**144. Street Line**

The line dividing a lot from any street, except a limited or controlled access highway to which the lot has no access.

**145. Structure**

A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water, including, but not limited to, buildings, gazebos, signs, billboards, outbuildings, and swimming pools.

**146. Student**

For the purpose of a Dormitory (off-campus), a student is an individual not related to a resident of the home and who is enrolled in an institution of higher learning.

**147. Swimming Pool**

An artificial pool of water or natural pool with a depth of two (2) feet or more at any point or seventy-five (75) or more square feet of surface and used for swimming or bathing, located indoors or outdoors, together with the equipment, and appurtenances used in connection with the pool.

**148. Town**

The Town of Smithfield, Rhode Island.

**149. Transitional Housing**

See “*Community Residence*”.

**150. Truck Terminal**

Any premises where the principal use is the outdoor or indoor storage, service, maintenance or repair of truck, bus, van, automobile or other motor vehicle fleets.

**151. Use**

The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

**152. Use, Accessory**

A subordinate use located on the same lot with the principal building, or subordinate use of land, either of which is customarily incident to and serves the principal building or the principal use of the land.

**153. Use, Principal**

The primary or predominant use of any lot.

**154. Utility Facilities**

Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose by the State of Rhode Island and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

**155. Variance**

Permission to depart from the literal requirements of this Ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this Ordinance. There shall be only two (2) categories of variance, a use variance or a dimensional variance:

- A. **Use Variance**: Permission to depart from the use requirements of this Ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this Ordinance;
- B. **Dimensional Variance**: Permission to depart from the dimensional requirements of this Ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief, although it may be an incidental result of the relief.

**156. Vehicle, Commercial**

Vehicle used for commercial transportation purposes, including but not limited to trucks (all types and weights), van used for delivery and service, tractor trailer, garbage pick-up or dump truck, dumpster truck, or similar type vehicle.

**157. Warehouse**

A structure or part of a structure, for storing goods, wares and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

**158. Wetlands**

See “*Fresh Water Wetlands*” as defined by Rhode Island General Laws, §2-1-20 (1956 as amended).

**159. Wholesale**

The sale of goods in large quantity for the purpose of resale.

**160. Wholesale Sales**

On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

**161. Yard**

A space on the same lot with a main building open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this Ordinance.

- A. **Yard, Side**: The area between the main building and the side lot line, extending from the front yard or front lot line where no front is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building. See Section 6.0 and the computational and dimensional schematics provided for illustrative purposes.
- B. **Yard, Front**: The area between the street line and a line parallel thereto drawn through the nearest point of a main structure, extending between side lot lines. See Article 5 and the computational and dimensional schematics provided for illustrative purposes.
- C. **Yard, Rear**: A yard extending across the full width of the lot line between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building. See Article 5 and the computational and dimensional schematics provided for illustrative purposes.

**162. Zoning Board**

The Zoning Board of Review of the Town of Smithfield.

**163. Zoning Certificate**

A document signed by the Zoning Official, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this Ordinance or is a duly authorized variance or approved special use permit in accordance with Article 10 of this Ordinance.

**164. Zoning Official**

The officer charged with enforcing this Ordinance pursuant to Article 10 of this Ordinance, hereinafter referred to as the Official.

**165. Zoning Map**

The Smithfield Zoning Plats which are a part of this Ordinance and which delineate the boundaries of all mapped zoning districts and overlay districts within the physical boundary of the Town as provided in Article 1 of this Ordinance.

**166. Zoning Use District**

The basic unit in zoning to which a uniform set of regulations applies, or a uniform set of regulations for a specified use.

## **ARTICLE 3 - NONCONFORMANCE**

### **3.1 NONCONFORMANCE**

A nonconformance is a dimension, building, structure, sign, or parcel of land, or use thereof, which was lawfully existing at the time of the adoption or amendment of this Zoning Ordinance, and not in conformity with the provisions of such ordinance or amendment.

### **3.2 LAWFULLY ESTABLISHED**

A building, structure, sign, or parcel of land, or use thereof, was lawfully established if it was in existence prior to May 6, 1947, or was established in conformance with the Zoning Ordinance in effect at the time the use was first established. For the purposes of this Ordinance, the placement or use of a sign, with or without any other structure or use, is considered a use of land. A lot was lawfully established if it was of record or shown on a recorded plat prior to September 4, 1956, and was separately owned. Any building, structure, sign, or parcel of land, or use thereof, that was not lawfully established at the time of the adoption or amendment of this Zoning Ordinance, is not protected by this Article.

### **3.3 NONCONFORMING BY USE**

A lawfully established use of land, building, or structure which is not a permitted use in the zoning district in which it is located, as set forth in Article 4, is nonconforming by use.

### **3.4 NONCONFORMING BY DIMENSION**

A lawfully established building, structure, or parcel of land not in compliance with the dimensional regulations of this Ordinance is nonconforming by dimension. Dimensional regulations include all regulations of this Ordinance, other than those pertaining to the permitted uses. A lawfully established building, structure, parcel of land, or use thereof, not in compliance with the parking regulations of this Ordinance, as set forth in Article 7, is also nonconforming by dimension. A lawfully established lot that is not in compliance with the dimensional regulations of the Zoning Ordinance, including, but not limited to those regulations for minimum lot size, lot width and lot frontage, (also known as a substandard lot of record) is also nonconforming by dimension.

### **3.5 NONCONFORMING BY DWELLING UNITS**

A building or structure containing more dwelling units than are permitted by the use regulations of this Ordinance shall be nonconforming by use. A building or structure containing a permitted number of dwelling units by the use regulations of this Zoning Ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

### **3.6 MOST RESTRICTIVE REGULATIONS TO APPLY**

A building, structure or parcel of land nonconforming by more than one factor, such as by use, dimension, area or parking, shall comply with all regulations of this Article. Where the regulations conflict, the most restrictive regulations shall apply.

### **3.7 EXISTENCE BY VARIANCE OR SPECIAL USE PERMIT**

A nonconforming building, structure, sign, or parcel of land or the use thereof, which exists by virtue of a variance or a special use permit granted by the Board, shall not be considered a nonconformance for the purposes of this Article, and shall not acquire the rights of this Article. Rather, such building, structure, sign, parcel of land, or use thereof, shall be considered a use by variance or a use by special

use permit and any moving, addition, enlargement, expansion, intensification or change of such building, structure, sign, parcel of land or use thereof, to any use other than a permitted use or other than in complete conformance with this Ordinance, shall require a further variance or special use permit from the Board.

### **3.8 BUILDING OR STRUCTURE NONCONFORMING BY USE**

Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located. Nonconforming uses cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing nonconforming uses shall not justify further departures from this Ordinance for themselves, or for any other properties.

#### **A. Treatment in Residential Zones**

Nonconforming uses in Residential Zones are to be treated in a stricter fashion than nonconforming uses located in Non-Residential Zones. Due to the disruption which nonconforming uses cause to the peace and tranquility of a Residential Zone, nonconforming uses therein should be eventually abolished or reduced to total conformity over time.

#### **B. Continuance of Use**

Nothing in this Ordinance shall prevent or be construed to prevent the continuance of a nonconforming use of any building or structure for any purpose to which such building or structure was lawfully established.

#### **C. Maintenance and Repair**

A building or structure containing a nonconforming use may be maintained and repaired except as otherwise provided in this Article.

#### **D. Moving**

A building or structure containing a nonconforming use shall not be moved in whole or in part either on or off the lot on which it is located unless the use contained within such building or structure is made to conform to the use regulations of the zone in which it is relocated.

#### **E. Addition and Enlargement**

A building or structure containing a nonconforming use shall not be added to or enlarged in any manner, including any addition or enlargement of floor area or volume, unless the use contained within such building or structure, including such addition and enlargement, is made to conform to the use regulations of the zone in which it is located, or unless a special use permit is granted pursuant to §3.13.

#### **F. Expansion**

A nonconforming use of a building or structure shall not be expanded into any other portion of the building or structure which contains a conforming use or which is unoccupied or unused, unless a special use permit is granted pursuant to §3.13.

#### **G. Intensification**

A nonconforming use of a building, structure or land shall not be intensified in any manner. Intensification shall include, but not be limited to, increasing hours of operation, increasing the number of dwelling units or increasing the seating capacity of a place of assembly. However, this Section shall not prohibit the reconfiguration of existing

dwelling units within a building or structure so long as such reconfiguration complies with the requirements of §3.8F.

H. **Change of Use**

- (1) **Residential Zones** - Within any Residential Zone, a nonconforming use shall only be changed to a permitted use or to the same use code listed under Article 4. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.
- (2) **Non-Residential Zones** - Within any nonresidential zone, a nonconforming use may be changed to a permitted use, to the same use code listed under Article 4, or may be changed to a different nonconforming use by special use permit in accordance with Article 10. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.

I. **Abandonment**

If a nonconforming use is abandoned, it may not be reestablished. Abandonment of a nonconforming use shall consist of some overt act, or failure to act, which would lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless the owner can demonstrate an intent not to abandon the use. An involuntary interruption of nonconforming use, such as by fire and natural catastrophe, does not establish the intent to abandon the nonconforming use. However, if any nonconforming use is halted for a period of one year or more, the owner of the nonconforming use will be presumed to have abandoned the nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use.

**3.9 BUILDING OR STRUCTURE NONCONFORMING BY DIMENSION**

Buildings or structures that are nonconforming by dimension are likely to cause overcrowding and congestion in the neighborhoods, contribute to unhealthy conditions and are contrary to the purposes of this Ordinance. Buildings or structures that are nonconforming by dimension cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this Ordinance for themselves or for any other property.

A. **Continuance**

Nothing in this Ordinance shall prevent or be construed to prevent the continuance of the use of any building or structure nonconforming by dimension for any purpose to which such building or structure was lawfully established.

B. **Maintenance and Repair**

A building or structure nonconforming by dimension may be maintained and repaired except as otherwise provided in this Section.

C. **Moving**

A building or structure which is nonconforming by dimension shall not be moved in whole or in part to any other location on the lot in which it is located unless every portion of such building or structure is made to conform to all of the dimensional requirements of the Zone in which it is located.

D. **Addition and Enlargement**

A building or structure nonconforming by dimension shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all of the dimensional regulations of the Zone in which the building or structure is located, or unless a special use permit is granted pursuant to §3.13.

E. **Expansion**

A conforming use within a building or structure which is nonconforming by dimension (other than by lot area per dwelling unit) may be expanded into any other portion of the building or structure which is unoccupied or unused.

F. **Intensification**

A conforming use within a building or structure which is nonconforming by dimension may be intensified, provided that such intensification is in conformance with the use and lot area per dwelling unit regulations, if applicable, for the Zone in which it is located.

G. **Change in Use**

A conforming use within a building or structure which is nonconforming by dimension may be changed to any other conforming use.

H. **Demolition**

A building or structure nonconforming by dimension, if voluntarily demolished, shall not be reconstructed, unless it conforms with the dimensional regulations of the Zone in which it is located. Such voluntary demolition shall be considered an abandonment of the use as set forth in §3.8I. If such building or structure is involuntarily demolished, destroyed, or damaged, it may be repaired or rebuilt to the same size and dimension as previously existed.

**3.10 LAND NONCONFORMING BY USE**

A. **Continuance**

The lawfully established nonconforming use of land, where no building is involved, may be continued, provided that no such nonconforming use of land shall in any way be expanded or intensified either on the same or adjoining property.

B. **Change of Use**

The nonconforming use of land shall not be changed to a different use, unless such use conforms to the use regulations of the Zone in which it is located.

**3.11 LAND NONCONFORMING BY AREA**

A. **Enlargement of Undersized Lots**

Lawfully established lots which have less than the minimum area requirements, may be maintained and may be changed by adding additional land to such lots without prejudice to the rights of the owner of such lots pursuant to the provisions of this Article.

B. **Single Nonconforming Lot of Record**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which was lawfully established as of April 14, 1987, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not have

continuous frontage with other lots in the same ownership unless otherwise provided herein, and such lot and any structure thereon must conform to all dimensional requirements of this Ordinance other than minimum lot area, lot width or frontage.

**C. Merger of Multiple Nonconforming Lots of Record in Non-Residential Zones**

For lawfully established lots with continuous frontage in single ownership which are located in the V, C, HC, LI, I, PCD and PD zones, if all or part of the lots do not meet the requirements established for lot width, frontage or area, the lots need not be merged together. They may be separately transferred and/or developed, provided however, that such development must meet all dimensional requirements of this Ordinance unless a dimensional variance is granted by the Zoning Board.

**D. Merger of Multiple Nonconforming Lots of Record in Residential Zones**

For lawfully established lots with continuous frontage in single ownership which are located in the R-200, R-80, R-Med, R-20, R-20M, and MU zones, if all or part of the lots do not meet the requirements established for lot width, frontage or area, the lots shall be deemed to be merged together and shall be considered to be an individual parcel for the purpose of this Ordinance and for property assessment purposes, if the Tax Assessor is notified in writing by the owner. No portion of said parcel shall be used or transferred in a manner which diminishes compliance with lot width, frontage, or area requirements established by this Ordinance. Nor shall any division of any parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance, except as follows:

- (1) Any such division shall be deemed to be a subdivision and subject to all requirements of the Land Development and Subdivision Review Regulations of the Town, including, without limitation, the requirement for Planning Board approval, and
- (2) All such resulting lots must meet all dimensional requirements of this Ordinance, except those as to lot width, frontage or area; and the minimum lot width, frontage or area may be reduced according to the following table:

**MERGER REGULATIONS**

<b>ZONE</b>	<b>Minimum Lot Area (s.f.)</b>	<b>Minimum Lot Width (ft.) Minimum Frontage (ft.)</b>
R-200	90,000	225
R-80	60,000	150
R-Med	30,000	100
R-20	15,000	100
R-20M	15,000	100
MU	10,000	100

### **3.12 BUILDINGS AND STRUCTURE NONCONFORMING BY PARKING**

A building or structure is considered nonconforming by parking if the lawfully established use of the building or structure does not meet the parking requirements of Article 6.6.

#### **A. Addition Enlargement, Expansion and Intensification - Non-Residential Uses**

A non-residential building or structure, or use of land, nonconforming by parking, may be added to, enlarged, expanded or intensified provided additional parking space is supplied to meet the requirements of Article 7 for such addition, enlargement, expansion, or intensification.

#### **B. Addition Enlargement, Expansion and Intensification - Residential Uses**

Any residential building or structure nonconforming by parking, may not be added to, enlarged, expanded or intensified, unless brought into full compliance with the parking requirements of Article 7, such that sufficient parking is provided for the entire structure including the original portion and the addition, enlargement, expansion, or intensification.

#### **C. Change of Use**

A building or structure nonconforming by parking, may be changed to a different use, pursuant to all other provisions of this Ordinance, provided that such new use meets the following parking requirements. The number of additional parking spaces required shall be the difference between the number of spaces required for the proposed use and the number of spaces required for the previous use. In the event that the new use requires less parking spaces than the previous use, no additional parking spaces need be supplied. However, none of the existing parking spaces shall be eliminated unless the total number of spaces required by this Ordinance for the new use are provided.

### **3.13 SPECIAL USE PERMIT FOR EXPANSION, ADDITION, OR ENLARGEMENT**

#### **A. Structure or Use of Structure**

A structure nonconforming by use, dimension or parking under this Ordinance may be added to or enlarged by a Special Use Permit for the same use provided that:

- (1) In such addition the floor area of the structure or the area of the land devoted to the use shall not exceed fifty (50) percent of the original non-conforming area;
- (2) Such addition or enlargement shall otherwise conform with the provisions of this Ordinance; and
- (3) Such addition or enlargement shall be permitted only one (1) time.

#### **B. Use of Land**

An outdoor use, which qualifies as a legal nonconforming use of land can be increased by Special Use Permit provided that:

- (1) The area of land devoted to the use shall not exceed twenty-five (25) percent of the original non-conforming use;
- (2) Land used by such enlargement shall otherwise conform with the provisions of this Ordinance;
- (3) Such addition shall be permitted only one (1) time; and
- (4) Off-street parking and loading spaces are proved in accord with Article 7 of this Ordinance.

## **ARTICLE 4 - USE REGULATIONS**

### **4.1 APPLICATION OF DISTRICT REGULATIONS**

- A. The regulations set by this Ordinance within each district shall be minimum regulations and apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:
- (1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this Ordinance for the District in which it is located.
  - (2) Any use not specifically listed or otherwise permitted in the District in which it is located shall be deemed prohibited. If there is question about the classification of a use not specifically listed, a determination shall be made by the Town Council upon petition of the Official.
  - (3) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or general welfare.
  - (4) Wherever the requirements of this Ordinance disagree with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standard, shall govern.
  - (5) The Official shall immediately send to the following Town Boards, Commissions, and Officials a copy of any application seeking approval for the construction of a structure to be built on five (5) acres of land or more or which proposes an occupancy load of three hundred (300) or more:
    - (a) Town Council
    - (b) School Committee
    - (c) Zoning Board of Review
    - (d) Planning Board
    - (e) Conservation Commission
    - (f) Town Planner
    - (g) Town Engineer
    - (h) Public Works Director
    - (i) Administrative Officer
    - (j) Technical Review Committee
    - (k) Soil Erosion and Sediment Control Committee
    - (l) Sewer Authority
    - (m) Applicable Water District

The Applicant shall provide the Official with sufficient copies of the application so that the required notification can be accomplished. This notification requirement shall not apply to an application to construct one (1) single-family or two-family dwelling.

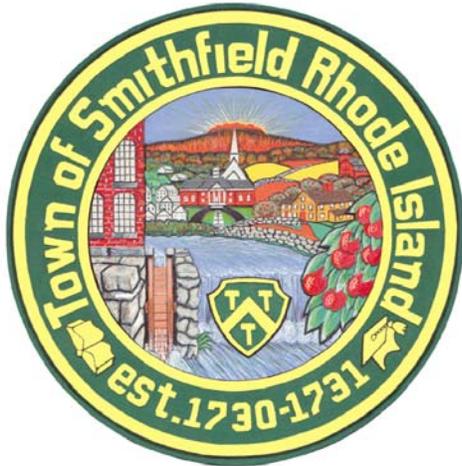
The Technical Review Committee shall forward recommendations concerning all such applications to the Town Council and to the applicable Board from which approval is sought within thirty (30) days from receipt of the application. Unless otherwise provided in the Zoning Ordinance, all other Boards, Commissions and Officials who receive notice of the application may also, in their discretion, forward recommendations to the Town Council and the Board from which approval is sought within said thirty (30) day period.

All applications to amend the Zoning Ordinance Text or Map(s), except those submitted by the Planning Board, must be sponsored by a Town Council member who shall introduce the proposed Ordinance Amendment for Consideration by the Town Council in accordance with Section 2.13 of the Home Rule Charter. Applications without the required sponsor shall not be accepted by the Official.

#### **4.2. PERMITTED USES**

Uses permitted are listed in §4.3, “*Table of Uses*”. Section 4.4 provides details and specific regulations, wherever applicable.

All uses permitted in non-residential zones shall require a review and approval by an Administrative Review Team appointed by the Town Manager as set forth in §10.9 of this Ordinance.



# ***TOWN OF SMITHFIELD***

## **ZONING ORDINANCE**

### **ZONING DISTRICT ABBREVIATIONS**

#### **Residential Zoning Districts**

- R-200 Single Family Residential, 200,000 s.f. (Residential Conservation District)
- R-80 Single Family Residential, 80,000 s.f. (Low Density, Residential District)
- R-Med Single Family Residential – Medium, 40,000/65,000 s.f. (Medium Density, Residential District)
- R-20 Single Family Residential, 20,000 s.f. (High Density, Residential District)
- R-20M Multi-Family Residential, 20,000 s.f. (Multi-Family, Residential District)
- R-20MA Multi-Family Residential Affordable (For permitted uses see Section 9.3)

#### **Multi-Use Zoning Districts**

- MU Mixed Use District
- PD Planned Development District

#### **Commercial Zoning Districts**

- V Village District
- C Commercial District
- HC Highway Commercial District

#### **Industrial-Employment Zoning Districts**

- LI Light Industrial District
- I Industrial District (Industrial, Planned)
- PCD Planned Corporate District
- PCDB Planned Corporate District (Bio Pharmaceuticals)

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Zoning Uses	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>(A) Agricultural Uses</b>														
1. Raising of crops & trees, commercial	P	P	N	N	N	N	N	N	N	N	N	N	N	
2. Raising of crops & trees, noncommercial	P	P	P	P	P	P	P	P	P	P	P	P	P	
3. Animal Raising, commercial	S	S	N	N	N	N	N	N	N	N	N	N	N	
4. Animal Raising, noncommercial, outdoor	P	P	S	S	N	N	N	N	N	N	N	N	N	
5. Animal Kennels & Daycare Facilities	S	S	N	N	N	N	N	S	N	S	S	N	S	
6. Animal Raising, noncommercial, indoor	P	P	P	P	P	P	P	P	P	N	N	N	P	
7. Conservation	P	P	P	P	P	P	P	P	P	P	P	P	P	
8. Dairy Farming, commercial	S	S	N	N	N	N	N	N	N	N	N	N	N	
9. Greenhouse or Nursery, commercial	S	S	N	N	N	N	N	N	S	S	N	N	N	
<b>(B) Residential Uses</b>														
1. Accessory Family Dwelling Unit	S	S	S	S	S	S	N	N	N	N	N	N	N	
2. Bed & Breakfast Home	S	S	S	S	S	S	S	N	N	N	N	N	S	
3. Boarders (maximum 2)	P	P	P	P	P	P	N	N	N	N	N	N	S	
4. Community Residence	P	P	P	P	P	P	P	N	N	N	N	N	P	
5. <i>Congregate Housing, Life Care, Nursing Home</i>														
5A. Congregate Housing	S	S	S	S	S	S	N	N	N	N	N	N	S	
5B. Life Care Facility	S	S	S	S	S	S	N	N	N	N	N	N	S	
5C. Nursing Home	S	S	S	S	S	S	N	N	N	N	N	N	S	
6. Dormitory, Off-campus	S	S	S	S	N	N	N	N	N	N	N	N	N	
7. Dwelling Unit for Operator of Non-Res. Use	S	S	S	S	S	P	S	N	N	N	N	N	N	
8. <i>Dwelling, Multi-Family</i>														
8A. Multi-Family	N	N	N	N	P	N	N	N	N	N	N	N	P	
8B. Public Home for Elderly	N	N	N	N	S	N	N	N	N	N	N	N	P	
9. Dwelling, Single-Family detached	P	P	P	P	P	S	S	N	N	N	N	N	P	
10 Dwelling, Two-Family	N	N	N	N	S	N	S	N	N	N	N	N	P	
11. Family Day Care Home	P	P	P	P	P	P	P	N	N	N	N	N	P	
12. Mobile Home	N	N	N	N	N	N	N	N	N	N	N	N	N	

\*See page 33 for key to Zoning District Abbreviations

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Zoning Uses	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>C OFFICE USES</b>														
1. Construction Trailer on Construction Site	P	P	P	P	P	P	P	P	P	P	P	P	P	
2. Office, Government, Business, Professional	N	N	N	N	N	S	P	P	S	P	P	P	S	
3. Office Park	N	N	N	N	N	N	N	N	N	S	S	P	N	
4. Office, Home	P	P	P	P	S	P	P	S	S	S	N	N	S	
5. Office Real Estate, Temporary	P	P	P	P	S	P	P	P	P	P	P	P	P	
6. Office, Medical, and/or Dental	N	N	N	N	N	S	S	S	S	P	P	S	S	
7. Health Management Organization (HMO)	N	N	N	N	N	N	N	N	N	P	P	S	S	
<b>D. PUBLIC &amp; SEMI-PUBLIC USES</b>														
1. Cemetery	N	N	N	N	N	N	N	N	N	N	N	N	S	
2. Church and other Places of Worship	S	S	S	S	S	S	S	S	N	N	N	N	S	
3. College	N	N	N	N	N	N	N	N	N	N	N	S	S	
4. Cultural Activities, Libraries, Museums, Galleries	S	S	S	S	S	S	S	S	S	N	N	P	P	
5. Day Camp	S	S	N	N	N	N	N	N	N	N	N	N	N	
6. Day Care Center	S	S	S	S	S	S	S	S	S	S	S	P**	S	
7. Half-way House	S	S	S	S	S	S	N	N	N	N	N	N	N	
8. Hospital, Health Services Facility	N	N	N	N	N	N	N	N	N	N	N	N	S	
9. Municipal Building, except penal facility	S	S	S	S	S	S	S	S	S	S	S	S	S	
10. Municipal Fire, Police, or Rescue Station	P	P	P	P	P	P	P	P	P	P	P	P	P	
11. Penal Facility or Prison	N	N	N	N	N	N	N	N	N	N	N	N	N	
12. School, Public, or Private	S	S	S	S	S	S	S	S	S	S	S	S	S	
13. Trade School, not including vehicle repair	N	N	N	N	N	N	N	S	S	S	S	S	N	
14. Trade School, utilizing heavy machinery	N	N	N	N	N	N	N	N	S	N	S	N	N	
15. Utilities, Public or Private	S	S	S	S	S	S	S	S	S	S	S	S	S	
16. Waste Management Facility, (Public or Private)	N	N	N	N	N	N	N	N	N	N	N	N	N	

\*See page 33 for key to Zoning District Abbreviations  
 P\*\*Permitted as an Accessory Use

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Zoning Uses	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>E. OUTDOOR RECREATION</b>														
1. Driving Range	N	N	N	N	N	N	N	S	S	N	N	N	N	
2. Golf Course, Country Club	S	S	N	N	N	N	N	N	N	S	S	S	S	
3. Miniature Golf Course	N	N	N	N	N	N	N	S	P	N	N	N	N	
4. Outdoor Movie, Amusement Park, Racetrack	N	N	N	N	N	N	N	N	N	N	N	N	N	
5. Public Park or Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	
6. Public Swimming Pool or Beach	S	S	S	S	S	S	N	N	N	N	N	N	N	
7. Riding Academy or Stable, Commercial	S	S	N	N	N	N	N	N	N	N	N	N	N	
<b>F. RESTAURANT &amp; ENTERTAINMENT</b>														
1. Restaurant	N	N	N	N	N	N	S	P	P	S	S	P**	P	
2. Restaurant with Window Service	N	N	N	N	N	N	S	S	P	N	N	N	S	
3. Restaurant with Drive-Thru	N	N	N	N	N	N	N	S	S	N	N	N	S	
4. Restaurant with Entertainment and/or Alcohol	N	N	N	N	N	N	S	P	P	S	S	P**	P	
5. Restaurant as an Accessory Use	N	N	N	N	N	N	N	S	P	P	S	P	P	
<b>G. RETAIL BUSINESS &amp; SERVICE</b>														
1. Adult Entertainment-Adult entertainment uses provided	N	N	N	N	N	N	N	N	N	N	S	N	N	
2. Animal Hospital, Veterinarian Office	N	N	N	N	N	N	S	S	S	N	N	N	N	
3. Automotive Filling, NO Repair Facility	N	N	N	N	N	N	N	S	S	S	N	N	N	
3A. Automotive Filling, Convenience Retail	N	N	N	N	N	N	N	S	P	N	N	N	S	N
5. Automotive, Motorcycle Sales	N	N	N	N	N	N	N	N	S	N	N	N	N	
6. Automotive Washing	N	N	N	N	N	N	N	N	S	S	N	N	N	
7. Bank														
7.A. Bank - With or Without Drive-Thru	N	N	N	N	N	N	S	S	P	N	N	P	S	
7.B. Bank – Without Window Service	N	N	N	N	N	N	S	S	P	N	N	P	P	
7.C. Bank - With Window Service	N	N	N	N	N	N	S	S	P	N	N	P	S	
8. Boat, Farm, or Power Equipment Sales & Service	N	N	N	N	N	N	N	N	S	S	N	N	N	
9. Catering Establishments	N	N	N	N	N	N	N	S	S	S	N	S	S	
10. Christmas Trees (not grown on site)	P	P	N	N	N	N	N	P	P	N	N	N	P	

\*See page 33 for key to Zoning District Abbreviations

P\*\*Permitted as an Accessory Use

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Zoning Uses	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>G. RETAIL BUSINESS &amp; SERVICE (cont'd)</b>														
11. Customary Home Occupation	P	P	P	P	P	P	P	N	N	N	N	N	P	
12. Dry Cleaning Establishments	N	N	N	N	N	N	N	S	S	N	N	P**	P	
13. Funeral Home, Mortuary	N	N	N	N	N	S	S	S	N	N	N	N	N	
14. Health & Fitness Center	N	N	N	N	N	N	N	N	S	N	S	S	P	
<i>15. Hotel, Motel, Conference Center</i>														
15.A Hotel	N	N	N	N	N	N	N	S	S	S	S	S	S	
15.B Motel	N	N	N	N	N	N	N	S	S	S	S	N	N	
15.C Conference Center	N	N	N	N	N	N	N	S	S	S	S	S	S	
16. Indoor Amusement, Sports Facility	N	N	N	N	N	N	N	N	S	N	S	S	S	
<i>17. Laundry</i>														
17.A Full-Service Laundry	N	N	N	N	N	N	N	S	S	N	N	S**	S	
17.B Self-Service Laundry	N	N	N	N	N	N	N	S	S	N	N	S**	S	
18. Radio or Television Studio	N	N	N	N	N	N	N	S	S	S	S	S	N	
19. Radio, Television, or Communications Tower	S	N	N	N	N	N	N	S	S	S	S	S	N	
20. Recreation, Indoor	N	N	N	N	N	N	N	S	N	N	S	S	N	
21. Repair Shop, no outside storage or display	N	N	N	N	N	N	P	P	P	N	N	N	S	
22. Retail Sales, under 5,000 s.f. GFA	N	N	N	N	N	N	P	P	P	S**	S**	S	P	
23. Retail Sales, 5,000-40,000 s.f. GFA	N	N	N	N	N	N	N	S	S	S**	N	N	P	
24. Shopping Centers, over 40,000 s.f. GFA	N	N	N	N	N	N	N	N	S	N	S	N	S	
25. Theater	N	N	N	N	N	N	N	N	S	N	S	N	S	
26. Communication Antenna(s)	S	S	S	S	S	S	S	S	S	S	S	S	S	
<b>H. WHOLESALE BUSINESS &amp; STORAGE</b>														
1. Storage of Flammable Materials	N	N	N	N	N	N	N	N	N	S	S	S**	N	
2. Wholesale Business & Storage	N	N	N	N	N	N	N	N	N	P	P	S	N	

\*See page 33 for key to Zoning District Abbreviations

P\*\*Permitted as an Accessory Use

S\*\*Allowed as an Accessory Use only with a Special Use Permit

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Zoning Uses	ZONING DISTRICTS													
	R-200	R-80	R-Med	R-20	R-20M	MU	V	C	HC	LI	I	PC	PD	PCD-B
<b>I. SERVICE INDUSTRIES</b>														
1. Automotive Body Shop	N	N	N	N	N	N	N	N	S	N	S	S	N	
2. Trade Establishments	N	N	N	N	N	N	N	N	S	N	S	S	N	
3. Machine Shop (metal works)	N	N	N	N	N	N	N	N	N	S	S	S	N	
4. Personal Service Establishments	N	N	N	N	N	N	P	P	P	N	N	N	P	
5. Tattoo Parlor	N	N	N	N	N	N	N	N	S	N	N	N	S	
6. Massage Parlor	N	N	N	N	N	N	N	N	S	N	N	N	N	
<b>J. INDUSTRIAL USES</b>														
1. Research & Development	N	N	N	N	N	N	N	N	N	P	P	P	N	
1A. Drug & Pharmaceutical Manufacture & Associated Research & Development <sup>1</sup>	N	N	N	N	N	N	N	N	N	N	N	N	N	
2. Industrial Park	N	N	N	N	N	N	N	N	N	S	S	S	N	
3. Light Industrial	N	N	N	N	N	N	N	N	N	P	P	S	N	
4. General Industrial	N	N	N	N	N	N	N	N	N	S	S	S	N	
5. Heavy Industrial	N	N	N	N	N	N	N	N	N	N	N	N	N	
6. Storage Facility, not including Truck Terminal	N	N	N	N	N	N	N	N	N	S	P	N	N	
7. Trucking Terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	
<b>K. TRANSPORTATION USES</b>														
<i>1. Airport, Heliport</i>														
1.A Airport	N	N	N	N	N	N	N	N	N	N	S	S	S	
1.B Heliport	N	N	N	N	N	N	N	N	N	N	S	S	S	
2. Bus Passenger Station	N	N	N	N	N	N	N	N	S	N	N	N	N	
3. Helipad	N	N	N	N	N	N	N	N	N	S	S	S	S	
4. Parking, Commercial, Off-Street	N	N	N	N	N	N	S	S	S	S	S	S	N	
5. Parking, Storage – vehicles related to authorized use as Accessory Use	N	N	N	N	N	N	P	P	P	P	P	P	P	

\*See page 33 for key to Zoning District Abbreviations

**4.3 TABLE OF USES**

P=Permitted by RIGHT

S= Use Permitted by SPECIAL USE PERMIT

N = Use Not Permitted

Parking Storage – vehicles not related to authorized 6. use <b>not</b> as Accessory Use	N	N	N	N	N	N	N	N	N	N	S	S	S	N	
Parking, Storage, Residential Non-Passenger or 7. Recreation Equipment	N	N	N	N	N	N	N	S	S	P	P	P	N		
8. Taxi-cab Dispatching & Garage	N	N	N	N	N	N	N	N	S	N	N	N	N		
<b>L. ACCESSORY USES</b>															
1. Customarily incidental & located at site – Permitted by SPECIAL USE	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
2. Customarily Incidental & located at site Permitted by RIGHT	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
3. Parking Structure	N	N	N	N	S	N	S	S	S	S	S	S	S	S	

\*See page 33 for key to Zoning District Abbreviations

#### 4.4 **SUPPLEMENTARY USE REGULATIONS**

The following list of “Use Code Numbers” is to be used in conjunction with §4.3 - “**Table of Uses**” of this Ordinance. Each *Use Code Number* corresponds with a specific line in the Table of Uses, provides detailed descriptions where needed, and provides conditions and other specific requirements. Accessory uses, where appropriate, are also indicated.

##### **A. AGRICULTURAL USES**

- A-1. Raising of Crops and Trees, Commercial** - Commercial raising of crops and trees, including apiaries, (excluding greenhouse and nurseries), orchards, vineyards, tree farms, Christmas trees; non-commercial raising of fowl and animals subject to the provisions of the Smithfield Animal Control Ordinance; roadside stand for the sale of produce raised on the site provided that:
- A. Roadside stands or sales facilities where agricultural products raised on-site are sold shall be set back a minimum of forty (40) feet from all abutting vehicular right[s]-of-way.
  - B. The building area of said facility shall not be greater than eight hundred (800) square feet.
  - C. Seventy-five (75) percent of the products sold are raised on the site.
- A-2. Raising of Crops and Trees, Non-Commercial** - Non-commercial raising of crops and trees, including apiaries, (excluding greenhouse and nurseries), orchards, vineyards, trees; provided there are no sales of such products on-site.
- A-3. Animal Raising, Commercial** - Commercial raising of animals, including boarding of animals and/or animal by-products, riding stables or academies, shall be located on lots containing a minimum of one hundred and twenty thousand (120,000) square feet and be subject to the provisions of the Smithfield Animal Control Ordinance provided that:
- A. All buildings, structures and facilities, including runways, are located at least three hundred (300) feet from any property line.
  - B. Adjacent properties are adequately protected from noise, odors and unsightly appearance.
  - C. Animals are housed within a building and all facilities for breeding, boarding, training and care of animals are within a building. Animals shall be confined to the premises at all times.
  - D. The area is completely enclosed.
  - E. There may be provision for a single dwelling unit for an on-site caretaker or animal keeper.
- A-4. Animal Raising, Non-Commercial, Outdoor** - Non-commercial raising and keeping of outdoor animals for personal, recreational, or educational purposes by a resident or owner of a lot or lots. These animals shall not include swine, pigeons, pets, watchdogs and apiaries. These animals are subject to the Smithfield Animal Control Ordinance and the following additional limitations and regulations:
- A. Animals shall be housed not less than fifty (50) feet from any property line,

- B. Horses, cattle, ponies, sheep, or goats are limited to a total two (2) such animals, in any combination, on a parcel that shall have at least three (3) acres, with one (1) additional such animal for each additional acre.
- a) Fowl (excluding roosters, toms or gobblers, guinea fowl and peacocks) or small animals are limited to a total six (6) such animals, in any combination, on a parcel that shall have at least 80,000 square feet, with more than six (6) such animals on any parcel of four (4) acres or more.

**A-5. Animal Kennels & Daycare Facilities, Commercial** – Commercial kennels and animal daycare facilities shall be located on lots containing a minimum of 2 acres in non-residential zones and one hundred and twenty thousand (120,000) square feet in the R-200 and R-80 zones and be subject to the provisions of the Smithfield Animal Control Ordinance, shall maintain a RIDEM kennel license and provided that:

- A. All buildings, structures and facilities, including runways, are located at least three hundred (300) feet from any residential structure in non residential zones and (300) feet from any property line in residential zones.
- B. Adjacent properties are adequately protected from noise, odors and unsightly appearance.
- C. Animals are housed within a building and all facilities for breeding, boarding, training exercise and care of animals are within a building. Outdoor pens/runs are allowed subject to a determination by the Board that adjacent properties will not be adversely affected thereby, however overnight boarding in outdoor areas is not allowed.
- D. Animals shall be confined to the premises at all times.
- E. Onsite waste facilities shall be designed to accommodate all waste generated from kennels/daycare including hosing and cleanup
- F. The area is completely enclosed.

**A-6. Animal Raising, Non-Commercial, Indoor** - Non-commercial raising and keeping of animals within a dwelling.

**A-7. Conservation** - Conservation of land, water and wildlife.

**A-8. Dairy Farming, Commercial** - Commercial dairy farming, provided that:

- A. Animals are subject to the Smithfield Animal Control Ordinance, and
- B. The minimum area devoted to dairy farming is ten (10) acres.

**A-9. Greenhouses or Nursery, Commercial** - Nurseries and commercial greenhouses.

**B. RESIDENTIAL USES**

**B-1. Accessory Family Dwelling Unit** - An accessory dwelling unit for the sole use of one (1) or more members of the family of the occupant or occupants of the principal residence. An Accessory Family Dwelling Unit shall be subject to the following restrictions and limitations:

- A. Only one accessory family dwelling unit is permitted on a lot.

- B. The accessory family dwelling unit shall be located on a lot which has only one (1) principal residential structure. It shall be located only within the principal structure. In R-200, R-80, R-Med, and R-20 zones, an accessory family dwelling unit shall have a common entrance with the principal dwelling as its primary entrance.
- C. The size of any proposed accessory family dwelling unit shall be restricted to forty percent (40%) of the gross floor area of the principal structure, but not less than four hundred (400) square feet. If the proposed accessory family dwelling is located in an accessory structure, such accessory structure shall contain a gross floor area of not less than four hundred (400) square feet. The proposed accessory family dwelling unit shall comply in all respects with the side, rear, and front yard requirements for a single family residence as set forth in this Ordinance.
- D. The principal structure that contains an accessory family dwelling unit shall maintain the appearance of a single family residential dwelling. Separate means of ingress and egress, if used, shall only be located at the rear of the principal structure or along its side, with adequate screening.
- E. Family members shall be limited to persons related by blood, marriage or other legal means.
- F. Once the family member or members vacate the premises, the accessory family dwelling unit shall cease to exist, unless further application is made to qualify under this section.
- G. An application for an accessory family dwelling unit shall be filed annually with the Official and recorded in the Smithfield Land Evidence Records.

**B-2. Bed and Breakfast Home** - Single family, owner-occupied residence provided that:

- A. The Bed and Breakfast Home and Use shall be an accessory use to a single family house and that it shall be subordinate to the residential use of the premises.
- B. The Bed and Breakfast Home shall be operated by the homeowner.
- C. Each guest room of the Bed and Breakfast Home shall be in compliance with the Rhode Island State Housing and Occupancy Code.
- D. The Bed and Breakfast Home shall be in compliance with all applicable provisions of the Rhode Island State Fire Safety Code, the Rhode Island State Building Code, regulations of the Rhode Island Department of Environmental Management, Department of Health, and any other relevant local, state, or federal code or agency.
- E. There shall be no change in the outside appearance of the building and/or premises nor any visible or audible evidence detectable from outside the lot as to the presence of a Bed and Breakfast Home except for signage permitted under Article 8 of this Ordinance.
- F. There shall be no meals served to the general public. Meals may be served to guests of the Bed and Breakfast Home.

- G. That minimum off-street parking requirements as delineated in §7.4 of this Ordinance shall be provided.
  - H. Where deemed necessary to preserve and protect the residential nature of the neighborhood, the Board may require a landscape buffer, fence, or other screening between the Bed and Breakfast Home, its parking areas, and the neighbors' properties or street.
- B-3. Boarders** - Taking of boarders or the renting of rooms by a resident family provided that the total number does not exceed two (2) roomers or boarders.
- B-4. Community Residence** - Home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include the following:
- A. Whenever six (6) or fewer mentally handicapped children or adults reside in any type of residence in the community, as licensed by the state pursuant to Rhode Island General Laws §40.1-24-1,
  - B. A group home providing care or supervision, or both, to not more than eight (8) mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to Rhode Island General Laws §40.1-24-1,
  - C. A residence for children providing care or supervision, or both, to not more than eight (8) children including those of the care giver and licensed by the state pursuant to Rhode Island General Laws §42-72.1,
  - D. A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families not to exceed a total of eight (8) persons requiring temporary financial assistance and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in such residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.
- B-5. Congregate Housing, Life-Care Facility or Nursing Home** - Congregate housing, life-care facility or nursing home provided that in addition to all other requirements of this Ordinance:
- A. The Board shall determine the number of occupants permitted based on the sleeping capacity of the facility.
  - B. The use shall comply with all applicable codes and the regulations of the Rhode Island Department of Health as well as the licensing requirements of all other authorized State agencies, and the program shall be sanctioned by appropriate State or local agencies, or local United Way, Health Planning or Comprehensive Planning Agencies.
  - C. The Board in deciding on the appropriateness of the Special Use Permit shall take into consideration the proximity and location of other similar

facilities so as not to change the character of the area or impact a given area with such uses.

- D. There shall be a minimum set-back of fifty (50) feet in the front, side and rear yards.
- E. The property must be serviced by public water and public sewers.
- F. Additional conditions as deemed necessary by the Board to provide for orderly development.
- G. There shall be a minimum lot area of two hundred thousand (200,000) square feet.

**B-6. Dormitory Off-Campus** – Taking of students from schools and colleges provided that:

- A. All dormitories off-campus shall be located in single-family homes only.
- B. Students shall reside in a single-family home which shall be owner-occupied. Single-family owners and students shall share common living space. Separate living quarters in a basement or other portion of the home other than owner occupied area is prohibited.
- C. The total number of students shall not exceed two (2) students.
- D. The Dormitory Off-Campus shall be in compliance with all applicable provisions of the Rhode Island State Fire Safety Code, the Rhode Island State Building Code, regulations of the Rhode Island Department of Environmental Management, Rhode Island Department of Health, and any other applicable local, state, or federal code or agency.
- E. Off-street parking requirements as delineated in §7.4 of this Ordinance shall be provided.
- F. Only one student occupied single-family home is permitted on a lot.
- G. Once the student(s) vacate the premises, the Dormitory Off-Campus shall cease to exist, unless further application is made to qualify under this section.
- H. Any and all rubbish, boxes, containers, packages, trash, waste or other debris generated from the Dormitory Off-Campus shall be disposed of per §303 of the Smithfield Code of Ordinances.
- I. No one under the age of 18 years shall reside in a Dormitory Off-Campus.
- J. No Dormitory Off-Campus shall be located within 500 feet of a liquor establishment.

**B-7. Dwelling Unit for Operator of Non-Residential Use** - Dwelling unit for an operator or owner of a non-residential use in a structure existing prior to May 26, 1987, provided that:

- A. There is no visible exterior indication of the dwelling and;
- B. There is no variation from the residential character of the structure.

**B-8. Dwelling, Multi-Family** - Multi-family dwelling provided that:

- A. There shall be a maximum of four (4) dwelling units per structure, except for housing for the elderly which may have a maximum of eight (8) units per structure.
- B. All structures shall be located on lots serviced by public water and public sewer.
- C. All requirements of the Town of Smithfield Ordinance requiring Dedication of Land or Fees-in-Lieu of Land Dedication are met.
- D. Density regulations of §5.5 are met.

**B-9. Dwelling, Single Family Detached** - Single family detached residence.

**B-10. Dwelling, Two Family** - Two family residence.

**B-11. Family Day Care Home** - Any home other than the individual's home in which day care or supervision is offered at the same time to six (6) or less individuals, children or adults, who are not relatives of the care giver, but may not contain more than a total of eight (8) individuals receiving such care, subject to the following restrictions and limitations:

- A. There shall be a building or structure within which a minimum of fifty (50) square feet per child of useable, available, play or instruction space shall be provided.
- B. There shall be a minimum of fifty (50) square feet per child of useable, available outdoor play or instruction area on the lot or property, provided that no portion of such play or instruction shall be located within the required front yard of the lot or property.
- C. Outdoor play or instruction areas shall be enclosed by a fence no less than three (3) feet in height..
- D. Additionally, a landscaped hedge shall be provided along any rear or side property line adjoining any hedge or fence shall be designed and planted so as to be at least five (5) feet in height and eighty (80) percent or more opaque when viewed horizontally.

**B-12. Manufactured Home or Mobile Home** - Manufactured home shall mean a single-family, detached dwelling (commonly referred to as a "trailer or "mobile home"), transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to appropriate utilities. This definition includes "mobile home park" which means more than one manufactured home placed or arranged in one (1) or more lots. This definition is not intended to include prefabricated or modular dwellings which are shipped or towed to a site on separate running gear, removed from said running gear, assembled and permanently erected on a foundation for dwelling use.

**C. OFFICE USES**

**C-1. Construction Trailer on Construction Site** - Construction trailer on a construction site during the period of construction only, but not to exceed one (1) year.

- C-2. **Office, Governmental, Business, Professional** - Office building for government, business or professional purpose.
- C-3. **Office Park** - Office park, including accessory retail sales, services and day care.
- C-4. **Office, Home** - Professional or non-professional office in the home for use by a resident of the premises, provided that:
- A. The office occupies no more than three hundred (300) square feet of floor space.
  - B. There is no visible exterior indication of said office.
  - C. The residential character of the structure is not altered.
  - D. No employees other than family members who reside in the home may work on the premises.
  - E. If the home is in a non-residential district, it must have been in existence at the time of the passage of this Ordinance.
- C-5. **Office, Real Estate, Temporary** - Temporary real estate office located on the site of a development for the purpose of sales or rental of that development only.
- C-6. **Office, Medical and/or Dental** - Office where patients receive medical and/or dental services and treatment under the care of a physician, psychiatrist, dentist or other licensed medical professional on an out-patient basis only, which also may include any of the following on an out-patient basis: diagnostic and laboratory testing, occupational and physical therapy, physical fitness, emergency care, provided that the facility in total occupies no more than four thousand (4,000) square feet of floor space and sufficient off-street parking is provided pursuant to Section 7.4 (Schedule of Off-Street Parking Requirements) of this Ordinance.
- C-7. **Health Management Organization (HMO)** – Medical, Health, and/or Dental services and treatment plus the corresponding ancillary offices where patients receive medical, dental, surgical, psychiatric, and/or other health related services and care on an out-patient basis only, which also may include any of the following: diagnostic and laboratory testing, research laboratory or educational facility, occupational and physical therapy, physical fitness, drug and alcohol rehabilitation, clinic for medical, dental, surgical, or psychiatric treatment of disease and disability, pharmacy and emergency care.
- D. **PUBLIC AND SEMI-PUBLIC USES**
- D-1. **Cemetery** - Cemetery, subject to the following:
- A. An adequate and logical highway system shall be provided for the site.
  - B. In addition, the site shall have direct access to a public street.
  - C. Any new cemetery shall be located on a site containing at least twenty (20) acres.
  - D. Any building used for the interment of bodies or other remains of persons who have died, including mausoleums, vaults, or columbariums, shall be set back at least eighty (80) feet from any street line bounding the cemetery; and there shall be two (2) side yards and a rear yard of at least fifty (50) feet each.

- E. All graves and burial lots shall be set back at least thirty (30) feet from any street bounding the cemetery and at least thirty (30) feet from any side or rear lot line.
- F. Buildings for the maintenance, management, rent and/or sale of cemetery lots shall be located at least one hundred (100) feet from any lot lines which adjoin lots in a residential district.
- G. Any building for the maintenance, management, rent/or sale of cemetery lots shall be located in accordance with the approved site plan.
- H. A cemetery shall be for the interment of human remains only.

**D-2. Church and Other Places of Worship** - Church or other places of worship, provided that:

- A. The minimum lot size shall be four (4) acres;
- B. Front, side and rear yards are at least fifty (50) feet in width;
- C. Residential accessory uses must provide an additional five hundred (500) square feet of usable lot area for each site resident, in addition to that required for non-residential accessory uses.

**D-3. College** - Post-secondary educational institutions of higher learning, including colleges, universities, junior colleges, technical schools, along with accompanying service and administrative facilities and offices, including health care facilities, day care facilities, book stores; libraries, museums, and other facilities for educational and/or instructional purposes; laboratory facilities for teaching and research; radio, television, communications studios; exhibition facilities, theaters; customary indoor and outdoor sports facilities; residence hall, dormitory, residential facilities, sorority, fraternity, dining hall, and cafeteria; maintenance facility, workshop, garage, repair facility, and power plant; and, parking garage, provided that:

- A. The minimum lot area shall be ten (10) acres of contiguous land suitable for development. This minimum shall not apply to educational institutions where buildings are used for classrooms with no accompanying services or uses.
- B. Any associated recreational facilities, residential facilities, fraternities and sororities and/or dormitories shall be operated primarily as an adjunct to some educational, cultural, social, or athletic activity of such institution of higher learning and not leased or otherwise operated primarily for the purpose of gain or profit.
- C. No structure, parking, or loading area or recreational facility shall be nearer than one hundred (100) feet to any lot line of a residential zone.
- D. The Board may permit accessory retail uses subject to the following limitations in addition to any other applicable requirements of the Ordinance as follows:
  - (1) The gross floor area used for commercial purposes shall be limited to seventy-five (75) square feet per ten thousand (10,000) square feet of gross floor area. Residential and recreational facilities shall not be included in determining gross floor area allowed to be used for commercial purposes.

- (2) Public entry to commercial facilities shall be from the interior of the building with no direct public entrance from the outside of the building.
- (3) No merchandise or merchandise display window shall be visible from outside the building.
- (4) No outside storage or display of merchandise shall be permitted.
- (5) No business or identification sign pertaining to commercial uses shall be visible from outside the building.

Permitted commercial uses shall be limited to the following: pharmacy, flower shops, laundry and dry cleaning pickup stations, restaurants, food and beverage service facilities, snack bars, and sundries shops.

**D-4. Cultural Activities, Libraries, Museums** - Cultural activities, including libraries and museums.

**D-5. Day Camp** - Day camp, provided that:

- A. Along any rear or side lot line, yards are provided, each with a minimum depth (or width) of one hundred (100) feet, within which no camp equipment may be affixed to the land.
- B. In residential districts the subject lot is screened along the rear and side lot lines by a strip at least four (4) feet wide, densely planted with shrubs or trees which are at least four (4) feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six (6) feet high within three years.
- C. The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**D-6. Day Care Center** - Day nursery and day care center for children; day care center for adults, provided for facilities serving children:

- A. There shall be a building or structure within which a minimum of fifty (50) square feet per child of usable, available, play or instruction space shall be provided.
- B. There shall be a minimum of fifty (50) square feet per child of usable, available outdoor play or instruction area on the lot or property, provided that no portion of such play or instruction area shall be located within the required front yard of the lot or property.
- C. Outdoor play or instruction areas shall be enclosed by a fence no less than three (3) feet in height.
- D. Additionally, a landscaped hedge shall be provided along any rear or side property line adjoining any hedge or fence shall be designed and planted so as to be at least five (5) feet in height and eighty (80) percent or more opaque when viewed horizontally.

**D-7. Half-Way House** - Half-way houses, provided that in addition to all other requirements of this Ordinance:

- A. The Board shall determine the number of occupants permitted based on the sleeping capacity of the facility.
  - B. The use shall comply with all applicable codes and the regulations of the Rhode Island Department of Health as well as the licensing requirements of all other authorized State agencies, and the program shall be sanctioned by appropriate State or local agencies, or local United Way, Health Planning or Comprehensive Planning Agencies.
  - C. The Board in deciding on the appropriateness of the Special Use Permit shall take into consideration the proximity and location of other similar facilities so as not to change the character of the area or impact a given area with such uses.
  - D. There shall be a minimum set-back of fifty (50) feet in the front, side and rear yards.
  - E. There shall be a minimum lot size of two (2) acres for any such use.
  - F. There shall be a maximum lot coverage of twenty-five percent (25%), excluding parking spaces.
  - G. The property must be serviced by public water and public sewers.
  - H. Additional conditions as deemed necessary by the Board to provide for orderly development are met.
- D-8. Hospital** - Medical and health services hospital (not animal hospital) to include in-patient medical and surgical services and care along with any or all of the following: medical diagnostic services, medical or dental office, research laboratory or educational facility, sanitarium, and any use accessory thereto, center for occupational and physical therapy, physical fitness, and drug and alcohol rehabilitation; clinic for medical, dental, surgical, or psychiatric treatment of disease and disability, whether on an inpatient or outpatient basis and pharmacy.
- D-9. Municipal Building, Except Penal Facility**
- D-10. Municipal Fire, Police, or Rescue Station**
- D-11. Penal Facility or Prison** - Penal facility, prison, detention center, training school, or correctional institution.
- D-12. School, Public and Private** - Pre-school, Elementary through High School - Public and private schools including, classrooms, office and assembly use, lecture hall, library, and other facilities for instructional purposes; laboratory facility for teaching, administrative office, health care facility, day care facility; theater with no public assembly, dance studio, exhibition facility, stadium, indoor and outdoor sports facility, including gymnasium for athletic events such as swimming, skating, tennis, football, baseball and other sports; cafeteria; maintenance facility; parking lot; NOT INCLUDING trade or business school: vocational and trade skills in automotive, construction, metallurgical, chemical and similar industrial operations.
- D-13. Trade School, not utilizing heavy equipment** - Trade schools, public and private institution providing training and/or instruction in art, business, bookkeeping, accounting, secretarial and the like, cosmetology, dancing, driving, hair styling, music conservatory.

**D-14. Trade School Utilizing Heavy Machinery** - Trade school (as described above), including those utilizing heavy machinery for instructional purposes, vehicle repair, schools vocational and trade skills, construction, metallurgical, chemical and similar industrial operations.**D-15. Utilities, Public or Private** - Public or private utilities, such as a transformer station, substation, pumping station, public water tower, tank, or automatic telephone exchange provided that:

- A. Non-climbable fences approved by the Board shall be installed and maintained around the plant and all its facilities, equipment and operations.
- B. The use shall be screened from public view and any adjoining residential, commercial, office and/or industrial districts with a durable masonry wall, fence or hedge or other natural planting of comparable opacity, as ordered by the Board.
- C. All facilities shall be designed, constructed and operated so as to have a minimum deleterious effect on the health, safety and general welfare of the community.
- D. Applications for water works shall be accompanied by a report and recommendation from the Rhode Island Department of Health.

**D-16. Waste Management Facility** - Private or quasi-public waste management facility, such as an incinerator or the like.

**E. OUTDOOR RECREATION USES**

**E-1. Driving Range** - Driving range, provided that:

- A. All buildings and structures shall be at least fifty (50) feet from all property lines.
- B. All lights shall be directed away from site boundary lines.
- C. Fences, plantings, and sufficient area shall be provided to insure the safety and protection of persons and property on all adjacent land.
- D. All driving directions shall be away from any street or highway, unless proper safety precautions have been taken.

**E-2. Golf Course, Country Club** - Golf Course or Country Club provided that:

- A. All buildings and structures shall be at least fifty (50) feet from all property lines.
- B. All lights shall be directed away from site boundary lines.
- C. Fences, plantings, and sufficient area shall be provided to insure the safety and protection of persons and property on all adjacent land.
- D. One (1) non-flashing sign, not to exceed sixty (60) square feet in area, may be provided at the major entrance.
- E. All driving directions shall be away from any street or highway, unless proper safety precautions have been taken.

**E-3. Miniature Golf Course** - Miniature golf course, provided that:

- A. All buildings and structures shall be at least fifty (50) feet from all property lines.

- B. All lights shall be directed away from site boundary lines.
- C. Fences, plantings, and sufficient area shall be provided to insure the safety and protection of persons and property on all adjacent land.

**E-4. Outdoor Movie Theater, Commercial Amusement Park or Racetrack.**

**E-5. Public Park or Playground** - Public parks, picnic groves, open land refuges, preserves and public playgrounds.

**E-6. Public Swimming Pool or Beach**

**E-7. Riding Academy or Stable, Commercial** - Commercial riding academy or stable.

**F. RESTAURANT AND ENTERTAINMENT USES**

**F-1. Restaurant** - Restaurant without entertainment or alcohol, and without drive-in or window services, provided that the provisions of (A) through (H) shall be met.

- A. No vehicles awaiting service shall park or stand on a public way.
- B. The establishment shall be responsible for collecting litter within five hundred (500) feet of the premises resulting from its sale, at least daily and more frequently if necessary, to prevent unsightly conditions caused by litter.
- C. Ingress and egress driveways shall be located at least one hundred fifty (150) linear feet from any corner when said property abuts an intersection of two (2) streets to provide adequate sight distance for both vehicles and pedestrians.
- D. Ingress and egress shall be arranged so that vehicles need not back on or across any sidewalk or street.
- E. All ingress and egress driveways shall cross a sidewalk only in such a manner that its width at the inner edge of the sidewalk is not greater than its width at the curb, excluding any curbed or tapered section known as a curb return.
- F. Any portion of a parking or loading area abutting a sidewalk at a point other than a permitted driveway shall be provided with wheel stops, bumper guards, or other devices to prevent encroachment of parked, standing or moving vehicles upon any sidewalk area not contained within a permitted driveway.
- G. All curb cuts, widths, and other specifications shall comply with the standards established by the Smithfield Land Development and Subdivision Review Regulations.
- H. On a corner lot, no fence, wall, terrace, structure, shrubbery, automobile, or other obstruction to vision having a height greater than two (2) feet above the curb shall occupy the space in a triangle formed by measuring ten (10) feet back along the side and front property line.

**F-2. Restaurant with Window Service 1.** Restaurant with window services, provided that the provisions of F-1 (A) through (H) shall be met.

**F-3. Restaurant with Drive-Thru** - Restaurant with drive-thru service, provided that the provisions of F-1 (A) through (H) shall be met, and provided further that the

Zoning Board of Review must find prior to granting a special use permit for a drive-thru, that there is sufficient credible evidence in the record of the proceedings to establish that any queue resulting from the drive-thru will not extend onto a street.

**F-4. Restaurant with Entertainment and/or Alcohol** - Restaurant with entertainment and/or alcohol, provided that the provisions of F-1 (A) through (H) shall be met and provided that if there is live or recorded music that:

- A. Noise is confined to the building.
- B. There is no adult entertainment or nudity as defined in the Town Code.

**F-5. Restaurant as an Accessory Use** – Restaurant without drive-thru facilities or window services, with or without alcohol, as an accessory use, provided that the following requirements are met:

- A. Restaurants shall be located in buildings permitted by right or permitted by a special use permit provided that the building contains a minimum of sixty thousand (60,000) square feet of gross floor area.
- B. Restaurants under this provision shall be limited to one (1) per building, and two (2) per planned park not to exceed ten (10) percent of the building's gross floor area.
- C. Signs shall be in accordance with Article 8.
- D. Restaurants shall provide additional off-street parking for a restaurant use based on one-half of the required parking for a stand alone restaurant as required under §7.4 B (8) herein.
- E. Subject to compliance with all regulations herein and submission of a site plan under §10.9 of this Ordinance:

**G. RETAIL BUSINESS AND SERVICE USES**

**G-1 Adult Entertainment – Adult Entertainment Uses Provided:**

- A. The proposed location is in an Industrial Zone (I) and the Zoning Board of Review grants a special use permit in accordance with Article 10.8 of the Zoning Ordinance pertaining to issuance of a special use permit. Additionally, such special use permit shall not be granted unless each of the following standards have been met:
  - 1. The application for a special use permit pursuant to this subsection shall provide the names and addresses of the legal owner of the establishment, the legal owner of the property, and the manager of the proposed establishment.
  - 2. All uses granted under this subsection shall not be located within:
    - a. Five hundred (500) feet from the nearest residential zoning district; or
    - b. One thousand (1,000) feet from the nearest house of worship, school, park, playground, play field, youth center, licensed day care center, or other locations where groups of minors regularly congregate; or

- c. Two thousand (2,000) feet from the nearest adult entertainment establishment or sexually oriented business use as defined herein; or
- d. One thousand (1,000) feet from the nearest establishment serving alcohol.

The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed adult entertainment establishment or sexually oriented business use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

- 3. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
- 4. No use shall be allowed to display for advertisement or other purposes any signs, placards, or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any explicit figures or words concerning specified anatomical areas or sexual activities as defined herein.
- 5. No use permitted under this subsection shall be allowed to disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises. No one under the age of 18 years shall be permitted on the premises.
- 6. No use permitted under this subsection shall be allowed within a building containing other retail, consumer or residential uses.
- 7. No use permitted under this subsection shall be allowed a freestanding sign or plaza sign.
- 8. No use permitted under this subsection shall be established prior to submission and approval of a site plan by the Zoning Board of Review with the technical advice of the Town's Administrative Review Team. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, and other uses. The site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and property line of all other abutting uses.
- 9. All uses permitted under this subsection shall comply fully with all licensing requirements of the Town of Smithfield.
  - a. Any and all rubbish, boxes, containers, packages, trash, waste or other debris generated from the operation of such permitted adult entertainment business shall be disposed of in a manner which is discreet and invisible to passers-by. Furthermore, such debris shall be stored in a pad-locked container until time of final disposal.
  - b. Conditions: The Zoning Board of Review may impose reasonable conditions, safeguards and limitations on time or use

of any special use permit granted under this subsection and shall require that any such special use permit granted herein shall be personal to the applicant, shall not run with the land and shall expire upon sale or transfer of the subject property.

**G-2. Animal Hospital, Veterinarian Office** - Animal hospital, veterinarian office, veterinarian outpatient clinic, provided that:

- A. Buildings, structures and facilities, including runways, are located at least three hundred (300) feet from any property line.
- B. Veterinarian Outpatient Clinics shall be designed, constructed and maintained so that sound emitted through exterior walls and roofs enclosing areas where animals are treated or kept during treatment shall not exceed forty-five (45) decibels, measured by DBA Scale. See §6.3.C. (Performance Standards affecting Noise).
- C. Building plans submitted with an Application for Veterinarian Outpatient clinics shall include a certification by a registered architect or acoustical engineer that the building will meet the requirements of subparagraph B. above. Existing buildings that are to be used as Veterinarian Outpatient Clinics shall also be certified to by a registered architect or acoustical engineer as complying with the requirements of subparagraph B. above.
- D. The requirements of subparagraph A. shall not apply to a clinic composed only of a structure where small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only. Such clinic must be within a completely enclosed building, with no outside facilities or accessory structures for animals. There shall be no grooming or boarding of animals except as required for medical treatment.
- E. Adjacent properties are adequately protected from noise, odors and unsightly appearance.
- F. Animals are housed within a building and all facilities for breeding, boarding, training and care of animals are within a building. Animals shall be confined to the premises at all times.
- G. The area is completely enclosed by a perimeter fence.
- H. There may be provision for a single dwelling unit for an on-site caretaker or animal keeper.

**G-3. Automotive Filling, No Repair Facility** - Automobile filling - No Repair Facility and No Self-Service Car Wash or Motor Vehicle Laundry, provided that:

- A. The minimum lot size shall be forty thousand (40,000) square feet and the minimum lot width shall be two hundred (200) feet. At least twenty-five (25) percent of the parcel shall be open/green space, including a natural strip along each street front except for ingress and egresses.
- B. Except for pump islands, every structure erected shall have a minimum setback from the street right-of-way of one hundred (100) feet and a minimum setback from all property lines of fifty (50) feet. Pump islands shall be permitted in front yards and shall be set back a minimum of thirty (30) feet from all property lines.

- C. Suitable separation shall be made between pedestrian sidewalk and vehicular parking or moving areas with the use of appropriate wheel guards or traffic islands.
- D. The maximum width of all driveways at the sidewalks shall be thirty (30) feet.
- E. The distance of any driveway from any property line shall be at least twenty (20) feet.
- F. The distance between curb cuts or driveways shall be no less than forty (40) feet.
- G. Screening in accordance with Code of Ordinance Chapter 231 “Landscaping Requirements” or an opaque fence 6 feet high shall be erected along property lines abutting a residential use beginning ten (10) feet from the street line.

**G-3A. Automotive Filling, Convenience Retail** – Automobile fuel sales with convenience retail store – No Repair Facility and No Self-Service Car Wash or Motor Vehicle Laundry, provided that the provision of G-3(C) through (F) are met, and provided:

- A. The minimum lot size shall be forty thousand (40,000) square feet and the minimum lot width shall be two hundred (200) feet. At least twenty-five (25) percent of the parcel shall be open/green space, including a natural strip along each street front except for ingress and egresses.
- B. One structure housing the fuel/retail convenience store is allowed and such structure shall not exceed 5,000 s.f. GFA.
- C. Up to six (6) fuel pump islands are allowed and one half of the fueling positions at said pumps islands shall be counted toward the parking requirement as defined in Section 7.4 herein.
- D. Except for pump islands, every structure erected shall have a minimum setback from the street right-of-way of one hundred (100) feet and a minimum setback from all property lines of forty (40) feet. Pump islands shall be permitted in front yards and shall be set back a minimum of thirty (30) feet from all property lines.
- E. Screening in accordance with Code of Ordinance Chapter 231 Landscaping Requirements or an opaque fence six (6) feet high shall be erected along property lines abutting a residential use beginning ten (10) feet from the street line.

**G-4. Automotive Filling, Repair Facility** - Automobile filling, repair facility, provided that:

- A. The minimum lot size shall be eighty thousand (80,000) square feet and the minimum lot width shall be three hundred (300) feet. At least twenty-five (25) percent of the parcel shall be open/green space, including a natural strip along each street front except for ingress and egresses.
- B. Except for pump islands, every structure erected shall have a minimum setback from the street right-of-way of one hundred (100) feet and a minimum setback from all property lines of fifty (50) feet. Pump islands

shall be permitted in front yards and shall be set back a minimum of thirty (30) feet from all property lines.

- C. Suitable separation shall be made between pedestrian sidewalk and vehicular parking or moving areas with the use of appropriate wheel guards or traffic islands.
- D. The entire area used for vehicle service shall be paved, except for such unpaved areas as are landscaped and protected from vehicle use by a low barrier.
- E. Hydraulic hoists, pits, lubricating, greasing, washing and repair equipment shall be entirely enclosed within a building. Tire and battery service and minor automobile repair (excluding automobile body repair or painting) may be conducted but only within a building.
- F. The maximum width of all driveways at the sidewalks shall be thirty (30) feet.
- G. The distance of any driveway from any property line shall be at least twenty (20) feet.
- H. The distance between curb cuts or driveways shall be no less than forty (40) feet.
- I. A wall of evergreen screening or fence five (5) feet high shall be erected along property lines abutting a residential use beginning ten (10) feet from the street line.
- J. A self-service car-wash shall be subject to the following additional requirements:
  - (1) Said use shall be permitted only upon property directly abutting any portion of those streets designated by the Town Council as main thoroughfares.
  - (2) A minimum off-street storage space to accommodate two (2) waiting automobiles shall be provided for each wash bay. No queuing is allowed on public streets.
  - (3) At least one (1) employee shall be on duty during all hours of operation to maintain the equipment and grounds.
  - (4) No equipment laundries shall be permitted except as is necessary to permit self-service car washing or drying directly and solely by the customer.
- K. Automobile laundries shall be subject to the following additional requirements:
  - (1) All washing facilities shall be within an enclosed building except that vacuuming facilities may be outside the building but shall not encroach upon required yard area.
  - (2) At least one (1) attendant must be present during all hours of operation.

- G-5. Automotive, Motorcycle Sales** - Automotive, motorcycle sales with accessory service and washing, provided that all provisions in Use G-4a through G-4k shall be required.
- G-6. Automotive Washing** - Automotive washing shop, provided that all provisions in Use G-3a. through G-3k. shall be required.
- G-7. Bank** - Bank or financial institution with or without window service and/or drive-thru.
- G-8. Boat, Farm, or Power Equipment Sales** - Retail sales and service establishments for boats, farm equipment, power equipment, and similar equipment.
- G-9. Catering Establishment** - Catering establishment, provided that all activity is conducted within an enclosed structure.
- G-10. Christmas Tree Sales** - Seasonal sale of Christmas trees not grown on site.
- G-11. Customary Home Occupation** - An activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling, provided that:
- A. Noise is confined to the building.
  - B. No offensive noise, vibration, smoke, dust, odor, heat or glare should be produced;
  - C. The occupational use occupies no more that three hundred (300) square feet of floor space. In the case of individual tutoring, no more than two hundred (200) square feet of floor area shall be utilized;
  - D. There is no visible exterior indication of said occupation. There shall be no exterior display, no exterior sign (except as permitted under Article 8 - Signs), no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principal building;
  - E. The residential character of the structure is not altered.
  - F. The occupation is carried on by a member of the family residing in the dwelling unit; No employees other than family members who reside in the home may work on the premises.
  - G. If the home is in a non-residential district, it must have been in existence at the time of the passage of this Ordinance.
  - H. The occupation shall be carried on wholly within the principal residential building existing at the time of the passage of this Ordinance or constructed in accordance with the provisions of this Ordinance or within a building or other structure accessory thereto;
  - I. The occupation is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
  - J. Home occupations shall not include hairdressers, barbers, cosmetologists, beauticians, manicurists and similar occupations.

- K. The use shall not result in more than fifteen (15) vehicle trips per day to the dwelling, including those attributable to the residential use of the structure.

**G-12. Dry Cleaning Establishments** - Dry cleaning establishment, provided that:

- A. The establishment shall be operated only on a retail basis.
- B. It shall be an automatic operation in fully closed systems wherein cleaning, drying, extracting, and deodorizing processes are completed entirely within one (1) unit, or provided that where the cleaning, drying, extracting, and deodorizing operations require the manual transfer of materials from one machine or machines to another machine or machines, such manual transfer shall be carried out only by competent trained machine operators.
- C. The total rated dry cleaning capacity of all machines shall not exceed one hundred (100) pounds of items to be cleaned.
- D. The establishment shall not be located in a structure containing dwelling accommodations.

**G-13. Funeral Home, Mortuary** - Mortuary or funeral home, including the residence of the funeral director's household, subject to the following conditions:

- A. No building shall be closer than fifty (50) feet to any lot line.
- B. When located adjacent to residential districts, the external appearance of the principal building and accessory buildings shall be residential in character.
- C. Illumination shall be limited to parking areas and landscaping.
- D. No signs shall be displayed in connection with any such establishment, other than one identification sign, not exceeding twelve (12) square feet, not illuminated other than by a white non-flashing enclosed light design, or indirect lighting from a shielded source, plus not more than three signs each not exceeding two (2) square feet in area giving directions to and from off-street parking areas.

**G-14. Health and Fitness Center** - An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers, and provided that:

- A. Noise is confined to the building.
- B. Such building is located not less than fifty (50) feet from properties used or zoned for residential purposes.
- C. Such facilities may include an accessory retail use for a pro-shop or similar type retail establishment which may be no larger than five thousand (5,000) square feet of floor area.

**G-15. Hotel or Motel** - Hotel or motel, provided that:

- A. There is a minimum lot size of five (5) acres and provided no structure is located within one hundred (100) feet of any residential district.

- B. In conjunction with hotels and motels, the Board may permit accessory commercial uses subject to the following limitations in addition to any other applicable requirements of the Ordinance for the districts in which such uses are located:
- (1) Allowable commercial uses shall be located only in a motel or hotel having a minimum of seventy-five (75) rental units.
  - (2) Gross floor area used for commercial purposes shall be limited to seventy-five (75) square feet per rental unit. Ballrooms, conference rooms, meeting rooms, and similar assembly facilities shall not be included in determining gross floor area used for commercial purposes.
  - (3) Public entry to commercial facilities shall be from the interior of the building with no direct public entrance from outside of the building.
  - (4) No merchandise or merchandise display window shall be visible from outside the building.
  - (5) No outside storage or display of merchandise shall be permitted.
  - (6) No business or identification sign pertaining to commercial uses shall be visible from outside the building.
  - (7) Permitted commercial uses shall be limited to the following: dispensing of drugs, flower shops, laundry and dry cleaning pickup stations, restaurants, food and beverage service facilities, snack bars, sundries shops, ballrooms, conference rooms, meeting rooms, and similar assembly facilities.

**G-16. Indoor Amusement; Sports Facility** - Indoor amusement, including entertainment such as a sports facility, but NOT INCLUDING arcade type amusements or theaters, and provided that:

- A. Noise is confined to the building.
- B. Such building is located not less than fifty (50) feet from properties used or zoned for residential purposes.

**G-17. Laundry** - Full service laundry, self-service laundry, as follows:

1. Laundry - Full-Service, provided that:
  - a) All business, servicing or processing shall be conducted within completely enclosed buildings.
  - b) The gross floor area of the building space shall not exceed five thousand (5,000) square feet, exclusive of floor area devoted to loading facilities.
  - c) The operation shall not be located in a building a part of which is used for dwelling purposes.
  - d) Loading and unloading operations shall be conducted entirely on the premises.
  - e) The washers used shall not exceed a rated capacity of two hundred (200) pounds per machine.

- f) The operation may include pick-up and delivery of dry cleaning items but shall not include any dry cleaning plant or facility on site.
2. Laundry - Self-Service, provided that:
- A. The washers used shall not exceed a rated capacity of forty (40) pounds per machine.
  - B. There shall be no more than twenty (20) dryers, two (2) self-service dry cleaning machines and forty (40) washers permitted on the premises.
- G-18. Radio or Television Studio** - Radio or television studio.
- G-19. Radio, Television or Communications Tower** - Radio, television or communications tower, including cellular telephone service tower.
- A. Applicants requesting installation of new or additional towers at a specific location shall submit evidence to the Zoning Board of Review, which demonstrates that no existing tower within a one (1) mile radius of the proposed tower can accommodate the applicant's proposed antennas.
- G-20. Recreation, Indoor** - Indoor recreation or amusements, including entertainment such as theaters, provided that:
- A. Noise is confined to the building.
  - B. Such building is located not less than fifty (50) feet from properties used or zoned for residential purposes.
- G-21. Repair Shop, No Outdoor Storage or Display** - Repair shop, such as shoe repair, appliance or electric repair, jewelry repair, computer repair with a maximum gross floor area of two thousand (2,000) square feet, providing all repairs are conducted within the structure and there is no outside storage or display.
- G-22. Retail Sales, Under 5,000 s.f. GFA** - Retail sales and service establishments with a maximum gross floor area (GFA) of five thousand (5,000) square feet, NOT INCLUDING retail sales and service establishments for automobiles, motorcycles, boats, farm equipment and similar equipment, provided all sales and services are conducted within the structure and there is no outside storage or display of merchandise.
- G-23. Retail Sales, 5,000 to 40,000 s.f. GFA** - Commercial establishments with a gross floor area (GFA) ranging from five thousand (5,000) square feet up to a maximum of forty thousand (40,000) square feet (inclusive), NOT INCLUDING retail sales and service establishments for automobiles, motorcycles, boats, farm equipment and similar equipment, provided all sales and services are conducted within the structure. Retail Sales in a Light Industrial Zone (LI) shall be as an accessory use only.
- G-24. Shopping Centers, over 40,000 s.f. GFA** - Commercial establishments with a gross floor area (GFA) of more than forty thousand (40,000) square feet, provided all sales and services are conducted within a structure and provided that, when proposed for a commercial zone, such commercial establishment obtain Planning Board and Town Council approval prior to consideration for a Special Use Permit before the Zoning Board of Review.

- G-25. Theater** - Indoor Amusement Facility which is located in a building or part of a building and is devoted to showing motion pictures or for dramatic, dance, musical, or other live performances, but NOT INCLUDING more than 5% of the Gross Floor Area to arcade type amusements, and provided that:
- A. Noise is confined to the building.
  - B. Such building is located not less than one hundred (100) feet from properties used or zoned for residential purposes.
- G-26. Communication Antenna(s)** – Installation of communication antenna(s) and ancillary equipment other than a microwave dish on any existing tower or structure shall be allowed in all zoning districts by special use permit in accordance with Section 10.8 of the Zoning Ordinance subject to the following conditions:
- A. The antenna and equipment do not exceed the maximum height of the structure to which they are attached.
  - B. The antenna and equipment shall conform to the color of the structure to which they are attached.
  - C. The antenna and equipment shall conform to such other requirements as are imposed by the Zoning Board of Review to ensure that they will be as unobtrusive as reasonably possible.
  - D. The antenna and equipment shall be designed by a Rhode Island Licensed Professional Structural Engineer and the added antennas shall not diminish the structural integrity of the existing tower or structure to which it will be attached.

**H. WHOLESALE BUSINESS AND STORAGE USES**

- H-1. Storage of Flammable Materials** - Storage of flammable materials subject to the following:
- A. All hazardous materials used, created, stored above or below ground, processed, disposed of by processing, diluting, burying or containment, leaching or any other manner, or transported (including piping) in the Town of Smithfield shall be used, stored or transported in accord with all applicable Federal, State and Local regulations, and shall be subject to a Special Use Permit granted in accordance with Article 10, and if for wholesale or retail distribution:
    - (1) The storage facility shall be in full compliance with the standards promulgated by Factory Mutual, as the same may be amended from time to time.
    - (2) If the storage facility is over one thousand (1,000) gallons in capacity, the location of the storage facility shall comply with current applicable National Fire Protection Agency (NFPA) regulations as amended. Applicants requesting to site a new or additional storage facility shall submit to the Zoning Board of Review a copy of the applicable code section(s) for each hazardous material proposed for storage for verification and approval.

- (3) If the storage facility is one thousand (1,000) gallons in capacity or less, the location of the storage facility shall comply with the current applicable National Fire Protection Agency (NFPA) regulations as amended. Applicants requesting to site a new or additional storage facility shall submit to the Zoning Board of Review a copy of the applicable code section(s) for each hazardous material proposed for storage for verification and approval.
  - (4) Any underground storage for a nonresidential, nonfarming use shall be by a vaulted tank or tanks.
  - (5) As a prerequisite to the approval of the special use permit, the Board shall find that the use of the site for such storage will not endanger the safety of residential or other properties in the area, that vehicular access to the storage facility will be provided from major thoroughfares and will not require the use of minor residential access streets for access to the site.
  - (6) Exempt Residential uses up to five hundred (500) pounds of propane and six hundred and sixty (660) gallons of home-heating fuel per the current, applicable International Mechanical Code and National Fire Protection Agency (NFPA) Regulations as amended.
  - (7) The maximum storage capacity for retail/wholesale sales and/or distribution of propane shall not exceed one thousand gallons (1000) and comply with all applicable current federal, state and local codes and ordinances as amended.
- B. Except for transport on Routes 5, 7, 44, 104, and 295, a notice for use, creation, storage, processing, disposal, and transport shall be filed with the Town Council, on such forms as it shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, the routes of transport, carrier and conveyance, if any. The Town Council may require a bond be posted to cover any and all possible damage to persons, property and environment.

**H-2. Wholesale Business and Storage** - Wholesale business and storage in connection with the principal use but not including truck terminals or transfer stations, provided that:

- A. All storage of materials and equipment is completely enclosed in a building.
- B. Such uses shall not include the sale or transfer of flammable liquids, gas, explosives or other potentially hazardous materials.

## **I. SERVICE INDUSTRY USES**

**I-1. Automotive Body Shop** - Automotive body shop, provided that all provisions in Use G-3 A. through K. shall be required.

**I-2. Trade Establishment** - Trade establishment, including shops such as the following: plumbers, electricians, painter, paperhangers, upholsterers, sign painters, printers and monument works.

- I-3. **Machine Shop (Metal Works)** - Machine shops or other metal working.
- I-4. **Personal Service Establishments** - Establishments primarily engaged in providing services involving the care of a person, such as, beautician, barber, tanning salon, electrolycist, or masseuse.
- I-5. **Tattoo Parlor** – Establishments operated by any person registered by the State as a tattoo artist for the purpose of offering or conducting tattooing.
- I-6. **Massage Parlor** – As defined in Chapter 242 of the Code of Ordinances and provided all the requirements of said Chapter are met.

**J. INDUSTRIAL USES**

- J-1. **Research and Development** - Research and other development operations, including:
  - A. Laboratories, offices and other facilities for research, both basic and applied, conducted by or for any individual, organization or concern, provided such uses shall not include the production, sale, or transfer of potentially hazardous materials, exclusive of heating oil or propane for use within the facility.
  - B. Production of prototype products when limited to the scale necessary for full investigation of the merit of the product, provided there is no outside storage.
  - C. Production, processing, storage, and distribution of materials, goods and products not involving a retail activity on the lot or parcel when the primary use of each building on each lot or parcel is laboratory, office, pilot production, or other facility for research, provided there is no outside storage.
  - D. Manufacturing of pharmaceuticals limited to those permitted in Biological Safety Level 1 or Biological Safety Level 2 facilities as those terms are defined in the guidelines promulgated by the National Institutes of Health.
- J-1A. **Manufacture of Drugs and Pharmaceuticals – Permitted** – The following uses are *permitted* by right in a Planned Corporate District – B subject to compliance with all regulations herein and submission of a site plan under §10.9 of this Ordinance.
  - A. Manufacturing of drugs and pharmaceuticals limited to those permitted in Biological Safety Level 1 or Biological Safety Level 2 facilities as those terms are defined in the guidelines promulgated by the National Institutes of Health, together with research and development associated with such manufacture.
  - B. The Town shall be provided with copies of all correspondence to include but not limited to Facilities Documents, FDA Documents and R.I. Department of Environmental Management Documents, etc. relating to the facility and the manufacturing of products in compliance with Bio Safety Level 1 and 2.

- J-2. Industrial Park** - Industrial park including accessory retail sales and services, provided that only uses permitted in Use J-3 are allowed.
- J-3. Light Industrial** - Manufacturing of non-hazardous materials, light industry including related offices, such as the following, provided that such uses shall not include the sale or transfer of flammable liquids, gas, explosives or other potentially hazardous materials.
- A. Assembly of previously prepared or manufactured parts, packaging.
  - B. Laboratory or research establishments.
  - C. Machine shops or other metal working.
  - D. Printing and graphic arts establishments.
- J-4. General Industrial** - Manufacturing, compounding, processing, stamping, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceutical, toiletries and food products, and wood, but not including the rendering of fats or oils.
- J-5. Heavy Industrial** - Smelter, blast furnace or blooming mill. Manufacture of carbon black, tile or brick manufacturing, coal distillation or derivation of coal products. Fireworks manufacture, explosives manufacture. Fertilizer manufacture, chemical manufacture, ammonia, bleach or chlorine manufacture, sodium compounds or potash manufacture. Ice manufacture. Plastic and pyroxylin manufacture. Petroleum refining, acetylene gas manufacture. Creosote manufacturing or treatment, paint manufacture and acid manufacture. Soap manufacture. Rubber manufacture or treatment, oilcloth or linoleum manufacture, gutta-percha manufacture or treatment. Alcohol manufacture or brewery, processing or vinegar or yeast. Textile dyeing or finishing, wool pulling or scouring. Atomic energy processing. Cement, lime, gypsum or plaster manufacture, asphalt manufacture or refining, tar distillation.
- J-6. Storage Facility, not including truck terminal** - Storage as principal use including self-storage and excluding truck terminal or outside storage.
- J-7. Trucking Terminal** – Prohibited in all Districts.

**K. TRANSPORTATION USES**

- K-1. Airport; Helipoint** - Airport or heliport subject to the following:
- A. Any buildings, hangars, or other structures shall be at least one hundred (100) feet from any street or lot line and at least five hundred (500) feet from any residential district boundary.
  - B. Adequate space for off-street parking for at least fifty (50) vehicles shall be provided. If in the opinion of the Board, off-street parking for more than fifty (50) vehicles will be required, the Board shall increase this requirement.
  - C. In addition to all other requirements of the land development plan, the application for authorization of an airport or heliport shall be accompanied by a plan, drawn to scale, showing the proposed location of the airport or heliport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, landing strips or areas,

taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zone and less than five hundred (500) feet distance from the boundary lines of the airport or heliport; other pertinent data such as topography and grading plan, drainage, water, and sewage, etc.

D. In its land development plan review of the proposed airport or heliport, the Planning Board shall make a finding on at least the following two issues:

- (1) Whether the airport or heliport is in conflict with any existing element of the Comprehensive Community Plan;
- (2) Whether the benefits of and need for the airport or heliport area are greater than any possible depreciating effects and damages in the neighboring property.

**K-2. Bus Passenger Station** - Bus passenger station, taxicab dispatching office, and taxicab garage.

**K-3. Helipad** - An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters and not including any auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

**K-4. Parking, Commercial, Off-Street** - Commercial off-street parking.

**K-5. Parking and Storage, Commercial, Motor Vehicles as Accessory Use** - Parking or storage of commercial motor vehicles, provided that such vehicles are used in conjunction with the authorized use being conducted on the premises or parcel of land.

**K-6. Parking and Storage, Commercial, Motor Vehicles not as Accessory Use** - Parking or storage of commercial motor vehicles not used in conjunction with the authorized use being conducted on the premises or parcel of land.

**K-7. Residential District Parking and Storage of Non-Passenger Motor Vehicles/ Recreation Equipment** - Parking or storage of vehicles and recreation equipment, other than passenger vehicles, and school buses having a capacity of more than five (5) tons gross vehicle weight or having three (3) or more axles, shall be prohibited from being stored or garaged in residential districts. This provision shall not be construed to permit a commercial, industrial, or service enterprise where such use is otherwise prohibited by this Ordinance.

**K-8. Taxi-Cab Dispatching and Garage** - Taxi-cab dispatching office and taxi-cab garage.

**L. ACCESSORY USES**

**L-1. Accessory Use customarily Incidental to and located on the same site as a use permitted as a Special Use Permit in the District** - Any accessory use customarily incidental to and located on the same site as a use permitted as a Special Use Permit in the District.

**L-2. Accessory Use Customarily Incidental to and located on the same site as a Use Permitted in the District** - Any accessory use customarily incidental to and located on the same site as a use permitted in the District provided that:

- A. In no case shall an accessory use predate the installation in operation of the principal use.
- B. When the principal use ceases to operate, the accessory use shall immediately cease as well.

**L-3. Parking Structure** - as an accessory use incidental to and located on the same site.

#### **4.5 DIMENSIONAL RELIEF BY SPECIAL USE PERMIT**

In accordance with Article 10 of this Ordinance, the Zoning Board may by Special Use Permit grant relief from the dimensional and intensity regulations of this Ordinance for any use it authorizes by Special Use Permit except for intensity regulations with regard to floor area to lot size ratio and residential density.

#### **4.6 USES PROHIBITED IN ALL DISTRICTS**

- A. Manufactured Home, Mobile Home, Mobile Home Parks (as delineated in §4.4B-11), including the following:
  - (1) Manufactured Home
  - (2) Mobile Home
  - (3) Mobile Home Park
  - (4) Mobile Trailer
- B. Penal Facility or Prison (as delineated in §4.4D-11), including the following:
  - (1) Correctional Institution
  - (2) Detention Center
  - (3) Penal Facility
  - (4) Prison
  - (5) Training School
- C. Waste Management Facility (as delineated in §4.4D-16), including the following:
  - (1) Incinerator
  - (2) Waste Management Facility
- D. Outdoor Movie, Amusement Park, Racetrack (as delineated in §4.4E-4)
  - (1) Commercial Amusement Park
  - (2) Outdoor Movie
  - (3) Racetrack
- E. Heavy Industrial (as delineated in §4.4J-5)
  - (1) Acetylene Gas Manufacture
  - (2) Ammonia Manufacture
  - (3) Acid Manufacture
  - (4) Alcohol Manufacture or Brewery

- (5) Asphalt Manufacture or Refining
- (6) Atomic Energy Processing
- (7) Blast Furnace
- (8) Bleach Manufacture
- (9) Blooming Mill
- (10) Brick Manufacturing
- (11) Carbon Black, Manufacture of
- (12) Cement Manufacture
- (13) Cesspool, Open Dumping Station
- (14) Chemical Manufacture
- (15) Chlorine Manufacture
- (16) Coal Distillation or Derivation of Coal Products
- (17) Creosote Manufacturing or Treatment
- (18) Disposal Dumping Areas, Private
- (19) Distillation of Bones, Offal, or Dead Animal Reduction
- (20) Dumps, Private
- (21) Earth Removal
- (22) Explosives Manufacture
- (23) Fats and Oils, rendering or refining of
- (24) Fertilizer Manufacture
- (25) Fireworks Manufacture
- (26) Fish Smoking, Curing, or Canning
- (27) Genetic Engineering
- (28) Glue Manufacture
- (29) Gutta-percha Manufacture or Treatment
- (30) Gypsum Manufacture
- (31) Ice Manufacture
- (32) Junk Yards
- (33) Motor Vehicle Junk Yard
- (34) Mining
- (35) Oilcloth Manufacture
- (36) Lime Manufacture
- (37) Linoleum Manufacture
- (38) Liquid Waste Disposal Sites
- (39) Loam Stripping

- (40) Paint Manufacture
- (41) Petroleum Refining
- (42) Plaster Manufacture
- (43) Plastic Manufacture
- (44) Potash Manufacture
- (45) Pyroxylin Manufacture
- (46) Quarrying
- (47) Rawhides, Tanning or Curing of
- (48) Rubber Manufacture or Treatment
- (49) Sand and Gravel Extraction
- (50) Sanitary Landfills
- (51) Smelter
- (52) Soap Manufacture
- (53) Sodium Compounds Manufacture
- (54) Tar Distillation
- (55) Textile Dyeing or Finishing
- (56) Tile Manufacturing
- (57) Trucking Terminals
- (58) Vinegar, Processing of
- (59) Wool Pulling or Scouring
- (60) Yeast, Processing of

## **ARTICLE 5 - DIMENSIONAL REGULATIONS**

### **5.1. APPLICATION**

5.1.1. No land shall be used and no building shall be erected, enlarged or used except in accordance with this Article.

### **5.2. DIMENSIONAL REGULATIONS**

5.2.1. Dimensions shall meet the requirements of Table I entitled Dimensional Regulations; and such additional or special requirements as are contained in the following subsections and as are required as a condition for a special use permit.

5.3.1 Area

### **5.3. CALCULATION OF MINIMUM CONTIGUOUS BUILDABLE LOT AREA**

#### **5.3.1 Area**

A. When calculating buildable lot area, a buildable lot shall be determined by the following criteria:

1. In R20 and R20M residential zoning districts, if the lot is served by public sewer, a minimum buildable lot area shall be required which is at least 10,000 square feet of contiguous buildable land exclusive of land unsuitable for development as defined in Section 6.8.1 of this Ordinance, and the lot meets all other dimensional requirements of this ordinance.
2. In R20 and R20M residential zoning districts, if the lot is not served by public sewer, a minimum buildable lot area shall be required which is at least 20,000 square feet of contiguous buildable land exclusive of land unsuitable for development as defined in Section 6.8.1 of this Ordinance, and the lot meets all other dimensional requirements of this ordinance.
3. In non-residential and planned development zoning districts, a buildable lot area shall be required whereby at least 50% of the lot's square footage is composed of contiguous buildable land, exclusive of land unsuitable for development as defined in Section 6.8.1 of this Ordinance, and the lot meets all other dimensional requirements of this ordinance.
4. In all other residential zoning districts, if the lot is served by a public sewer, a minimum buildable lot area shall be required which is at least 20,000 square feet of contiguous buildable land, exclusive of land unsuitable for development as defined in Section 6.8.1 of this Ordinance, and the lot meets all other dimensional requirements of this ordinance.
5. In all other residential zoning districts, if the lot is not served by a public sewer, a minimum buildable lot area shall be required which is at least 30,000 square feet of contiguous buildable land, exclusive of land unsuitable for development as defined in Section 6.8.1 of this Ordinance, and the lot meets all other dimensional requirements of this ordinance.

#### **5.3.2. Frontage**

A. Minimum street frontage for lots fronting entirely on cul-de-sacs, shall be thirty (30) percent below the frontage requirements of Table 1. For cul-de-sacs, frontage shall be measured at the street line.

- B. In no case shall the lot measure less than seventy (70) percent of the required minimum lot width between the rear of the front yard and the frontage.

#### 5.3.3. **Yards**

- A. Ordinary structural projections of window sills, cornices, overhangs, stairways, and other ornamental features may extend up to three (3) feet into a required yard setback area.
- B. Where a lot is situated between two (2) lots, each of which has a main building within twenty-five (25) feet of its side lot line which projects beyond the established front yard line and was so maintained since May 26, 1987, the front yard requirements on such lot shall be the average of the front yards of said existing buildings. The front yard of such lot shall not be less than fifteen (15) feet.
- C. For the purposes of side yard regulations, residential dwellings with common party walls shall be considered as one (1) building occupying one (1) lot. Any such building shall have double the side yard that is required in the applicable district.
- D. All shelters for household pets are allowable no closer than ten (10) feet to a property line. All other animal shelters, excluding bird shelters, must be kept a minimum of twenty (20) feet from a property line.
- E. No part of a yard, or other open space, or off-street parking or loading space required or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- F. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein or to add to the non-conformance, if any. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- G. Lots of Record in an R-20 Zone are entitled to a ten (10) foot side yard.

#### 5.3.4 **Buffers**

- A. No structure, except as provided below, shall be located within one hundred (100) feet of a Fresh Water Wetland (as defined herein), with the exception of the required buffers for rivers and streams which must comply with Rhode Island Department of Environmental Management (RIDEM) standards. Within the additional fifty (50) feet of Fresh Water Wetlands buffer required by this Ordinance, the following structures are permitted:
  - 1. Decks, porches, gazebos, patios, above-ground swimming pools, in-ground swimming pools, septic systems, fences, signs, permitted accessory residential and/or non-residential structures under two hundred (200) square feet, driveways, parking lots.
- B. No structures shall be erected in a non-residential zone within one hundred (100) feet of a residential zone.

### 5.3.5 **Height**

The maximum height set forth in Table I shall not include mechanical devices, mechanical penthouses and parapets as determined by the Official and in no instance, shall the number of building stories exceed three (3), excluding basement level story, defined as at least fifty (50) percent below grade, on average, as determined by the Official.

## 5.4 - **TABLE 1 - DIMENSIONAL REGULATIONS**

	<b>R-200</b>	<b>R-80</b>	<b>R-Med</b>	<b>R-20</b>	<b>R-20M</b>	<b>MU</b>	<b>PD</b>
Minimum Lot Area (in square feet)	200,000	80,000	40,000	20,000	20,000	20,000	200,000
Minimum Lot Area per Dwelling Unit (in square feet)	200,000	80,000	40,000	20,000	20,000/1F 40,000/2F+ 20,000/ Multi-Family Unit	20,000	20,000
Minimum Frontage and Lot Width (in feet)	300	200	150	125	125/1F 150/2F + See §5.5 Multi-Family	125	300
Minimum Front Yard (in feet)	50	40	30	30	30	30	50
Minimum Side Yard (in feet)	40	25	20	15	15	15	40
Minimum Rear Yard (in feet)	100	75	40	30	30	30	100
Maximum Lot Coverage <sup>1</sup>	10%	10%	20%	25%	25%	25%	25%
Maximum Height (in feet)	39	39	39	39	39	39	39

<sup>1</sup>Lot Coverage includes Structures ONLY.

**NOTE:** For the purposes of calculating minimum lot and yard dimensions, area, density, maximum lot coverage, and the maximum number of lots or dwelling units permitted in a Conservation Development in any zoning district where permitted, the provisions of Section 5.6 of this Ordinance shall apply.

	<b>Village</b>	<b>Commercial</b>	<b>Highway Commercial</b>	<b>Light Industrial</b>	<b>Industrial</b>	<b>Planned Corporate Park</b>	<b>Planned Corporate Single Site</b>
Minimum Lot Area (in square feet)	20,000	40,000	60,000	100,000	200,000 and 40,000 for industrial cluster	1 acre within 6 acre park	3 acres
Minimum Frontage and Lot Width (in feet)	150	200	300	300	300	100	200
Minimum Front Yard (in feet)	Required to build to lot line	60	60	100	100	100	150
Minimum Side Yard (in feet)	0	40	40	40	40	40	50
Minimum Rear Yard (in feet)	0	50	50	50	50	50	50
Maximum Lot Coverage <sup>1</sup>	30%	30%	30%	50%	50%	25%	35%
Maximum Impervious Surface <sup>2</sup>	N/A	N/A	N/A	N/A	N/A	65% of entire park	65%
Maximum Floor Area Ratio	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Maximum Height (in feet)	39	48	48	48	48	48	48

<sup>1</sup>Lot Coverage includes Structures ONLY.

<sup>2</sup>Impervious Surface includes Structures, Pavement, Sidewalks, and other Impervious Surfaces.

**NOTE:** For the purposes of calculating minimum lot and yard dimensions, area, density, maximum lot coverage, and the maximum number of lots or dwelling units permitted in a Conservation Development in any zoning district where permitted, the provisions of Section 5.6 of this Ordinance shall apply.

## **5.5 DIMENSIONAL REGULATIONS FOR MULTI-FAMILY DWELLINGS**

### **5.5.1. Minimum Lot Area**

The minimum lot area in any district for a multi-family dwelling structure containing 3 units shall be 60,000 square feet.

### **5.5.2. Maximum Number of Dwelling Units**

In the R-20M and PD districts, the maximum number of dwelling units for multi-family use shall be two (2) units per acre.

### **5.5.3. Minimum Street Frontage**

The minimum street frontage shall be no less than the lot depth divided by two and one-half (2.5). In no case shall the minimum street frontage be less than one hundred and fifty (150) feet.

### **5.5.4. Minimum Side Yards**

The minimum yard depths for side yards shall be:

- a) for a one-story structure - twenty (20) feet
- b) for a two-story structure - thirty (30) feet
- c) for a three-story structure - forty (40) feet

### **5.5.5. Minimum Yard Depths**

The minimum yard depth for front yard and rear yard shall be fifty (50) feet.

### **5.5.6. Maximum Structure Height**

The maximum height of a multi-family structure shall be no more than three stories and shall be not more than thirty-nine (39) feet.

### **5.5.7. Accessory Structures**

- a) The minimum set back from lot lines for accessory structures and for all uses in side and rear yards shall be ten (10) feet.
- b) No accessory structures shall be permitted in the required front yard.
- c) The maximum height of accessory structures shall be twenty (20) feet.

### **5.5.8. Corner Lots**

Corner lots shall maintain the equivalent on both streets equal to what is called for by the front yard minimum setback according to the individual zone required.

### **5.5.9. Distance Between Structures**

There shall be at least twenty (20) feet between each principal structure on the site.

## **5.6 CONSERVATION DEVELOPMENTS**

### **5.6.1 Purpose.**

The purposes of this section entitled Conservation Developments, are:

- A. To protect natural resources, including but not limited to those areas containing woodlands, unique vegetation, streams, floodplains, wetlands,

- aquifers to their recharge areas, agricultural lands, wellheads and vernal pools, by setting them aside from development;
- B. To preserve cultural, historical and archaeological resources;
  - C. To protect recreational resources;
  - D. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including wastewater disposal systems and wells, and to reduce length of roads, utility runs, and the amount of paving required for residential development;
  - E. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the population diversity of the community may be maintained;
  - F. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the Comprehensive Plan,
  - G. To provide reasonable incentives for the creation of a contiguous greenway system within the Town;
  - H. To implement adopted land use, transportation and community service policies, as set forth in the Comprehensive Plan,
  - I. To protect areas of the Town with productive agricultural soils to encourage continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
  - J. To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
  - K. To provide for the maintenance of open land set aside for active or passive recreational use, stormwater drainage or conservation lands;
  - L. To conserve and create scenic views and preserve the rural character of the Town; and,
  - M. To provide a buffer between new development and existing streets, neighborhoods, active farmland and adjacent park or conservation land.

5.6.2. **Approval procedure.**

The Planning Board shall require, as a land development project, a conservation development in the following residential zoning districts: Medium Density, Residential R-Med, Low Density, Residential R-80 and Residential Conservation R-200 unless the Board approves a waiver authorizing a conventional subdivision. Application for all conservation development land development projects shall be made in accordance with the procedures of the Town's Land Development and Subdivision Review Regulations, whether a subdivision or not.

5.6.3. **Permitted Uses.**

Permitted uses in a conservation development include:

- A. The following residential uses are permitted (P) or may be authorized by a Comprehensive Permit in a conservation development:

Use Category as provided in Table 4.3, Section B. Residential Uses

1. Dwelling, single family detached.
  2. Accessory family dwelling unit as provided in section 4.4.B-1.
  3. Dwelling, two-family, if approved by the Zoning Board, in conformance with the requirements of the Low & Moderate Income Housing Plan.
  4. Dwelling, multifamily up to four (4) dwelling units per structure, if approved by the Zoning Board, in conformance with the requirements of the Low & Moderate Income Housing Plan.
  5. Home occupations
- B. Accessory uses customarily incidental to a use permitted in the district and located on the same site are permitted by right. Any accessory use customarily incidental to a use allowed by special use permit in the district and located on the same site is permitted by special use permit.
- C. Regardless of the form of ownership, the open space shall be used only for conservancy in its natural state, grazing agriculture, walking, horseback riding, and/or bicycle riding, playing fields and courts, swimming pools, and other recreational facilities and structures for use of lot owners of the building lots and their guests with general public access provided. Other provisions of this Ordinance notwithstanding, no structure contained within the permanent open space or accessory to it shall exceed a height of fifteen (15) feet nor shall it be nearer than fifty (50) feet to the property line of the development. The restrictive agreement shall be in such form and contain such facts and provisions that, so far as possible under then existing law, the restrictions will not terminate by operation of law.

The restrictions shall be governed by the following:

- Such restrictions shall be for the benefit of and enforceable by the Town, and, if the applicant so requests, shall also be enforceable by the applicant and/or by the owners of the building lots shown on such plan. The applicant may specify, subject to the approval of the Planning Board, that such restrictions be established for the benefit of the Town by a trust enforceable by the Zoning Official.
  - The restrictions provided for the above shall include an agreement that the recreation facilities not owned by the Town shall be maintained by the non-profit organization or corporation or trust created in accord with §5.6.6 and that the permanent open space not owned by the Town shall be maintained in accordance with standards established by the Smithfield Planning Board.
- D. The following uses listed in Table 4.3 of the Zoning Ordinance shall be permitted within the open space areas:

Use Category as provided in Table 4.3, Section A. Agricultural Uses

Raising of crops and trees, noncommercial (P)

Conservation (P)

Use Category as provided in Table 4.3, Section E. Outdoor Recreation

Golf Course, Country Club (S)

In addition, subdivision parks, playgrounds, community centers, recreation facilities and similar uses and structures of a non-commercial nature designed for the use of the residents of the conservation development and their guests are permitted (P) in a conservation development. Public access must be provided to all open space unless waived by the Smithfield Planning Board.

In all zoning districts where conservation developments are permitted, the following uses may also be allowed in open space areas if permitted by the Planning Board in accordance with the applicable provisions of the Smithfield Land Development and Subdivision Review Regulations:

1. Stormwater drainage areas
2. Placement of privately owned and maintained wells for individual uses within the Conservation Development;
3. Placement of privately owned and maintained community wells for uses within the Conservation Development;
4. Placement of privately owned and maintained individual or common sewage disposal systems for uses within the Conservation Development, if granted as a waiver by the Planning Board;
5. Buildings, structures, parking areas or other impervious improvements which are accessory to and subordinate to a permitted open space use, may be located on any open space lot provided that, in all cases, they occupy no more than five (5) percent of the total open space area of the Conservation Development.

The required amount of open space in a conservation development shall be as provided in Section 5.6.6.

5.6.4. **Maximum Density for Conservation Development.**

The maximum density for a conservation development shall not exceed the number of lots for single family detached dwellings which could reasonably be developed upon the conservation development site under a Conventional Yield Plan as provided in Section X, Article H of the Land Development and Subdivision Review Regulations (The Basic Maximum Number of Dwelling Units).

5.6.5. **Lot Dimensional Requirements.**

A conservation development may be developed with dwelling units on separate lots, a single lot, or a combination thereof. Where dwellings are proposed to be located on individual lots, the dimensional regulations provided in Table 5.6-1 below shall be applicable to dwellings within a conservation development. Where dwellings are proposed to be developed upon a single lot, as in the case of multifamily dwellings or condominium projects that meet the requirements of the Low & Moderate Income Housing Plan, the provisions of Article X, Section N of the Land Development and Subdivision Review Regulations entitled Buffer Areas shall apply.

*Note:* The Planning Board may authorize, through a request for waiver, modifications to the above lot frontage and width as provided in 6.9 of the Zoning Ordinance entitled Flexible Lot Frontage and Width.

5.6.6. **Open Space in Conservation Developments.**

All conservation developments shall provide open space in accordance with the following requirements and standards:

- a. The open space shall be established as a lot or lots separate and distinct from the lot or lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- b. The open space, regardless of ownership, shall have a 2<sup>nd</sup> tier conservation easement placed upon it, to be held by a separate and distinct entity of the primary easement holder. Any proposed changes to the easement dimensions or uses must be approved by the property owner, easement(s) holders and the Smithfield Planning Board and must be consistent with the intent of the original open space dedication. All open space lands will be protected from future development in perpetuity.
- c. The minimum amount of required open space area shall be based on a percentage of the land suitable for development in the entire Conservation Development as provided in the table below. None of the minimum required open space area shall be devoted to land unsuitable for development as defined in Section 6.8 of the Zoning Ordinance.

Zoning District	Minimum Percentage of Land Suitable for Development to be Dedicated as Open Space
R-200	75
R-80	60
R-Med	50

- d. Any change in the ownership or in the restrictions placed on the open space shall require the approval of both the Smithfield Town Council and one or more independent, non-profit organization(s) to be identified in the Land Development and Subdivision Review Regulations.

**Table 5.6-1 – Dimensional Requirements in a Conservation Development**

Utilities	Min. Buildable Lot Area (sq. ft.)	Min. Lot Frontage and Width (ft.) (see Note)	Min. Front Yard Depth (ft.)	Min. Rear Yard Depth (ft.)	Minimum Side Yard (each side) (ft.)	Maximum Building Coverage (percent)
<b><u>Single Family Dwelling</u></b>						
Public water and sewer	20,000	80	25	30	16	30
ISDS &/or well located off lot	20,000	100	30	30	16	25
ISDS and well located on lot	30,000	125	30	40	16	17.5
<b><u>Two Family Dwelling</u></b>						
Public water and sewer	20,000	80	25	30	16	30
ISDS &/or well located off lot	30,000	125	30	40	20	20
ISDS and well located on lot	40,000	150	30	40	20	15
Note: The Planning Board may authorize, through a request for waiver, modifications to the above lot frontage and width as provided in Section 6.9 of the Zoning Ordinance entitled <u>Flexible Lot Frontage and Width</u> .						

## 5.7 **PLANNED DEVELOPMENT**

5.7.1 The uses permitted or allowed by Special Use Permit in the Planned Development District are governed by the following regulations:

- A. All Planned Development applications shall require Planning Board approval as a Major Land Development.
- B. If there is more than one type of major land use (e.g., residential, commercial, institutional, industrial) in the Planned Area, no one type shall constitute less than ten (10) percent or more than seventy (70) percent of the total dwelling units or major land use.
- C. The minimum area of any Planned Area shall be not less than two hundred thousand (200,000) square feet, calculated in accordance with §5.3.1.
- D. In addition, there shall be provided for each dwelling unit within the Planned Area an area equivalent to twenty thousand (20,000) square feet for each single-family structure, forty thousand (40,000) square feet for each two-family structure and for multi-family dwellings the area required by §5.5.2.
- E. No residential building within a Planned Area shall contain more than four (4) units.
- F. No building or structure shall be located closer than one hundred (100) feet from the center line of any public way or other way utilized to meet the

frontage requirements of this section, or within seventy-five (75) feet from the center line of any interior street, way, or driveway.

- G. No building or structure shall be located within or closer than twenty-five (25) feet of an area which is required to be maintained in a natural state.
- H. No building or structure shall be located within fifty (50) feet of a property or lot line.
- I. If there is more than one building containing dwelling units on a single lot, there shall be a minimum of fifty (50) feet between such buildings.
- J. Each dwelling unit shall have at least two (2) sides with full exposures, and shall have two (2) separate exits.
- K. No floor, except unfinished basement, of a dwelling shall be located beneath the average finished grade of the ground adjoining the building.
- L. Buildings shall be of an architectural style which is compatible with the prevailing style in the area in which the Planned Area is located and shall be compatible with other buildings in the Planned Area.
- M. Buildings, open spaces, driveways, parking areas and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.
- N. Building placement which makes maximum use of solar energy shall be encouraged.
- O. All existing or proposed utilities shall be installed underground at the time of initial construction. When required, each structure or dwelling unit shall be equipped with fire protection systems approved by the Fire Department.
- P. Lighting facilities, whether placed along service drives, in parking areas or on the exterior of buildings, shall be so arranged and shielded that they do not unreasonably distract the occupants of the buildings or shine directly upon abutting properties and/or public ways. In no case shall illumination upon the window surface of any buildings used for dwelling purposes exceed five-tenths (0.5) foot candles.
- Q. Provisions shall be made for the storage, collection and removal of garbage and trash. All necessary facilities shall be appropriately screened from view.
- R. There shall be one entrance road and one exit road to each Planned Area, unless a divided entrance-exit road is approved by the Planning Board.
- S. All interior roads, drives and parking areas shall be constructed to the standards of the Planning Board as contained in the Smithfield Land Development and Subdivision Review Regulations of the Town of Smithfield.
- T. Off-street parking shall be provided in accordance with the provisions of Article 7 except as follows:
  - (1) All parking spaces, including any which may be in excess of those requirements, shall be located a minimum of seventy-five (75) feet from the center line of any public way or ways utilized to meet the frontage requirements of this Section.

- (2) Unless in an accessory garage within the structure, no parking space shall be located closer than twenty-five (25) feet from a building used for dwelling purposes.
  - (3) All required parking spaces shall be provided within three hundred (300) feet of the dwelling units which they are required to serve.
- U. All areas not covered by pavement, curbing, buildings and/or structures including such facilities as playing area for court games, swimming pools, and plazas, shall be landscaped with grass, shrubbery, trees, flowers, or ground covers indigenous to the area. Also along the length of each exterior wall for each principal building there shall be a landscaped area with bushes, shrubs or flowers indigenous to the area.
  - V. Except for cemeteries, an area equivalent to at least one-half (1/2) of the minimum area required for a planned development shall be left substantially in its natural state.
  - W. The area left substantially in its natural state shall be placed in an ownership which shall provide for its permanent retention and maintenance. The manner of ownership, use and maintenance of such permanent natural area shall be determined by the agreement of the applicant, the owner, and the Planning Board. The agreement, duly executed in a form suitable for recording by the owner or owners of such natural area, shall provide that, if approved by the Planning Board, such permanent area shall be owned by a non-profit organization the principal purpose of which is the preservation of natural areas, or a corporation or trust owned or to be owned in common by the owners of the dwelling units within the development in which the ownership of the natural area runs with that title to the dwelling units and is not separably alienable. Such natural area shall be subject to permanent restrictions as agreed under this Section.
  - X. Such natural areas shall be kept in an open and natural state, and shall not be built upon for residential use, for walkways, driveways and/or parking.
  - Y. An organization, corporation or trust owned or to be owned in common by the owners of the dwelling units within the development, in a form approved by the Planning Board, shall be responsible for the maintenance of all common areas, including, but not limited to lighting, plowing, roadway, sidewalks, recreation facilities and accessory structures.

## **5.8 PLANNED CORPORATE DISTRICT**

### **5.8.1 Purpose**

All applications for development within the Planned Corporate District shall require Planning Board approval. This district is established to provide an area for planned employment uses, including planned office, as well as research and development parks, light industrial development, corporate headquarters, hotel/conference facilities, and related accessory uses to create a coordinated development approach along major corridors designated for non-residential growth in the Comprehensive Plan. These regulations are intended to encourage compatible uses to create a corporate development environment. A coordinated

design approach, with an emphasis on aesthetics and sufficient accessory uses to foster self-contained corporate parks is also encouraged.

**5.8.2 Planned Park Application Requirements**

- A. Any person may submit to the Planning Board an application for approval of a Planned Park containing more than ten (10) acres in accordance with the provisions of this Section.
- B. The application shall incorporate the applicable requirements of the Smithfield Land Development and Subdivision Review Regulations and include a site plan for submittal to the Planning Board which meets the requirements of §10.9 of this Ordinance.
- C. Conceptual architectural plans shall also be submitted for approval by the Planning Board, based on the standards set forth by §5.8.3(C) of this Ordinance.
- D. The Planning Board shall approve or deny such application based on the criteria in §5.8.2(e) below after conducting a Public Hearing thereon in accordance with the procedure set out in Section III, Article H of the Smithfield Land Development and Subdivision Review Regulations. The Planning Board, where necessary, based upon findings of fact, to preserve the public health, safety, and welfare, may impose further restrictions upon the application, as a condition to granting approval hereunder.
- E. The Planning Board shall approve a Planned Park if it finds after such Hearing that:
  - (1) The Plan promotes the more efficient use of the land by providing less intensive uses along street frontages, as well as fulfills the purposes and intent of this Section.
  - (2) The building lots shown thereon comply with the dimensional requirements provided in this Section.

**5.8.3 Supplemental Performance Standards**

Development under this district shall meet all use regulations and the “Performance Standards” in §6.3 of this Ordinance and be governed by the following:

- A. No electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, or to any intensity that interferes with the lawful use of any other property shall be permitted.
- B. In addition to the parking standards in this Ordinance, parking is discouraged in front yards, and landscape berming and/or deciduous buffers will be required to screen any front yard parking from the street.
- C. Applicants for a Planned Park shall submit conceptual architectural plans for all development in the park to include exterior design, signage, and building materials. The conceptual plans shall be subject to approval by the Zoning Official or Planning Board, as applicable, in accordance with the following standards:
  - (1) Relation of Proposed Structures to Environment:

Proposed structures shall be adapted to the terrain, the size and shape of the lot, and the character of the adjoining property and existing structures in the immediate vicinity that have a visual relationship to the proposed structures.

(2) Compatibility with Surrounding Structures:

New structures shall be compatible with the architectural character of surrounding structures in the following ways:

- a) Proportion, scale, and roof line.
- b) Architectural style.
- c) Patterns and proportions of windows.
- d) Architectural details or features.

(3) Building Materials:

Building materials shall be compatible with, or complimentary to, neighboring sites and structures. A finished texture, pattern, or a quality of detailing shall be evident for all proposed building materials.

The Building Official shall require a certification from the Zoning Official to verify that the proposed architectural elevations for all structures in a Planned Park conform to the approved conceptual architectural plans. Structures to be constructed outside a Planned Park in this district shall also be designed and built with materials that are compatible with other appropriate architecture in the area.

- D. Consolidated curb cuts for joint access are encouraged, especially along major streets. Access drives and entrances shall be constructed in accordance with the Smithfield Land Development and Subdivision Review Regulations. Waivers to said construction requirements are subject to approval by the Smithfield Planning Board.
- E. Applicants for any proposed development to be directly accessed by a town street or state highway of a Level of Service (LOS) of “C”, or below, as determined by the Department of Public Works, based on the Highway Capacity Manual, shall be required to submit a traffic study. A capital contribution from the applicant for its pro-rata share of necessary geometric and/or signal improvements shall be a condition of application approval, if required by the Town or State, based on signal warrants or LOS changes as a result of the proposed project.
- F. Any approved outdoor storage shall be screened with an approved opaque screen architecturally compatible with the principal structure.

5.8.4 **Planned Corporate District – B**

A. Purpose

The purpose of this district is to allow for compatible uses in a coordinated area for research and development and manufacturing of drugs and pharmaceuticals.

B. Permitted Uses

The provisions of the Planned Corporate District shall apply in all respects to Planned Corporate District – B, except that the manufacture

of drugs and pharmaceuticals, and research and development for such manufacture, shall be permitted by right.

5.8.5 **Access Roads**

Public roads servicing normal operation of a PCD-B zoned property will not be restricted in their use by a legitimate pharmaceutical facility. And subject to the approval of the relevant owner, use of private roads similarly may not be restricted in their use.

**5.9 INDUSTRIAL - PLANNED CLUSTER DEVELOPMENT**

5.9.1 **Purpose**

For the purposes of providing planned industrial development in the Town of Smithfield by allowing light industrial along street frontages and more intensive industrial uses in rear lots; providing a mix of large lots for single user industrial and smaller lots for multiple tenants and/or users; providing an economy of roads and internal parking than those normally associated with more conventional industrial development; and, in general promoting both the health, safety, convenience, welfare, and economic well-being of the Town as a whole, Planned Industrial Cluster Developments are encouraged, subject to the conditions contained herein.

5.9.2 **Petitions**

Any plan for a Planned Industrial Cluster Development must first petition the Board for a Special Use Permit(s), where applicable, for the use(s) requested therein in accordance with §4.3, “Table of Uses” and §10.8, “Variances and Special Use Permits”, the petitioner may proceed for plan approval as provided in Section 5.9.3, “Procedure”.

5.9.3 **Procedure**

- A. Any person may submit to the Planning Board for approval a plan of land containing two hundred thousand (200,000) square feet of land or more in accordance with the provisions of this subsection. Said land may be further subdivided into lots containing not less than forty thousand (40,000) square feet per industrial use.
- B. Prior to the granting of approval hereunder, an application shall be submitted to the Planning Board which shall be comprised of the following:
  - (1) A properly completed application form and materials which shall include:
    - a) The location of the proposed development.
    - b) The size of the site in square feet or acres.
    - c) The number of proposed building lots and the size of each in square feet.
    - d) The arrangement of industrial uses along street or roadway frontages.
    - e) The arrangement of other industrial uses in the interior portions of the development.

- (2) A Pre-application Sketch Plan of the entire proposed development properly drawn and conforming to the requirements of the Land Development and Subdivision Review Regulations of the Town of Smithfield, and with the following:
- a) The lots which are to be used as frontage lots and the lot or lots to be placed in interior parts of the development shall be indicated.
  - b) For each building lot, four (4) site lines showing yard setbacks as otherwise required by this Ordinance shall be indicated, which the entire building, including accessory structures, if any, must lie.
  - c) A sketch showing natural features to be altered shall be filed.
- C. In connection with an application hereunder, the Planning Board shall note the following determinations as a minimum:
- (1) That the application form referred to in §5.9.3(B1) herein is properly completed.
  - (2) That the plans referred to in §5.9.2(b2) are properly completed.
  - (3) That the minimum yard, lot coverage, and building height requirements comply with §5.4, - Table 1 - “Dimensional Regulations”.
  - (4) That the uses requested therein comply with §4.3 - “Table of Uses” and that any Special Permits had been duly approved by the Board in accordance with §10.8.

#### 5.9.4 **Area**

- A. The area of the tract shown on the plan shall be at least two hundred thousand (200,000) square feet of land or more and may be further subdivided into lots containing not less than forty thousand (40,000) square feet per industrial use.
- B. The frontage and other yard requirements shall comply with §5.4 for all lots that are two hundred thousand (200,000) square feet or more. For those that are less than two hundred thousand (200,000) square feet but more than forty thousand (40,000) square feet, the following schedule be utilized:

<b>Lot Area, in square feet</b>	<b>Minimum Frontage &amp; Lot Width</b>	<b>Minimum Front Yard</b>	<b>Minimum Side Yard</b>	<b>Minimum Rear Yard</b>
200,000	300 ft.	100 ft.	40 ft.	50 ft.
175,000	250 ft.	100 ft.	40 ft.	50 ft.
160,000	200 ft.	100 ft.	40 ft.	50 ft.
80,000	200 ft.	50 ft.	30 ft.	40 ft.
40,000	150 ft.	40 ft.	20 ft.	20 ft.

#### 5.9.5 **Other Considerations**

There shall be a buffer strip of one hundred (100) feet along the entire perimeter of the development that abuts a residential district.

#### 5.9.6. **Hearing and Approval**

- A. Prior to filing and application for approval of a Planned Industrial Cluster Development under this Section, the owner shall submit a pre-application sketch plan for the site. The Planning Board may approve or deny such application after conducting a public hearing thereon in accordance with the procedure set out in §10.8(B). The Planning Board, where necessary for preserving the public health, safety, and welfare, may impose further restrictions upon the tract, or parts thereof, as a condition to granting approval hereunder. The Planning Board may also require that the applicant supply it with further information as it deems necessary to make a decision under this Section.
- B. The Planning Board shall approve a Planned Industrial Cluster Development if it finds after such hearing that:
  - (1) The plan promotes the more efficient use of the land by providing less intensive uses along street frontages and more intensive uses in the interior parts of the development.
  - (2) The building lots shown thereon comply with the dimensional requirements provided in this Section.
  - (3) The uses comply with all other provisions of this Ordinance, including signs, off-street parking and loading.

### 5.10 **INCLUSIONARY ZONING**

- A. **Findings:** A diverse housing stock is necessary in this community in order to serve people of all income levels. Based upon the review and consideration of the recent Smithfield Low & Moderate Income Housing Plan, it has become clear that the provisions of this Article are necessary in order to preserve the diversity of housing opportunities for the residents and working people of Smithfield.
  - (1) The program defined by this Article is necessary to provide continuing housing opportunities for low and moderate income persons in Smithfield. The Affordable Housing Plan states that the town will create diverse housing types to meet the needs of Smithfield’s Low and Moderate Income residents including families, the elderly and the special needs population. One method of addressing this housing need is to revise the zoning ordinance to promote affordable housing.
  - (2) Inclusionary zoning is consistent with the State’s Comprehensive Housing Production and Rehabilitation Act of 2004 (R.I.G.L 42-128-8.1), which states the following: “Creative funding mechanisms are needed at the local and state levels that provide additional resources for housing development, because there is an inadequate amount of federal and state subsidies to support the affordable housing needs of Rhode Island’s current and projected population.”
  - (3) The Comprehensive Housing Production and Rehabilitation Act of 2004 (R.I.G.L 42-128-8.1g) requires the state to adopt guidelines for higher

density development, including, but not limited to “inclusionary zoning provisions for low and moderate income housing with appropriate density bonuses and other subsidies that make the development financially feasible.”

- (4) Inclusionary zoning is consistent with State of Rhode Island General Laws (§45-24-46.1), where inclusionary zoning is defined as a “zoning ordinance requiring the inclusion of affordable housing as part of a development shall provide that the housing will be affordable housing, as defined in § 42-128-8.1(d)(1), that the affordable housing will constitute not less than ten percent (10%) of the total units in the development, and that the units will remain affordable for a period of not less than thirty (30) years from initial occupancy enforced through a land lease and/or deed restriction enforceable by the municipality and the state of Rhode Island.”
- (5) Remaining land for residential development in Smithfield is limited. The primary objective of this Article is to obtain affordable rental and homeownership units within qualified subdivisions or land development projects. Some provisions of this Article provide for alternatives to the production of such on-site units. Those provisions recognize the fact that individual sites and economic factors can make on-site production less desirable than the alternatives for particular developers. However, the intent and preference of this Article is that wherever possible, affordable units constructed pursuant to this Article be located on-site.

**B. Purpose:**

The purposes of this Article are to:

- (1) To require the development of low- and moderate-income housing within the Town and to provide for a full range of housing choices throughout the Town for households of all incomes, ages and sizes.
- (2) To promote the development of affordable housing throughout town in a manner that is consistent with the Town’s adopted Affordable Housing Plan and the Comprehensive Community Plan.
- (3) To produce housing that qualifies as affordable as defined by the mandates of the State’s Comprehensive Housing Production and Rehabilitation Act of 2004.
- (4) To establish mixed-income households within new subdivisions and land development projects throughout the town.
- (5) To provide the Town with financial resources for use solely in the production of affordable units in town, in lieu of units provided within a subdivision subject to the provisions of this article.
- (6) To establish an affordable housing unit or funding set-aside requirement that allows for a reasonable return for property owners and developers.
- (7) Ensure that the Developer/Landowner can make a reasonable profit.

**C. Definitions:**

The definitions contained in Article 2 shall apply to the provisions of this Article. As used in this article, the following terms shall have the meanings indicated:

**AFFORDABLE HOUSING** — Residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief, and insurance constitute no more than thirty percent (30%) of the gross household income for a household with less than eighty percent (80%) of area median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%) of the gross annual household income for a household with eighty percent (80%) or less of area median income, adjusted for family size. Such housing shall remain affordable through a land lease and/or deed restriction for 99 years or such other period that is either agreed to by the applicant and Town or prescribed by the federal, state, or municipal government subsidy program but that is not less than 30 years from initial occupancy.

**AFFORDABLE HOUSING PLAN** — That component of the housing element of the Town Comprehensive Plan designed to meet the housing needs in the Town.

**APPROVED AFFORDABLE HOUSING PLAN** — The affordable housing plan that has been approved by the Director of Administration as meeting the guidelines for the local comprehensive plan as promulgated by the State Planning Council.

**COMPREHENSIVE PLAN** — The Comprehensive Community Plan of the Town adopted pursuant to Chapters 22.2 and 22.3 of the Rhode Island General Laws.

**INCLUSIONARY HOUSING AGREEMENT** – An Agreement recorded in the Town’s Land Evidence records describing how the Developer will comply with the provisions of this Article.

**INCLUSIONARY HOUSING PLAN** – A Plan setting forth in detail the manner in which the provisions of this Article will be implemented.

**INCLUSIONARY UNIT** – an Affordable Housing unit, as defined in this Article.

- D. Applicability:** These regulations shall apply to all subdivision and land development projects filed with the Planning Department after May 5, 2009 and that include the creation of six (6) or more dwelling units which include new construction, substantial rehabilitation of existing structures, and/or adaptive reuse or conversion of a nonresidential use to residential use. Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations. Developments shall not be segmented or phased in a manner to avoid compliance with these provisions.

Any project meeting the criteria of this Section shall be deemed a covered project.

- E. Required Percentage of Affordable Units:** Twenty percent (20%) of all housing units to be created in every residential or mixed use covered project, as defined in Sec. 11.4, must qualify as an Inclusionary Unit.

*Inclusionary Units or In-Lieu-Of Fee Required*

- (1) All residential development projects requiring approval of the Smithfield Planning Board shall include the number of Inclusionary Units required under Paragraph E or, if applicable, shall pay the in-lieu-of fee required under Paragraph N. No building permits shall be granted for such a residential development project without compliance with this Article.
- (2) Exemptions: This Article shall not apply to the reconstruction of any Dwelling Units that were destroyed by fire, flood, earthquake or other act of nature.

*Number of Inclusionary Units:* Any proposed residential development containing six or more dwelling units is required to include at least twenty percent (20%) of the total number of dwelling units within the proposed development as low or moderate income housing units as defined by RIGL Section 45-53-3, also referred to herein as affordable units or inclusionary units. The Inclusionary Units must be affordable for a minimum of ninety-nine (99) years through a deed restriction or land lease. The Town of Smithfield prefers that Inclusionary Units be built on-site. However, developers who satisfactorily demonstrate to the Planning Board that building the inclusionary units on-site is infeasible may request to make a payment in-lieu-of fee or to build the inclusionary units off-site. The Town, at the applicant's expense, may have an independent real estate consultant determine feasibility of building the Inclusionary Units on-site. Developers, in calculating the number of inclusionary units, must round up to the next highest number for fractional units. As an alternative, an in-lieu-of fee may be paid for the fractional unit in accordance with paragraph M hereof.

- F. Density Bonus:** All projects shall be entitled to a density increase of twenty percent (20%) in accordance with the provisions of this section. This density bonus qualifies as a locally provided subsidy. Any project shall be entitled to an increase in the maximum lot coverage allowed for the site on which the project is located following the calculation of density, lot coverage, and setbacks. The Planning Board is not empowered to grant a density bonus in excess of 20%.
- G. Unit Mix:** The unit mix (i.e. the number of bedrooms per unit) of the Inclusionary Units shall be in the same proportion as the unit mix of the market rate units unless waived by the Planning Board in order to better reflect the needs of the low and moderate income population as defined by the Affordable Housing Plan. If only one Inclusionary Unit is required and the other units in the project have various bedroom numbers, the number of bedrooms for that unit will be an average of the number of bedrooms located in the market rate units in the qualified development rounded to the nearest whole number.
- H. Location of Inclusionary Units:** Except as provided for in this Article:
- (1) Inclusionary Units shall be dispersed among the market rate units throughout the qualified development.
  - (2) The Inclusionary Units must have access to all on-site amenities.
  - (3) All Inclusionary Units shall be built on the same site as the remainder of the project, unless the Planning Board grants a waiver to allow off-site units.

- I. Mixed-Use Developments:** Bonus units added to a mixed-use project may be nonresidential where such nonresidential use is otherwise permitted in the district where the project is located. Substitution for nonresidential uses shall occur at the rate of one (1) market-rate dwelling unit equaling one thousand five hundred (1,500) square feet of gross floor area of nonresidential space.
- J. Design Guidelines:**
- (1) The exterior appearance of the Inclusionary Units in any development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type for Inclusionary Units as for market rate units and have the appearance of a single family home.
  - (2) The interior appearance and finishes of the Inclusionary Units may differ from market rate units in regard to interior finishes and gross floor areas provided that the bedroom combination of affordable units shall be in proportion to the bedroom combination of the market rate units.
  - (3) All Inclusionary Units shall include insulation, windows, heating systems, and other improvements creating the same amount of energy efficiency as the market rate units in the development.
  - (4) Except for household income and population, occupancy of any affordable unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project.
- K. Inclusionary Housing Agreement at Preliminary Plan:**
- (1) Approval: The Inclusionary Housing Agreement must be approved before the developer receives preliminary plan approval.
  - (2) Agreements Required: Applications for residential development projects seeking preliminary plan approval shall be approved only concurrently with the approval of an Inclusionary Housing Agreement pursuant to this Article. This section shall not apply should the developer choose to pay an in-lieu-of fee.
  - (3) Information in the Inclusionary Housing Agreement:
    - (a) The location, structure, proposed tenure, and size of the proposed Market Rate and Inclusionary Units.
    - (b) The calculations used to determine the number of required Inclusionary Units.
    - (c) A site plan depicting the location of the Inclusionary Units.
    - (d) The mechanisms that will be used to assure the Inclusionary Units remain affordable for the required term.
    - (e) For phased developments, a phasing plan.
    - (f) A marketing plan for the process by which qualified households will be reviewed and selected to either purchase or rent the affordable units.
    - (g) Any other information reasonably requested by the Planning Board to assure compliance with the purposes and provisions of this section.

**L. Timing of Construction and Assurance:**

- (1) **Phasing of Construction:** The Inclusionary Housing Agreement shall include a phasing plan (if a phased development) that provides for the timely and integrated development of the Inclusionary Units as the proposed project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the development of the market rate units. Building permits shall be issued for the qualified development project based upon the phasing plan. The phasing plan may be adjusted when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and affordable housing units. The phasing plans shall also provide that the affordable housing units shall not be the last units built in any development.
- (2) **Assurance of Completion of Inclusionary Units:** It is the responsibility of the original developer to ensure development of any required Inclusionary Units prior to the assigning or conveying of any subdivided lot and/or dwelling unit. A developer must either construct the required Inclusionary Units prior to construction of any market rate units or obtain a surety bond in an amount not less than 1.5 times the amount of the established cash in-lieu-of fee for each required Inclusionary Unit. The surety bond shall be held in escrow by the Town until such time as the Inclusionary Units are constructed. The Town of Smithfield prefers that Inclusionary Units be built prior to or concurrent with the market rate units.

**M. Off-site Construction of Inclusionary Units:**

Inclusionary Units may be constructed off-site only upon a determination by the Planning Board that on-site construction is infeasible. If this option is chosen, then the off-site Inclusionary Units must be constructed prior to or concurrently with the construction of the proposed market rate project. The Inclusionary Unit size and count must meet the same requirements as if the Inclusionary Units were constructed on-site. If subdivision or land development project approval of the proposed off-site location is not required, no Certificate of Occupancy will be issued for any corresponding market rate units prior to the Inclusionary Unit construction completion or payment of the required in-lieu-of fees. Planning Board approval of the agreement to build off-site Inclusionary Units is required.

- a) Off-site rehabilitation of affordable units which occurs in existing buildings, should preferably be within the same school district.
- b) Off-site new construction of affordable units may be permitted by the Planning Board if the developer is unable to acquire an existing building.
- c) Any subdivision or land development project that utilizes an off-site option in place of developing the required affordable units on-site shall not be entitled to an incentive as described in Section F above.
- d) New off-site units shall be compatible in architectural style to the existing units in the surrounding neighborhood.
- e) Renovated off-site units shall be in full compliance with all applicable construction and occupancy codes, and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction.

- f) Affordable off-site units may be located in existing structures, provided that their construction or rehabilitation constitutes a net increase in the number of affordable units town-wide.

**N. In-Lieu-of Fees:**

The Town of Smithfield prefers that Inclusionary Units be constructed on site. To that end, developers must prove that providing the Inclusionary Units on-site is infeasible to the Planning Board (As provided for in this Article, if approved). Planning Board approval of the agreement to pay an in-lieu-of fee in order to provide Inclusionary Units in a residential development is required and shall be based on the following issues, among others:

- a) the reasons the applicant desires to pay the in lieu of production fee
  - b) the types of housing proposed for the development
  - c) the difference in price between the affordable units and the market priced units
  - d) the public benefit that would be obtained by not building the units on-site.
- (1) The amount of the fee in-lieu-of providing Inclusionary Units shall be determined using the fee schedule calculation set forth in subsection N. (3). For projects constructed in phases, in-lieu-of fees shall be paid prior to the issuance of each building permit in the proportion that the phase bears to the overall project. The in-lieu-of fees shall be paid into the Smithfield Affordable Housing Fund as established and administrated by the Smithfield Town Council or its designee. The funds shall not be commingled with the general funds of the Town and shall be used solely and exclusively for the acquisition of land for, or the construction or rehabilitation of, affordable dwelling units.
  - (2) For projects to be developed on subdivided lots, in-lieu-of fees shall be paid by the Developer prior to issuance of final subdivision approval or in such cases where subdivision approval is not required, prior to issuance of a building permit for the project or as determined by the project's adopted Conditions of Approval.
  - (3) The in-lieu fee per affordable unit required shall be the difference between the median sales price of a single-family home in Smithfield and the maximum affordable sales price of a single-family home for a Smithfield household of four earning 80% of the area median income, as determined in accordance with the following.
    - i. The median sales price of a single-family homes in Smithfield shall be derived from statistics as determined by the Town's Tax Assessor. [For example, in calendar year 2008, the median sales price of a single-family home in Smithfield was 282,000.]
    - ii. The most recent calculation of the maximum affordable sales price of a single family home for a Smithfield household of four at 80% of the area median income, provided by Rhode Island Housing. [For example, in RIH calculated the maximum affordable purchase price of a single-family home for a Smithfield household earning 80% of the area median income to be \$175,203]
    - iii. As an example, based on the above variables, the in-lieu fee would be \$106,797 per Inclusionary Unit required. [282,000 median sales price - \$175,203 maximum affordable sales price]

- (4) All in-lieu fees shall be deposited into the Smithfield Affordable Housing Fund to be managed by the Town's Finance Director. Such funds may be expended or utilized only on the production of affordable housing in Smithfield according to the requirements of Section 5-19 of the Smithfield Code of Ordinances entitled "Town of Smithfield Affordable Housing Fund.
- (5) Discretionary Offsets. At the sole discretion of the Planning Board, additional offsets may be granted based on an applicant's submission of credible evidence, such as cost of construction pro forma, which demonstrates the project is otherwise financially infeasible.

"Infeasible" means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the subdivision, to the extent that it makes it impossible for the applicant to proceed in building or operating low or moderate income housing without financial loss, within the limitations set by the subsidizing agency of government, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by applicant.

The Planning Board may seek technical assistance with the review and evaluation of such evidence. The cost of such technical assistance shall be borne by the applicant.

**O. Requirements:**

- (1) Manner of Compliance: All permanently affordable obligations of rental housing projects shall be met through on-site units, unless the developer shows that developing the approved inclusionary units on-site is financially infeasible. The Town's affordability period is ninety-nine (99) years for all projects.
- (2) Determination of Rental Rates for Affordable Units: Maximum Rents: Rents charged for Inclusionary Rental units in any project must on average, be affordable to households earning eighty percent (80%) or less of the Area Median Income (AMI) as determined by United States Department of Housing and Urban Development (HUD). No affordable unit may rent at a rate which exceeds affordability for a household earning fifty percent (50%) to eighty percent (80%) of AMI as determined by HUD. Up to date AMI statistics may be obtained from Rhode Island Housing & Mortgage Finance Corporation (RIHMFC) at [www.rihousing.com](http://www.rihousing.com).
- (3) Sales Prices for Affordable Units: The maximum sales price for an affordable ownership unit shall be set by Rhode Island Housing according to its accepted formula. Within a development, the average price charged for affordable ownership units in any project shall be a price affordable to a household earning no more than 80% of the AMI as defined by HUD.
- (4) Approved Purchasers of Affordable Units: A developer or owner shall select an eligible purchaser after completing a good faith marketing and selection process, as provided or approved by the Town of Smithfield. Upon request, the Town may provide the developer or owner of an affordable unit with a list of households certified by the Town as eligible to purchase the unit. However, a developer or property owner may select an income eligible purchaser who is not on a furnished list so long as the Town can verify the purchaser's income and

- asset eligibility and the unit is sold at an affordable price as described in this chapter.
- (5) **Purchasers of Affordable Units Required to Reside in Those Units:** A purchaser of an affordable unit shall occupy the purchased unit as their primary residence. No person shall rent an affordable ownership unit. Ownership units must remain exclusively owner occupied for the entire required affordability period.
  - (6) **Resale Restrictions Applicable to Affordable Units:** All affordable ownership units as developed under this Article shall be subject to the following restrictions: A seller of an affordable unit must select a low-income purchaser by a method that complies with a Town approved good faith marketing and selection process. At the request of a seller, the Town will provide the seller with the description of a process that meets this requirement. Upon request, the Town may provide the seller with a list of households certified by the Town as income eligible to purchase the unit. All purchasers of affordable units shall be part of an income eligible household.
  - (7) **Resale Price for Affordable Units:** The resale price of any affordable unit shall not exceed that which is affordable to a household earning no more than eighty percent (80%) of the AMI as defined by HUD at the time of the sale as described in the above sub-section (3).
  - (8) **Deed Restriction or Incorporation into a Community Land Trust Required:** No person offering an affordable unit for sale shall fail to lawfully reference in the grant deed conveying title of any such unit and recorded with the Town's Land Evidence Records, a covenant or Declaration of Restrictions in a form approved by the Town. Such covenant or Declaration of Restrictions shall reference applicable contractual arrangements, restrictive covenants, and resale restrictions as are necessary to carry out the purposes of this Article.
  - (9) Requirements may be amended by the Smithfield Town Council in furtherance of the purposes of this section.
- P. **Monitoring:** The Smithfield Planning Department, or a monitoring agent approved by Rhode Island Housing and the Smithfield Town Council, will be designated as the monitoring agent to ensure compliance with the requirements of this Article.
- Q. **Local Preference:** In the selection of buyers or lessees of low or moderate income dwelling units, priority shall be given to the greatest extent permitted by law to households containing current residents of the town, persons currently employed in the town, or persons who have children, parents, or siblings who are resident in the town.

## **ARTICLE 6 - SUPPLEMENTARY REGULATIONS**

### **6.1 PROVISIONS AFFECTING ALL DISTRICTS**

#### **6.1.1 Street Access to Buildings**

Every building hereafter erected or moved shall be on a lot adjacent to a street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking. On any corner lot, no driveway or vehicular accessway shall be constructed within seventy-five (75) feet of the point of intersection of two (2) street lines.

#### **6.1.2 Number of Residential Structures per Lot**

Not more than one (1) residential structure shall be permitted on a lot except in the case of an approved site plan in a Multi-Family or a Planned Development District.

#### **6.1.3 Corner Visibility**

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets in the triangle formed by the street lines of such corner lots and a line joining points along said street lines fifteen (15) feet from the point of intersection, provided that:

- A. Vertical structures not exceeding six (6) inches square or in diameter are exempt from this regulation.
- C. All utility poles are also exempt.

#### **6.1.4 Land Development Project**

Any proposed development which meets the definition of Land Development Project as defined in this ordinance shall be subject to review and approval by the Planning Board in accordance with the Smithfield Land Development and Subdivision Review Regulations.

### **6.2 ACCESSORY USES**

6.2.1 Accessory uses are uses which are clearly incidental to and customarily associated with the principal use and shall be operated and maintained under the same ownership and on the same lot as the principal use and shall include, but not necessarily be limited to, private garages, home occupations, swimming pools, and accessory parking. Accessory uses cannot exist without nor precede any principal use on a vacant lot. Accessory uses are subject to all the requirements of this Ordinance.

- A. A permitted accessory building or structure may cover up to twenty-five (25) percent of a side or rear yard but may not exceed twenty (20) feet in height, and shall not be located within any front yard. No accessory building or structure shall be located nearer than ten (10) feet to a principal building unless such accessory building is attached to the principal building in a manner making it an integral part of the principal building.
- B. In R-200, R-80 and R-Med districts, a permitted accessory building or structure shall not be located less than fifteen (15) feet from any side or rear

lot line. In the R-20 and MU districts, a permitted accessory building or structure shall not be located less than ten (10) feet from any side or rear lot line.

- C. In all residential zones, a shed as defined herein shall not be located less than six (6) feet from any side or rear lot line.

6.2.2 Customary home occupation provided that:

- A. The occupation shall be carried on wholly within the principal residential building existing at the time of the passage of the Ordinance or constructed in accordance with the provisions of this Ordinance or within a building or other structure accessory thereto;
- B. An office home occupation shall only be allowed by Special Use Permit. See Section 4.3, Use Code C4.
- C. Home occupations shall not include hairdressers, barbers, cosmetologists, beauticians, manicurists and similar occupations.
- D. The occupation is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- E. There shall be no exterior display, no exterior sign (except as permitted under Article 8 - Signs), no exterior storage of materials and no exterior indication of the home occupation or variation from the residential character of the principal building;
- F. The occupation is carried on by a member of the family residing in the dwelling unit;
- G. No offensive noise, vibration, smoke, dust, odor, heat or glare should be produced;
- H. In the case of individual tutoring, no more than two hundred (200) square feet of floor area shall be utilized;
- I. The use shall not result in more than fifteen (15) vehicle trips per day to the dwelling, including those attributable to the residential use of the structure.

### **6.3 PERFORMANCE STANDARDS**

- A. All proposed uses of buildings, lots or premises within any District after the passage of this Ordinance shall conform to the following:
  - (1) The applicant, at his/her own expense, shall furnish evidence sufficient to satisfy the Building Official that the proposed use of the building or premises will not exceed the standards below.
  - (2) Any use in excess of the standards permitted below shall be considered a violation of this Ordinance.
- B. Air Pollutants - Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the regulations of the Department of Environmental Management.
- C. Noise - No noise shall be in excess of that permitted by the Town's Noise Ordinance.
- D. Odor - Emissions from plant sites or other sources as measured at the user's property line shall not exceed the established threshold limit values for odors as outlined in

T.M. Hellman and F.H. Small, Journal Air Pollution Control Association, 24(10), 979-982, (1974); and amendments thereto added by the Manufacturing Chemists Association, Inc., Washington, D.C.

E. Heat, Glare and Vibration

No heat, glare or vibration shall be discernible without instruments from the outside of any structure.

F. Waste Disposal, Water Supply and Water Quality

Regulations of the Department of Environmental Management shall be met and, when required, approval shall be indicated on the application for a Building Permit. In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Department of Environmental Management.

G. Storage

- (1) All materials, supplies and equipment shall be stored in accord with the Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties and in compliance with the storage of hazardous materials as defined in Use H-1.
- (2) All above ground fuel tanks shall be screened from public view by an opaque wall or fence or by a hedge or other natural planting of comparable opacity as ordered by the Building Official.

H. Exterior Lighting

- (1) No exterior lighting, other than street lighting approved by the Town Council, shall shine on adjacent properties or toward any street.
- (2) There shall be no exterior illumination of buildings or grounds in any Residential District, except as may be permitted for required parking areas, shall:
  - a) Be permitted only for non-commercial uses open to the public, such as a church or playground.
  - b) Shall be shown on a site plan approved by the Building Official.
  - c) Any lighting shall be continuous and non-flashing.

I. Building Construction

No building permit shall be granted unless the application for such permit is filed in accordance with the State Building code.

J. Erosion Control

Whenever the existing contours of the land are altered, the land shall be left in usable condition, graded in a manner to prevent the erosion of soil and the alteration of the run-off of water to or from abutting properties, and shall be suitably landscaped, all in accord with the Smithfield Soil Erosion and Sedimentation Ordinance.

K. Electrical Interference

No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

L. Construction Encroaching Upon the Flood Plain

Any new construction or substantial improvements encroaching upon the flood plain, as defined in the Flood Insurance Study, Town of Smithfield, Rhode Island, Federal Emergency Management Agency, shall be designed, or modified and anchored to prevent flotation, collapse, or lateral movement of the structure.

M. Public Water and Sewer

- (1) All dwellings in the Multi-Family District and all principal uses in the Village, Highway Commercial, Commercial, Industrial, and Planned Development Districts must be serviced by public water and sewers.
- (2) Any use generating in excess of an average of three thousand (3,000) gallons of waste water per day is required to connect to a public sewer.

N. Earth Materials

All sod, loam, sand, gravel, quarried stone, dredge material, construction materials, materials from demolished structures, or other such materials moved, removed, dredged, dug or quarried from, or brought into the Town for disposal, temporary storage, or for use as fill shall be certified by the Official, or his agent, as to the quality of the material and the location where it will be deposited, in or out of the Town, and shall be recorded with the office of the Building Official. All removal will be in accordance with the Town of Smithfield Earth Removal Ordinance.

O. Wind Energy Conversion Systems, Machinery and Equipment

The system shall not cause interference with radio and/or television broadcasting or reception and shall comply with the provisions of 47 CFR Part 15 (Federal Communications Commissions) as it exists, or as it may be amended. The base of a windmill shall be set back from all property lines and principal buildings at least the setback distance shown on the "Wind Turbine Setback Graph" North East Solar Energy Center Report, March 1979.

P. Landscaping

- (1) Landscaping required by this Ordinance will be in accordance with the Smithfield Landscaping Ordinance.
- (2) Buffers shall be maintained as required by the Smithfield Landscaping Ordinance.

#### **6.4 SWIMMING POOLS**

6.4.1 Swimming pools shall be permitted in rear yards only and shall be installed in accordance with the Rhode Island State Building Code, Appendix D (Swimming Pools, Spas, and Hot Tubs), Section D105, “Barrier Requirements” or the pertinent section of the State Building Code as it may be amended.

#### **6.5 MIXED USE REQUIREMENTS**

6.5.1. Mixed use shall only include residential and limited professional and office uses, except for those uses allowed by Special Use Permit in *Use Category “D”* (Public and Semi-Public Uses) and *Use Category “E”* (Outdoor Recreation). Each occupied mixed use structure shall include no more than one dwelling unit. Permitted uses and special use permits are indicated in Table 1 – “Use Table” and are further defined here. Limited professional uses include medical, dental, legal, accounting, design, and similar professions. Office uses include real estate, insurance, financial lending institution but not including commercial bank with drive-up windows and any other service industry. New structures which propose non-residential uses for part of the structure shall architecturally conform to an exterior residential building design. Notwithstanding any of the above, the non-residential use component shall be located on street level and shall not exceed 50% of the structure.

#### **6.6 PARKING AND STORAGE OF MOTOR VEHICLES AND MAJOR RECREATIONAL EQUIPMENT**

6.6.1 The parking and storage of motor vehicles and major recreational equipment in residential districts shall be subject to §308 of the Smithfield Code of Ordinances.

#### **6.7 NONPERMANENT STRUCTURES**

6.7.1 Non-permanent residential structures, mobile homes and trailers, mobile home parks and non-permanent business structures, including trailers, trucks, open air stands and outdoor carts used for offices, retail, wholesale or storage uses are prohibited from all districts. This prohibition shall not apply to yard sales and sidewalk sales which are conducted in conformity with Chapter 347 of the Smithfield Code of Ordinances, nor shall it apply to bona fide fundraising events conducted by one or more legally recognized non-profit organizations, nor shall it apply to the holder of a valid peddler’s license issued by the Smithfield Town Council to a Smithfield taxpayer.

#### **6.8 LAND UNSUITABLE FOR DEVELOPMENT**

Land unsuitable for development means land which has severe or very severe limitations for development.

6.8.1 When calculating the Basic Maximum Number of Dwelling Units for a residential major subdivision or major land development project, land included in any of the following categories shall be considered unsuitable for development and shall be deducted from the total lot area to determine the buildable area of the parcel:

- a. Fresh water wetlands, as defined in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, adopted pursuant to Rhode Island General Laws Section 2-1-20.1., as amended, including the buffers as defined in Section 5.3.4A of this Ordinance.
- b. Areas within a 100 year flood zone, as defined by FEMA;
- c. Land within the right of way of any existing or proposed public or private street.

- d. Land within any publicly or privately held easement on which utilities, including but not limited to electrical transmission lines >69KV, are constructed.
- e. Cemeteries.
- f. Slopes greater than 15%.

6.8.2. **Minimum Contiguous Buildable Areas.**

When calculating the Basic Maximum Number of Dwelling Units for a conservation development, as shown on a conventional yield plan under the provisions of Section X, Article H of the Smithfield Land Development and Subdivision Review Regulations, lots intended for the purpose of development shall contain the minimum lot area as provided in Section 5.4, Table 1. This minimum lot area need not be completely free of development constraints, but shall have a minimum contiguous buildable lot area (excluding land unsuitable for development as defined in the above categories) as provided in Article 5, §5.3 herein.

**6.9 FLEXIBLE LOT FRONTAGE AND WIDTH**

Upon approval of the Planning Board as part of a conservation development as provided in the Land Development and Subdivision Review Regulations, the lot frontage and lot width variations listed below may be permitted by the Planning Board, through a request for a waiver.

- A. In residential R-200, R-80 and R-Med zoning districts, the Planning Board is authorized to reduce the lot frontage and lot width of newly created lots on any public or approved private street to a minimum of twenty (20) feet.
- B. Open space lots, within an approved conservation development, may have zero frontage on a street, as long as the Planning Board approves access to the open space by easement or other means.
- C. As part of the application to the Planning Board for flexible lot frontage and width, a “conventional yield plan” as defined herein, shall be required. No more buildable lots shall be allowed using flexible lot frontage and width provisions than are allowed by using conventional frontage and width provisions.

## **ARTICLE 7 - OFF-STREET PARKING AND LOADING**

### **7.1 INTERPRETATION OF REGULATIONS**

- A. Accessible off-street parking facilities for the parking of motor vehicles shall be provided on public, semi-public and private property in connection with any new building or new use of the premises in accordance with the Schedule of Off-Street Parking Requirements (Schedule) in §7.4. Off-street parking requirements for uses not specifically identified in the Schedule in §7.4 shall be determined by the Official based on a use listed on the Schedule which has characteristics similar to the use in question.
- B. No change in use of an existing building or lot shall be permitted unless parking is provided as required in the Schedule in §7.4. for the entire building or lot. The enlargement of any building shall require the provision of off-street parking for the existing building as if it were newly erected.
- C. Where more than one (1) use occurs on one (1) site, the requirements of this Section shall be cumulative unless the Board finds that the periods during which a given use requires parking [which] will not substantially overlap the parking periods of other uses on the site and accordingly approves a proportional reduction in required spaces. In no case shall the number of required spaces be less than the number of spaces required by the use requiring the greater number of spaces.
- D. Handicapped parking shall be provided in accordance with §7.3B of this Ordinance as required by Federal or State law, whichever is more restrictive.
- E. Municipal or commercial parking lots shall not be substituted for the requirements of this Section.
- F. Plans and specifications for the required parking facility and its access drives shall be submitted at the time of application for the main use and shall be approved with the site plan in accordance with §10.9.
- G. Common driveways are not allowed unless shown on a site plan approved in accordance with §10.9.
- H. For all parking areas, new or existing, to be expanded, renovated, and/or rehabilitated, a Soil Erosion and Sediment Control Application shall be submitted to the Town Engineer for determination of applicability under the Soil Erosion and Sediment Control Ordinance. Should the Town Engineer determine that the proposed alterations to the property are “Applicable” under the provisions of said Ordinance, the application shall be forwarded to the Soil Erosion and Sediment Control Committee for review. Said plans shall be prepared in conformance with said Ordinance.

### **7.2 LOCATION OF PARKING USES**

- A. Required off-street parking areas shall be provided on the same lot they serve.
- B. Off-street parking spaces shall be so laid out that they are not directly accessible from a public way, but each space shall be accessible by means of an intervening private drive.

- C. Parking areas within required front yards shall not be permitted unless approved with a site plan in accordance with §10.9.

### **7.3 DEVELOPMENT AND MAINTENANCE OF PARKING AREAS**

- A. Required off-street parking shall comply with §16-166 through §16-173 (Landscape Ordinance) of the Smithfield Code of Ordinances.
- B. Each parking space (except in a commercial parking lot where cars are parked by an attendant) shall be not less than nine (9) feet wide and eighteen (18) feet long for non-handicapped parking, measured as a rectangle.
- C. Handicapped parking shall be required in accordance with applicable state and federal laws and shall comply with the dimensional standards required by the Americans with Disabilities Act (ADA), as amended.
- D. Required off-street parking areas may devote up to twenty (20) percent of the required number of spaces to compact cars with dimensions not less than eight and one-half (8-1/2) feet wide and sixteen (16) feet long, measured as a rectangle. Compact car parking areas shall be identified with signage approved by the Official.
- E. Required parking areas shall be construed to include access driveways, median strips, handicapped parking spaces, landscaping, walks and other related installations in addition to the parking stalls.
- F. No driveway along which parking is permitted shall have less than the following widths:
  - (1) Twelve (12) feet for parallel parking.
  - (2) Twelve (12) feet for thirty (30) degree angle parking.
  - (3) Fifteen (15) feet for forty-five (45) degree angle parking.
  - (4) Nineteen (19) feet for sixty (60) degree angle parking.
  - (5) Twenty-four (24) feet for ninety (90) degree angle parking.
- G. No entrance or exit for any off-street parking area with two (2) or more parking spaces for any loading berth shall be located within fifty (50) feet of the intersection of any two (2) street lines. Entrance and exit lanes shall be fifteen (15) feet wide each or have a combined width of thirty (30) feet.
- H. No more than twenty (20) spaces shall be provided in a row without separation by a pedestrian walkway and by a landscaped area provided that in the case of double rows, this section shall mean twenty (20) spaces on each side of the bay area.
- I. All non-residential parking area and driveways shall be maintained as follows:
  - (1) A dust-free all-weather surfacing such as an oiled or asphalt surface which shall be properly drained shall be provided and approved by the Official. Parking areas not required by this Ordinance and which are used only occasionally may be maintained in grass.
  - (2) Required parking spaces, except for parking areas for two (2) or less vehicles shall be clearly marked and any one-way driveways serving them shall have the direction of travel clearly indicated.

- (3) Required parking areas shall be used for automobile parking only, with no sales dead storage, repair work, dismantling or servicing of any kind.
  - (4) Any illumination for a parking area shall be arranged or designed so as to prevent glare and shall be shielded to prevent light from directly shining upon any adjoining building or property in residential use or adjacent streets.
- J. A parking area for more than two (2) vehicles shall be subject to the additional following conditions:
- (1) The area shall be provided with bumper guards, curbing and striping.
  - (2) Where such area adjoins or lies within a residential district, screening, landscaping, and open space areas in accordance with the provisions of the Landscape Ordinance shall be provided.
  - (3) Parking abutting the highway line shall be required with an access opening no less than thirty-six (36) feet and no greater than fifty (50) feet. There shall be no more than one (1) opening for each three hundred (300) feet of frontage. Landscaping in accordance with the Landscape Ordinance shall be provided.
- K. Minimum Stacking Space Requirements

All uses which include a drive-up window or which are characterized by patrons remaining in their vehicles to receive service shall provide stacking spaces in order to alleviate traffic congestion. Stacking spaces shall be a minimum of ten (10) feet in width and eighteen (18) feet in length. All stacking areas must be separate from other circulation aisles and parking spaces and are measured end-to-end. The use of a landscaped island with curbing is recommended to channelize traffic. Uses requiring stacking spaces are identified in the Schedule in §7.4 of this Ordinance. For other uses not identified in the Schedule which possess drive-up windows or similar characteristics, the Official shall make a determination regarding if and how many stacking spaces are required to be provided.

#### **7.4. SCHEDULE OF OFF-STREET PARKING REQUIREMENTS**

The following minimum number of spaces shall be required according to the use of the structure. A greater number of spaces shall be provided if required as a condition of a special use permit. Each space shall be provided with adequate maneuvering space, in compliance with the requirements in §7.3, above. Where the computation results in a fractional number, the fraction shall be counted as one (1) space.

A. **Residential Buildings:**

- (1) One (1) and two (2) family dwellings:  
Two (2) spaces per dwelling unit plus one (1) space for each bedroom in excess of three (3).
- (2) Multi-family dwelling:  
Two (2) spaces for each dwelling unit.
- (3) Bed and Breakfast Homes:

Two (2) spaces per dwelling unit plus one (1) space for each bedroom and/or lodging room in excess of three (3).

**B. Commercial Establishments:**

(1) Animal Hospital, Kennel:

One (1) space per three hundred (300) square feet of gross floor area.

(2) Banks, Financial Institutions *with* Drive-Up Windows:

One (1) space per two hundred and fifty (250) square feet of gross floor area. A minimum of eight (8) stacking spaces for one (1) drive-up window plus four (4) stacking spaces for each additional drive-up window shall be required and measured from the drive-up window.

(3) Banks, Financial Institutions *without* Drive-Up Windows:

One (1) space per two hundred and fifty (250) square feet of gross floor area.

(4) Bowling Alleys:

Three (3) spaces for each bowling alley plus additional spaces for eating establishments on the premises in the amount of one (1) space per one hundred and fifty (150) square feet of gross floor dining area.

(5) Car Wash:

One (1) space per employee on the maximum shift plus a minimum of three (3) stacking spaces per car wash bay and measured from the car wash bay.

(6) Dance Halls:

One (1) space for each twenty-five (25) square feet of dance floor space area; plus additional spaces equal to seventy-five (75) percent of the number of employees, including musicians.

(7) Drive-In Restaurants and Establishments with Drive-Thru Windows:

One (1) space for every two (2) seats, plus one (1) space per each employee in the maximum shift. A minimum of ten (10) stacking spaces shall be required and measured from the drive-up window.

(8) Eating and Drinking Establishments:

One (1) space for every three (3) seats, plus one (1) space per each employee in the maximum shift.

(9) Funeral Homes:

One (1) space for each three (3) seats in the reposing rooms, plus one (1) space per funeral vehicle and one (1) space per employee.

(10) Furniture Sales:

One (1) space per four hundred (400) square feet of gross floor area for display area, plus one (1) space per one thousand (1,000) square feet of warehouse area, plus one (1) space per company vehicle.

(11) Gasoline Filling Station:

Three (3) spaces for each service bay plus one (1) space per employee on the maximum shift. If retail sales are provided as an accessory use for such items as

food, beverages, and/or convenience, additional spaces shall be provided in the amount of one (1) space two hundred (200) square feet of gross floor area for the first ten thousand (10,000) square feet plus four (4) spaces for each additional one thousand (1,000) square feet of gross floor area.

(12) Hotel, Motel:

One (1) space for each rooming unit and one (1) space per employee on the maximum shift. If eating and/or drinking establishments are located on the premises, additional spaces shall be provided in the amount of one (1) space for every three (3) seats, plus one (1) space per each employee in the maximum shift.

(13) Lumber, Building Material, Landscaping Retail Sales:

One (1) space per four hundred (400) square feet of gross floor area for display area, plus one (1) space per one thousand (1,000) square feet of warehouse area, plus one (1) space per company vehicle.

(14) Personal Services Establishment:

One (1) space per two hundred (200) square feet of gross floor area.

(15) Radio or Television Station:

One (1) space per three hundred (300) square feet of gross floor area, plus one (1) space per company vehicle.

(16) Retail Business and Service Establishments, *except Eating and Drinking Establishments*:

Four and one-half (4½) spaces per one thousand (1000) square feet of gross floor area regardless of size of retail business or service establishment.

(17) Roadside stand:

Six (6) spaces.

(18) Vehicle Sales or Rental:

One (1) space per five hundred (500) square feet of enclosed sales area, plus two (2) spaces per service bay, plus one (1) space per employee on the maximum shift, plus one (1) space per five hundred (500) feet of outdoor, open sales area.

C. **Offices**

(1) Office, General (*excluding Professional, Medical and Dental Offices and Clinics*):

Four (4) spaces per one thousand (1000) square feet of gross floor area.

(2) Offices: Professional, Medical and Dental Offices and Clinics:

One (1) space per two hundred (200) square feet of gross floor space or five (5) spaces per professional person keeping office, plus one (1) space per staff member, whichever is greater.

D. **Public and Semi-Public**

(1) Day Nurseries or Day Care Center, Public or Private:

A minimum of one (1) space or one (1) space for each five hundred (500) square feet of indoor play or instruction space, whichever is greater.

(2) Elementary, Junior High or Middle School, Public or Private:

One (1) space for each employee plus sufficient off-street parking space for safe and convenient loading and unloading of students and extracurricular activities.

(3) High School, Public or Private:

One (1) space for every six (6) students, plus one (1) space for each employee plus sufficient off-street parking space for safe and convenient loading and unloading of students and extracurricular activities. If the High School has an auditorium or stadium, then an additional space shall be provided for every two (2) students.

(4) College or Business School, Public or Private:

One (1) space for each employee plus one (1) space for each student. If the institution has an auditorium or stadium, then an additional space shall be provided for every two (2) students.

(5) Churches and Other Places of Worship.

One (1) space for every three (3) seats, plus one (1) for each staff member and site resident, but not less than twenty (20) spaces.

(6) Hospitals, Sanitariums.

One (1) space for each doctor (staff or visiting) associated with the institution, plus one (1) space for each employee on the maximum shift, plus one (1) space for every two (2) beds, plus such additional space for business and social visitors as shall be determined by the Official.

(7) Library, Museum, or Cultural Center.

Two (2) spaces per five (5) patrons, based on the occupancy limits, plus one (1) space per employee on the maximum shift.

(8) Rehabilitation Homes, Halfway Houses, Rest Homes, Convalescent Homes, Nursing Homes, Assisted Living Facilities.

There shall be one (1) paved off-street parking space provided for every four (4) beds and one such space for each staff member on the maximum shift.

E. **Recreational**

(1) Auditoriums, Theaters (Indoor or Outdoor), Stadiums.

One (1) space for every two (2) seats.

(2) Day Camps.

For each six thousand (6,000) square feet of lot area, one (1) accessory off-street parking space of five hundred (500) square feet is provided to accommodate buses used in the transportation of campers, in addition to the accessory off-street parking requirements.

(3) Golf Courses, Country Clubs, or Driving Ranges.

a) For driving ranges, a minimum of one (1) off-street parking space shall be provided for each driving tee and each putting

green. Additional paved spaces shall be furnished for other uses in conjunction with the range.

- b) For golf courses and country clubs, a minimum of fifty (50) off-street parking spaces shall be provided for a 9-hole course and one hundred (100) spaces for an 18-hole course. In addition, there shall be one (1) space for every four (4) seats of capacity if the club or course has a dining and/or lounge facility.

F. **Industrial and Utilities**

(1) **Research and Development Facility**

One (1) space per one thousand (1,000) square feet of gross floor area or one (1) space per employee, whichever is greater.

(2) **Warehousing, Freight Terminal**

One (1) space for every one thousand (1,000) square feet of floor area or one (1) space per employee on the maximum shift, whichever is greater.

(3) **Wholesale Establishments, Manufacturing, and Industrial District Uses.**

One (1) space for every five hundred (500) square feet of floor area devoted to manufacturing, compounding, assembling, or packaging operations or one (1) space per employee on the maximum shift, whichever is greater.

(4) **Utility Facility, Major.**

One (1) space per employee plus one (1) space per company vehicle.

(5) **Utility Facility, Minor.**

Adequate parking for the emergency maintenance of utility facility, minimum of two (2) spaces.

**7.5 OFF-STREET LOADING REQUIREMENTS**

7.5.1 **Required Conditions for Off-Street Loading**

- A. Off-street loading facilities shall be provided and maintained. In all Districts in conjunction with every building hereafter erected, structurally altered and occupied for manufacturing, storage, warehouse, goods display, retail or wholesale store, laundry, dry cleaning, hotel, hospital, laboratory, office building, college and other uses similarly requiring the receipt or distribution by motor vehicles of materials or merchandise.
- B. Such facilities shall be erected in any district where required after adoption of this Ordinance in accordance with the requirements of this Section.

7.5.2. **Location of Facilities**

- A. Loading facilities, whether docks or spaces, shall be:
- (1) Adjacent to, partly within, or completely enclosed within structure.
- (2) On the same lot as the building or use they are intended to serve.

- (3) On private property, laid out so that access is not provided directly from a public way, but is from an intervening driveway or maneuvering area.
- (4) In any Industrial District, no loading facility shall be permitted closer than one hundred (100) feet to any residential use or residential district.

#### 7.5.3 **Design of Loading Facilities**

- A. Each loading bay shall be not less than twelve (12) feet in width, fourteen (14) feet in height, and twenty-five (25) feet in length for normal usage and sixty (60) feet in length for tractor-trailer usage (exclusive of platforms, maneuvering space, access drives and screening).
- B. Required loading bays shall include sufficient reserve space on the lot in addition to the bays so that vehicles can be maneuvered into position without interference with streets or required off-street parking.
- C. Entrance and exits to loading areas shall be located not less than fifty (50) feet from any street intersection.

#### 7.5.4. **Other Requirements**

- A. Areas of facilities designed for off-street loading shall be used exclusively for loading, maneuvering access and landscaping. They shall not be used in a manner which will interfere with their required purpose, nor satisfy the off-street parking requirements.
- B. Off-street loading facilities shall not be reduced in number or encroached upon in any manner after their initial provision unless a change in use occurs which permits a reduction in quantity.
- C. No part of an off-street loading facility required for any building or use shall be included as part of a loading facility similarly required for another building or use unless the Board finds that the type of building or use indicates that the usage or the loading facilities will not occur simultaneously.

#### 7.5.5. **Required Loading Spaces**

- A. For each commercial and industrial enterprise of over two thousand and five hundred (2,500) square feet of gross floor or ground area in which commodities are sold, displayed, serviced, repaired, altered, or fabricated as the principal use of the enterprise, the first off-street loading space shall be required for the first ten thousand (10,000) square feet of gross floor area. Thereafter, one off-street loading space shall be required for every additional forty thousand (40,000) square feet of gross floor area.
- B. Additional off-street loading spaces shall be required by the Building Official when necessary to provide adequate area for off-street loading. Detailed plans for off-street loading may be required before the issuance of any building permit.

## **ARTICLE 8 - SIGNS**

### **8.1 GENERAL**

- A. Signs in all Districts may be located in any required yard, provided that:
  - 1. Said signs shall be set back from any side lot line at least the side yard distance required for the adjoining lot.
  - 2. No signs shall be permitted within twenty (20) feet of a street or public right-of-way.
- B. Sign computation and dimensional schematics are shown on the Sign Computation and Dimensional Schematics.

### **8.2 PROHIBITIONS AND RESTRICTIONS, GENERAL**

- A. No sign shall be placed or located or displayed upon any sidewalk, nor shall any sign project over the sidewalk, nor over any public right-of-way with the following exceptions:
  - (a) Temporary Signs if authorized under §8.7 of this Ordinance.
  - (b) An identification sign no larger than two (2) square feet in area. Such signs shall have a vertical clearance over the sidewalk or public right-of-way of at least eight (8) feet.
- B. No sign shall be affixed in any manner to any tree, nor to any public utility pole.
- C. No sign shall be in whole or in part changing, blinking, flashing, moving, mobile, revolving or animated except for signs commonly known as "barber poles" ordinarily and customarily used in connection with barber shops.
- D. No roof signs (often known as "sky signs") shall be permitted.
- E. No off-site directional signs shall be permitted except signs erected by the Town of Smithfield, the State of Rhode Island or the Federal Government indicating the route to major public facilities, shopping areas and the like.
- F. No "A" frame, pennant, flag larger than fifteen (15) square feet in area, whirligig, banner or string light bulbs (other than those used for the seasonal sale of Christmas trees) shall be permitted.
- G. No animated sign illuminated by flashing or intermittent lighting shall be permitted.
- H. No billboards shall be permitted.
- I. Signs affixed to trailers, mobile units or parked vehicles are not permitted to be parked on any premises for the principal purpose of advertising a business.

### **8.3 SIGN PERMITS**

- A. Except as hereinafter provided in paragraph C, no sign shall be erected, altered or enlarged, or affixed to any building or placed on any premises without a permit issued by the Official. Such permits shall only be issued in conformance with the provisions of this Section.
- B. Application for sign permits shall be accompanied by such plans, drawings and specifications as the Official may require. Such permits may be issued on a permanent basis or for an indefinite period not to exceed one hundred eighty (180) days. A permit issued for an indefinite period shall become invalid when the product or activity

advertised on the sign has been discontinued or inactive for a period of one (1) year. Fees for all sign permits shall be as the Town Council may, from time to time, determine.

- C. The following types of signs shall be authorized by right, without the necessity of a permit therefore.
1. One (1) sign, bearing the names of the occupant of a dwelling, not to exceed three (3) square feet in area. If the occupant is engaged in a customary home occupation or is a professional, the sign may also display a word or words indicating such occupation or profession.
  2. One (1) sign offering accommodations for guests, not to exceed two (2) square feet in area.
  3. One (1) real estate sign per principal building or lot if there is no building thereon, not to exceed six (6) square feet in a residential district and twelve (12) square feet in business, office and industrial districts. Such signs shall be removed forthwith upon sale or rental of the premises advertised.
  4. Signs identifying the use of the premises by a religious or educational institution, not to exceed ten (10) square feet in area.
  5. Signs prohibiting trespassing, hunting, and the like, not to exceed one (1) square foot in area.
  6. Street name signs, and signs erected by the Town, or State, for the direction and control of traffic.
  7. Window signs; however, the total area of such signs shall not be greater than fifteen (15) percent of the area of the window through which they are to be viewed. Window signs exceeding this area limitation are expressly prohibited.
  8. Signs on or adjacent to the entry of a multiple occupancy building listing the names and/or occupations of the occupants thereof, provided that the size of such sign shall not exceed one (1) square foot for each occupant.
  9. Signs not to exceed six (6) square feet in area designating historical places or points of interest, erected by governmental authority or by a duly chartered historical association or the like with approval of the Traffic Safety Commission.
  10. Signs indicating, "Entrance", "Exit", "Parking", or the like, erected on a premises for the direction of persons or vehicles, no to exceed two (2) square feet in area.
  11. Directional signs not exceeding two (2) square feet in area pertaining to churches, schools, institutions and other non-profit uses with approval of the Traffic Safety Commission.
  12. Non-commercial decorative or national flags shall be allowed in all districts.
  13. A limit of two (2) commercial flags per business.
  14. Signs identifying public uses operated by a unit of government.
  15. No signs may be posted on trees, utility poles, traffic or regulating signs of any nature.
  16. A bulletin board for public, charitable or religious institutions when located upon the premises of said institutions. These bulletin boards shall not exceed ten (10) square feet in area and shall bear no commercial advertising. There shall be no more than one bulletin board on site.

**8.4 MAINTENANCE OF SIGNS**

- A. All signs whether erected prior to the effective date of this Ordinance or not, and whether a permit is required or not, shall be maintained in a safe and neat condition to the satisfaction of the Official. Failure to correct a violation of this provision within ten (10) days after notice thereof shall constitute grounds for revocation of the permit, or for removal of the sign if it was erected prior to the time when such permit was required, or if it is a type for which no permit is required.

**8.5 VILLAGE, COMMERCIAL, HIGHWAY COMMERCIAL, PLANNED CORPORATE, PLANNED DEVELOPMENT AND INDUSTRIAL SIGNS**

- A. The following special provisions shall apply to signs in all Village, Commercial, Highway Commercial, Planned Development, Planned Corporate, and Industrial Districts:
1. One (1) or more wall signs are permitted for each wall fronting on a street or parking area. The total area of such signs combined shall not exceed one (1) square foot for each front foot of street frontage of the front yard or of the corner side yard of the premises on which said signs are located, except where the principal front yard or corner side yard of the premises total less than fifty (50) feet of street frontage, then the total surface area of all signs combined on any one (1) premises shall not be more than five hundred (500) square feet in area. Such signs may not be directly painted on any wall, but may consist of individual letters attached to or cut into such wall; in such case, the area of such sign shall be figured on the basis of the perimeter required to contain all the letters, numbers or other devices comprising the sign. If a building is provided with a portico, projecting shelter, balcony or the like the sign may be erected on such structure, provided it does not extend over a public way.
  2. In addition to the signs permitted under A1, above, where the area in front of a building permits, there may be one (1) free-standing sign for each street on which it fronts not to exceed sixteen (16) square feet per side in area for each fifty (50) linear feet of lot frontage, or fraction thereof, if it is set back from the street line.
    - a) Exterior signs in all business, office and industrial districts shall be located twenty (20) feet or more from any residential district boundary line. Said signs shall pertain only to the use or business conducted on the premises on which it is located.
    - b) Height requirements: Freestanding signs must be erected so that the lowest portion of the sign, not including the support, is higher than eight (8) feet and the highest portion of the sign, including the support, is not above fourteen (14) feet. Freestanding signs not located in an area of pedestrian travel must be erected so that the lowest portion of the sign is higher than four (4) feet and the highest portion of the sign including the support is not higher than ten (10) feet. Monument signs shall not exceed five (5) feet in height
  3. Notwithstanding the foregoing, the following modifications are permitted:
    - a) Theaters: The marquee of a theater shall be considered as comprising part of the wall area in determining the total sign area to be permitted.
    - b) Subdivisions, Land Development Projects: One (1) Subdivision/ Land Development Project name sign, not to exceed sixteen (16) square feet may be permitted during construction for each entry to a subdivision/land development project from a public way during construction after which

the subdivision/land development project name sign shall not exceed four (4) square feet.

- c) Contractors, Developers: For each construction or development project there may be issued a temporary permit for one (1) standing sign, not to exceed sixteen (16) square feet in area, setting forth facts and names pertinent to the project. Such sign shall be removed forthwith when the project is completed.
- d) Gasoline Stations: Standard pump head signs of gasoline filling stations are not considered to be part of the required sign area. Such signs, however, must not be animated nor illuminated by flashing or intermittent lighting.
- e) Plaza: Where a group of three (3) or more business buildings or stores are built as a "plaza" or "Shopping Center" and it is desired to identify the grouping as such, in addition to the signs permitted for individual buildings or businesses, there may be permitted one (1) standing sign, not to exceed forty (40) square feet in area displaying only the plaza or center name, set back not less than fifty (50) feet from any street property line.

## **8.6 ILLUMINATION OF SIGNS**

- A. Except as otherwise prohibited herein, signs may be illuminated by any fixed steady light source, of such nature and in such manner that the brightness of the sign face does not exceed one hundred (100) lumens per square foot. Except for neon type signs, where permitted, such illumination shall be so arranged that its source is not directly visible from any way, occupied building or abutting property and no illumination shall be of any color that might be confusing to traffic. Christmas lights shall not be deemed as coming within the provisions of this paragraph but this paragraph shall apply to window signs.
- B. Illuminated signs shall not cause glare distracting to drivers, nor shall they be in such a position or such color as will hamper the readability of traffic lights or traffic signs.
- C. No signs shall be illuminated in residential districts.
- D. Signs may be illuminated externally by a stationary light of white or off-white color.
- E. There shall be no internally illuminated box signs.

## **8.7 TEMPORARY SIGNS**

Notwithstanding any other provisions of this Section, Temporary Signs shall be permitted to advertise non-residential uses, subject to the following:

- A. Temporary Signs, permitted under this Sub-section are defined as banners professionally prepared as determined at the sole discretion of the Official, not to exceed sixty (60) square feet.
- B. No Temporary Sign shall be erected without a permit issued by the Official. A permit shall be required for each Temporary Sign, however, no permit fee shall be charged.
- C. No more than one (1) Temporary Sign is allowed to be displayed per business and no more than four (4) shall be displayed on any building where multiple businesses are located, including retail shopping centers. Temporary Signs may be displayed only on existing free-standing signs, roofs, or on building walls.

- D. Temporary Sign Permits may be issued for up to a total of eight (8) weeks in any calendar year. No business may display a Temporary Sign or Signs in the aggregate in excess of eight (8) calendar weeks.
- E. During periods of major highway construction which impair the visibility and/or ingress/egress to non-residential uses as determined by the sole discretion of the Official, said Official may authorize at his/her discretion, additional Temporary Signs, including off-site signs, to further identify access to the business and/or to confirm that the establishment is open for business.
- F. Temporary Signs erected across a highway advertising a civic event in the Town of Smithfield are allowed subject to a permit from the Official and authorization from the jurisdiction which owns the highway.

## **ARTICLE 9 - SPECIAL DISTRICTS**

### **9.1 OVERLAY DISTRICTS**

Overlay zoning districts are hereby established to regulate areas and structures within designated areas. These regulations are necessary to meet the purposes of this Ordinance. The boundaries of the overlay zoning districts are as shown on the Overlay Zoning District Map, the official zoning map of the Town. These boundaries may be amended in accordance with Article 11 of this Ordinance

### **9.2. AIRPORT OVERLAY DISTRICT**

Within the Airport Overlay District,

- A. The area shall be sufficient to meet the Federal Aviation Administration requirements for the class of airport or heliport proposed.
- B. There shall be no existing flight obstruction such as towers, chimneys, or other tall structures, or natural obstructions outside the proposed airport which would fall within the approach zone to any of the proposed airport or heliport runways or landing strips.
- C. There shall be sufficient distance between the end of each usable landing strip and the airport boundary to satisfy the requirements of the Federal Aviation Administration, or any other appropriate authority.
- D. In cases where air rights or easements have been acquired from the owners of abutting properties in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.

### **9.3. PUTNAM PIKE/ESMOND STREET PLANNED DEVELOPMENT DISTRICT**

The Property owned by Churchill & Banks Properties, LLC, Walter Patterson, and Robert J. Moreau, Jr., located at 355 Putnam Pike and Esmond Street more particularly described as Assessor's Plat 29/Lot 66A, Assessor's Plat 30/Lots 20, 29, 30, 30A, 31 and 31A, and Assessor's Plat 35/Lots 13, 21 and 22 shall be zoned Planned Development (PD) subject to the following limitations, conditions, and restrictions:

1. The development of the subject property shall be limited to the following:
  - a) a 100-room (or less), 4-story hotel comprising no more than 54,000 square feet;
  - b) retail space comprising no more than 30,900 square feet;
  - c) office space comprising no more than 12,200 square feet;
  - d) day care comprising no more than 4,000 square feet; and
  - e) no more than one hundred twenty-four (124) town house/multi-family residential dwelling units. At least twenty-five (25) of said one hundred twenty-four (124) units must qualify as low or moderate income housing

units under Rhode Island General Laws § 42-128-8.1(d) for median household income for the Town of Smithfield. The Town Council has established herein the number of market rate and affordable units after application of the requirements of the Town's Inclusionary Zoning Ordinance. At the option of the property owners, ninety-nine (99) market rate residential units may be constructed on site and the twenty-five (25) affordable units may be constructed or provided at a different location or locations within the Town of Smithfield on the condition that said offsite units conform to the requirements of Zoning Ordinance Section 5.10.M and Rhode Island General Laws § 42-128-8.1(d) for median household income for the Town of Smithfield and are made available to the public contemporaneously with the market rate units to the satisfaction of the Planning Board. Should said affordable units be provided offsite, they shall not be included in the number of affordable units which are required at such offsite location by the Town's inclusionary zoning or comprehensive permit regulations. No impact fee shall be charged on any affordable unit pursuant to Smithfield Ordinance § 193-12(D).

2. In addition to uses permitted in the Planning Development (PD) zoning district, the following uses shall be permitted on the subject property:
  - a) a 100-room (or less), 4-story hotel comprising no more than 54,000 square feet;
  - b) office (government, business, professional, medical, dental and/or home) comprising no more than 12,200 square feet;
  - c) day care center comprising no more than 4,000 square feet;
  - d) bank, with or without drive-thru and/or window service;
  - e) catering establishments;
  - f) research and development up to 4,000 square feet; and
  - g) parking, commercial, off-street.
3. The following provisions of Zoning Ordinance Section 5.7.1 shall not apply to the development of the subject property: Sections 5.7.1.B, C, D, E, F, G, H, I (provided that the separation between the buildings must meet all applicable building and fire codes), J, M, T, R, U, and V.
4. The development of the property shall conform to the following limitations and conditions:
  - a) More than one building may be allowed on a lot. Building separation shall comply with all applicable building and fire codes.
  - b) More than one use may be allowed in a building.

- c) Individual parcels within the property may be subdivided with 0' interior building setbacks as long as required access and parking requirements are met.
- d) For two-family detached structures on the same lot or on commonly owned land, the dimensional standards in Table 1 below shall apply.
- e) For multi-family structures on the same lot or on commonly owned land, the dimensional standards in Table 1 below shall apply. Buildings may be 3 stories in height and contain a maximum of 18 units. The project shall be constructed in conformity with the International Code Council's International Green Construction Code to the satisfaction of the Town's Building Official. Residential units may be located on the 2<sup>nd</sup> and/or 3<sup>rd</sup> floors of commercial buildings.
- f) Residential care/assisted living/independent living structure(s):
  - i. For structures on the same lot or on commonly owned land, the dimensional standards in Table 1 below shall apply.
  - ii. No residential care/assisted living/independent living unit shall have more than two bedrooms and no unit shall have more than two permanent occupants.
  - iii. Permitted uses within the residential care/assisted living/independent living structure(s) shall include the following:
    - i. Residential unit (apartment or condominium);
    - ii. Common dining area or kitchen;
    - iii. Central laundry facilities;
    - iv. Office for staff and administration of the facility only; and
    - v. Indoor and/or outdoor facilities for the residents and guests, including library, exercise room, lounge, patio area, or similar accessory uses.
  - iv. This use shall not be allowed in the mixed use buildings.
- g) Retail, office, restaurant, mixed use
  - i. For structures on the same lot or on commonly owned land, the dimensional standards in Table 1 below shall apply. In addition, the minimum separation between buildings on the same lot or commonly owned land shall be 0 feet if attached to an adjacent building.

TABLE 1 DIMENSIONAL STANDARDS					
Use	Area Min.	Width Min.	Front Yard (to Pub ROW) Min.	Rear Yard (to abutting property) Min.	Side Yard (to abutting property) Min.
All Permitted Uses	n/a	n/a	25 ft.	50 ft.	10 ft.

- h) Retaining walls, masonry walls, and ornamental walls, if they are less than 10 feet in height, shall not be subject to the setback requirements of the Zoning Ordinance.
- i) The following parking requirements, standards, and design shall apply to the Property:
  - a. Parking Requirement - The base parking requirements per use as outlined in Article 7.4. Schedule of Off-Street Parking Requirements shall apply to individual uses on the Property. As part of the approval process, the Applicant may use the following alternative methods for meeting the required parking:
    - i. Shared On-Site Parking
      - a. Non-competing Uses. If the non-competing uses are in common ownership, the parking requirements for those uses may be reduced by the Building Official based on an analysis of peak demands for non-competing uses up to 75% of the requirements for the predominant use.
      - b. Competing Uses. If the competing uses are in common ownership, the parking requirements for those uses may be reduced by the Building Official where peak demands are not off-set up to 30% of the requirements for the predominant use.
      - c. Parking located anywhere within the confines of the Property may be used to satisfy the minimum requirement.
    - ii. On-Street Parking - On-street parking shall be allowed on the Property. The number of on-street spaces may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements.
- j. Parking standards on the Property shall conform to the following table:

<b>TABLE 2: PARKING TOTALS</b>	
Total Parking	474 spaces
Total Parking Hotel	100 spaces (1 space per room)
Total Parking in Retail/Office	164 spaces (1 space per 310 s.f. +/-)
Total Parking Residential	210 spaces (1.5 spaces per unit)

- k. All roadways, drives, and parking areas on the Property must be privately-owned and maintained by the property owner.
  
- 5. The buffers set forth in Table 1 above and as defined by RIGL Section 2-1-20, as amended, shall apply in lieu of the buffers set forth in Zoning Ordinance Section 5.3.4.
  
- 6. The Property may have up to three egress points which may be for entrance and/or exit as determined by the Planning Board. Any off-site traffic improvements deemed necessary by the Planning Board shall be consistent with final proposed plans by the Rhode Island Department of Transportation (RIDOT). If State highways are involved, any recommended improvements shall be in conformance with RIDOT approval and shall require approval by the RIDOT and Federal agencies, if applicable.
  
- 7. The project must be constructed in substantial conformance with the plans filed with the Town Council, as those plans have been amended by this Ordinance. Said plans may be modified by the Planning Board to make them conform to the Subdivision Regulations and Development Ordinances of the Town provided that the provisions of this Ordinance shall control in the case of conflict. The development shall also comply with the requirements of the Zoning Ordinance, except that the relief granted from the density and wetlands setback and other setback requirements as set forth herein has been approved by the Town Council as a condition of the zone change.
  
- 8. The property owners must obtain master plan, preliminary plan, and final plan approval from the Planning Board for a major land development prior to the issuance of a building permit.
  
- 9. The property owners shall submit a full traffic study to the Planning Board for consideration at the preliminary stage of review.
  
- 10. The property owners shall construct the interior roadway as shown on the project plans as well as any improvements to the intersection of Rt. 44 and Esmond Street in compliance with the recommendations and conditions of the property owners’ full traffic study if said recommendations and conditions are confirmed by a peer review of said traffic study conducted by a firm selected by the Town. Landscaping and landscape amenities shall be installed as buildings, roadways and parking lots are built.

11. The property owners shall submit to the Planning Board a Site Investigation Report at the master plan stage of review and a Rhode Island Department of Environmental Management (RIDEM)-approved remediation plan for the subject site for consideration at the preliminary plan stage of review. The property owners at their cost shall remediate the site in accordance with the approved remediation site plan and receive RIDEM approval therefor prior to the issuance of a building permit.
12. The property owners shall provide and maintain at least a 50-foot vegetative buffer between the development and Esmond Street as shown on the plans submitted to the Town Council.
13. Disturbed areas, buildings, and parking facilities immediately adjacent to existing residential uses shall be screened by a decorative fence, masonry wall, or vegetation as directed by the Town Engineer.
14. The property owners shall obtain approval for a landscaping plan from the Town Engineer in accordance with the Town's Landscaping Ordinance prior to the issuance of a building permit. The landscaping plan shall be implemented as directed by the Town Engineer.
15. The RIDEM wetlands permit application and Stormwater Pollution Prevention Plan (SWPPP) must be submitted to RIDEM and be part of the Preliminary Plan submission. The wetland permit and SWPPP approval must be obtained by Final Plan approval.
16. Should blasting be required, a blasting plan, which is to include a pre-blast survey of abutting properties and appropriate bonding, must be approved in advance of any blasting by the Town Engineer and the State Fire Marshal.
17. Unless specifically modified by this Ordinance, all applicable Town ordinances and the Town Subdivision Regulations shall apply to the subject property and the subject development plan.
18. Within 10 calendar days following the expiration of the appeal period from the Planning Board's final approval of the project or the final dismissal of said appeal, the property owners shall dismiss with prejudice all pending litigation involving the subject property to the satisfaction of the Town Solicitor, otherwise this Ordinance shall become null and void.



**ANNOTATION KEY**

- A** ENTRY GREEN WITH LOW WALLS
- B** ON STREET PARKING
- C** DAY CARE WITH PLAYGROUND
- D** NEIGHBORHOOD GREEN
- E** PARKING BEHIND OR WITHIN BLOCK
- F** PEDESTRIAN PATHS THROUGH BLOCKS
- G** POCKET PARKS
- H** PLAZA
- I** PEDESTRIAN PATHS FROM PARKING
- K** STORMWATER DETENTION
- L** PARKING BELOW UNITS
- 25** BUILDING NUMBER

**UNIT TYPE LEGEND**

- CIVIC
- TOWNHOUSE
- 18 UNIT MULTI-FAMILY (3 STORY)
- RETAIL WITH 2ND FLOOR APT.
- RETAIL WITH 2ND FLOOR OFFICE
- RETAIL (1 STORY)
- HOTEL

**UNIT / AREA TOTALS**

TOWNHOUSE -	46 UNITS
MULTI FAMILY -	78 UNITS
RETAIL -	30,900 +/- SF
OFFICE ABOVE RETAIL -	12,200 SF
DAY CARE -	1,750 SF
HOTEL (100 ROOMS) -	54,000 SF



SCALE: 1" = 40' 0"



**SMITHFIELD VILLAGE**  
 PROPOSED SITE PLAN  
 JULY 19, 2013

## 9.4 ECONOMIC GROWTH OVERLAY DISTRICT

- 9.4.1. Purpose. The Town of Smithfield has a Planned Corporate District that was established to provide an area for planned employment uses, including planned office, as well as research and development parks, light industrial development, corporate headquarters, hotel/conference facilities, and related accessories.

In addition to the uses listed above, a successful growth area should also have diversity that caters to small businesses, ancillary services, and housing targeted to young professionals. In order to provide for an area of this type of development, an Economic Growth Overlay District (EGOD) has been created. The purpose of the EGOD is to provide an area for economic development in the Town of Smithfield that is based on providing a growth center that is in harmony with the Planned Corporate District. The area is generally characterized by:

- Compact development at a density to sustain a variety of uses;
- Mixed use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units or office space above nonresidential space;
- Development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
- Facilitation of strong community interaction.

The district encompasses those properties located around the intersection of Douglas Pike (Route 7) and George Washington Highway (Route 116) west of Route 295 as shown in Figure 1. The EGOD allows expanded land uses and intensity of land uses that will assist in fostering the development of a mixed use growth center that will service the larger Planned Corporate District.

- 9.4.2. Intent. The EGOD is intended to provide for a diversity of compatible land uses and development densities. A parcel may include a mixture of residential, office, retail, recreational, open space, and other uses as described below.

The ultimate goal to be achieved in establishing the EGOD is fostering an environment that not only realizes development of the Planned Corporate District, but also realistic development of those properties at the intersection of Routes 7 and 116. This will be accomplished according to the following prescribed review and approval procedures, according to design standards particular to the EGOD, and consistent with the Planned Corporate District.

The intent of the EGOD is to encourage:

- Compact development.
- Traditional village center scale and context..

- Expanded land usage that fosters an environment for corporate and mixed use development.
- More intensive, self-contained development that includes mixtures of commercial, industrial and residential uses.
- Development is multi-modal- pedestrian, bicycle, and vehicular.
- Diverse housing opportunities and choices: Residential uses within the core of the growth center can include upper-level flats or free-standing apartment buildings.
- Transportation choice: Current RIPTA bus lines traverse the site, and there is room for bike lanes or an off-road bike path along each corridor.
- Design for sense of place: By enhancing the presence of new buildings on both sides of Routes 7 and 116, the development concept (opposite page) creates a sense of arrival.
- Consistency with the Town of Smithfield’s Comprehensive Community Plan.

A key part of a more compact, efficient growth pattern is fostering a mix of uses that take advantage of adjacencies and the ability to share structures, parking lots and open space areas. For example, buildings with ground-floor commercial and upper-floor office and residential space provide a higher level of use on a given footprint, increasing revenue and reducing shared costs for construction, heating/cooling and maintenance. This development pattern would be combined with a loose grid of new streets which divides the center into a series of blocks, with buildings along the street edge and parking lots hidden behind them. Streets would be designed to encourage walking, with on-street parking, wide sidewalks, plentiful shade trees, outdoor cafes and paths that cut through the blocks to reveal courtyard parks.

- 9.4.3. Conformity to Comprehensive Plan. All development within the Economic Growth Overlay shall conform to the policies as set forth in the Comprehensive Community Plan. In order to demonstrate such conformity, the applicant shall be required to submit a description of the proposed development and existing and/or approved developments in the surrounding area to the Planning Board. This description shall be a statement in text, maps, illustrations, or other media of communication that is designed to provide a basis for rational decision making regarding the long-term physical development of the EGOD and its impact on the community. The submittal shall include all items identified in sections 9.4.5 and 9.4.6.
- 9.4.4. Applicability. Provisions of this section shall apply only to the parcels located within the EGOD as shown on Figure 1. Any permitted use in the underlying zone is permitted in the EGOD. Uses permitted by Special Use Permit are allowed if granted by the Zoning Board of Review as provided herein. All projects proposed within the EGOD are subject to the design

standards and provisions of the following sections: 9.4.9 Architectural Standards; 9.4.10 Schematic Building Elevations; 9.4.11 Dimensional and Density Standards; 9.4.13 Circulation Standards; 9.4.14 Parking Requirements, Standards, and Design, 9.4.15 Outdoor Lighting; 9.4.16 Landscaping and Screening Standards, and 9.4.17 Signs.

However, an application submitted for a project based solely on the underlying zoning shall be subject to the review and submission requirements of the Smithfield Land Development and Subdivision Regulations, Section III. *Procedure for Submission of Plans and Plats for Land Development Projects and Subdivisions* and the normal zoning review procedures of Article 10 herein.

- 9.4.5. Procedure for approval. For new uses on undeveloped land, development proposed within the EGOD shall be reviewed and approved by the Planning Board as a Major Land Development Project (MLDP) and as further provided herein. In order to expedite the review and approval of MLDPs within the District, the Planning Board may combine the stages of review as provided in the Land Development and Subdivision Review Regulations.

It is anticipated that developments of certain magnitude (types and intensity of land uses) will be as a matter of right (established pad ready sites) but will also, to the extent possible, receive expedited review. Existing conforming uses seeking approval for expansion of the existing gross floor area, or change to another permitted use code category may be reviewed as new uses. Existing nonconforming uses within the District shall be continued as provided in Article 3 herein.

- A. Pre-Submittal Conference: Before submitting an application for a project proposed with an EGOD, the applicant shall schedule an appointment with the Town Planner to discuss the procedure for approval, including submittal requirements and design standards. At the conclusion of the meeting(s), the Department of Planning and Economic Development shall prepare summary notes of the meeting for distribution to the applicant, Planning Board, and other Town departments or boards as applicable.
- B. Pre-Application Meetings and Concept Plan Review: The applicant shall be responsible for providing all information requested on the ‘Checklist for Pre-Application Meetings and Concept Plan Review – Major Subdivision or Land Development Projects’ *with the exception of a Conventional Yield Plan*. In addition, the applicant shall provide the following information:
1. A narrative report outlining the existing site conditions and the general development objectives.

2. A Sketch Plan Overlay Sheet including the project site and 200' around the site. The Sketch Plan Overlay Sheet shall include the following at a minimum:
  - a) Existing and proposed building outlines;
  - b) Location of streets, alleys, and parking areas;
  - c) Pedestrian sidewalk and bicycle path locations;
  - d) Loading areas and trash storage/removal areas; and
  - e) Significant Open Space and/or landscaped areas.
  - f) Location of significant trees or wooded areas to remain.
3. A Conceptual Stormwater Management Plan that will identify the proposed patterns of stormwater runoff, the locations of stormwater infiltration areas, and other stormwater Best Management Practices.
4. The design style of the proposed buildings, which may be conveyed with drawings, photos, or computer simulations of typical proposed building elevations.
5. General information regarding potential covenants, conservation easements, or agreements that will influence the use and maintenance of the EGOD.

9.4.6. Master Plan – Major Land Development Projects and Major Subdivisions:

The applicant shall be responsible for providing all information requested on the 'Master Plan Checklist – Major Land Development Projects and Major Subdivisions' with the exception of Steps 4, 6, and 9. In addition, the applicant shall provide the following information:

- A. A narrative report outlining the existing site conditions and development objectives, including at a minimum:
  1. Parking studies;
  2. Traffic flow studies including pedestrian, bicycle, and motor vehicles (estimated trip generation figures);
  3. Density calculations;
  4. Open space calculations and use;
  5. Fiscal Impact analysis;
  6. Population and school age children calculations; and
  7. Sewer and water demands.
- B. A Sketch Plan Overlay Sheet including the project site and 200' around the site. The Sketch Plan Overlay Sheet shall include the following at a minimum:
  1. Existing and proposed building outlines;

2. Location of streets, alleys, and parking areas;
  3. Pedestrian sidewalk and bicycle path locations;
  4. Loading areas and trash storage/removal areas;
  5. Significant Open Space and/or landscaped areas;
  6. Location of significant trees or wooded areas to remain.
  7. Conceptual lighting style and locations (a detailed lumen/photometric plan shall be submitted at Preliminary); and
- C. Typical cross sections of streets and sidewalks (including dimensions and materials) for various street types proposed.
- D. A Conceptual Stormwater Management Plan that will identify the proposed patterns of stormwater runoff, the locations of stormwater infiltration areas, and other stormwater Best Management Practices.
- E. Traffic Study and Mitigation Plan.
- F. A report and plans identifying the architectural building styles. The design style shall be conveyed with drawings, photos, or computer simulations of typical building elevations (including typical dimensions of building height and width, and façade treatment).
- G. General information regarding potential covenants, conservation easements, or agreements that will influence the use and maintenance of the EGOD.
- H. Phasing plan.
- 9.4.7. Land Use Coverage: The Planning Board shall, in reviewing applications for development proposed within the EGOD, apply such controls and restrictions as may be necessary to achieve the objectives of the EGOD with regard to the proportion of buildable land that is devoted to different uses in order to retain the integrity of a Mixed Use Development. The land use percentages listed in Table 1 shall apply to developments proposed within the EGOD on parcels greater than five acres.

<b>Table 1 - Land Use Category</b>	<b>% of Gross Parcel Area Minus Wetlands</b>
Retail *	35% (Max.)
Residential (Includes congregate housing, life care facility and nursing homes)	30% (Max.)
Open Space (Including parks and paths)	5% (Min.)
All Other Permitted Uses listed herein.**	30% (Min.)

*\*Not to exceed 30 acres in any Land Development Project. Retail development located in multi-level mixed use buildings shall not be counted toward retail percentage.*

The land use percentages listed in Table 2 shall apply to developments proposed within the EGOD on parcels with area of five acres or less.

<b>Table 2 - Land Use Category</b>	<b>% of Gross Parcel Area Minus Wetlands</b>
Retail & Residential in any ratio	65% (Max.)
All Other Permitted Uses listed herein**	35% (Min.)

\*\*Includes all uses allowed in the underlying zone as specified in Section 4.3 Table of Uses.

9.4.8. Permitted uses. All uses listed below in Table 3, Permitted Uses, shall be permitted in the EGOD. The Planning Board shall determine, at the time of review for approval of or amendment to a previously-approved land development project within the EGOD, that the proposed use is consistent with the Comprehensive Community Plan provided, however, that the Planning Board may not approve any use unless listed in Table 3. Changes in use of the land or buildings or combination thereof to an approved land development project shall be reviewed by the Planning Board as provided in the Land Development and Subdivision Review Regulations.

In addition to uses permitted in the underlying zoning district per Section 4.3 of the Zoning Ordinance, Table of Uses, the uses listed in Table 3 shall be permitted by right (P), or by Special Use Permit (S) within the EGOD:

**Table 3 –EGO Land Uses**

<b>Land Use Category</b>	<b>By-Right (P)</b>	<b>Special Use Permit (S)</b>
Dwelling, Two Family	-	S
Dwelling, Multi-Family	P	-
Family Day Care Home	P	-
Dwelling, Single-Family Attached	P	-
Congregate Housing	P	-
Customary Home Occupation	P	-
Life Care Facility	<120 beds - P	>120 beds - S
Nursing Home	<120 beds - P	>120 beds- S
Office, Medical and/or Dental	P	-
Health Management Organization (HMO)	P	-
Urgent Care Health Clinic	P	-
Hospital, Health Services Facility	-	S
Restaurant, Restaurant with Window Service, Restaurant with Entertainment/Alcohol	<7,500 sq.ft. - P	>7,500 sq.ft. - S
Bank—With or Without Drive-Thru	P	-
Bank—With Window Service	P	-
Hotel	<100 rooms	>100 rooms - S
Conference Center	P	-
Health & Fitness Center	<20,000 sq.ft. - P	>20,000 sq.ft. - S
Dry Cleaning Establishment (Drop off/Pick-up Only)	P	-

Sports Facility (Indoor)	< 50,000 sq.ft. – P	>50,000 sq.ft. – S
Sports Facility (Indoor) on parcels ≤ 30 Acres	< 40,000 sq.ft. – P	>40,000 sq.ft. – S
Retail	< 45,000 sq.ft. – P	>45,000 sq.ft. – S
Retail on parcels ≤ 30 Acres	< 40,000 sq.ft. – P	> 40,000 sq.ft. –S
Supermarket	<50,000 sq.ft. – P	>50,000 sq.ft. - S
Supermarket on parcels ≤ 30 Acres	< 40,000 sq.ft. – P	> 40,000 sq.ft. –S
Shopping Centers	<50,000 sq.ft. – P	>50,000 sq.ft. - S
Shopping Centers on parcels ≤ 30 Acres	< 40,000 sq.ft. – P	> 40,000 sq.ft. –S
Colleges	-	S
Personal Service Establishments (in a mixed use building)	P	-
Communication Antenna(s) - On an Existing Structure/Tower	P	-
Radio or Television Studio	-	S
Flex Space Building	< 40,000 sq.ft. - P	>40,000 sq.ft. - S
Child Day Care Center	P	-
Performing Arts Theater	< 320 Seats - P	>320 Seats - S
Cinema (Up to 3 screens)	-	S

9.4.9. Architectural Standards. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character. The architectural design of buildings, structures and site layout shall be visually compatible with the traditional historic character of the Town of Smithfield and the surrounding area, including building materials, massing, scale, and roof line.

- A. Scale and Massing. The architectural design of mixed use buildings, structures, and site lay out within the EGOD will be visually compatible with historic New England village in scale and character, including building materials, massing, density, window arrangement, and roof lines. Office and industrial buildings shall be visually compatible with newer structures built within the corridor.
- B. Buildings shall not exceed four (4) stories in height except where the Planning Board, in consultation with the fire department, finds that exceeding this limit is necessary to achieve the intent and purposes of this ordinance.
- C. Entries and Facades.
  1. The front façade of any building shall face onto a street and not a parking lot where possible.
  2. Porches, pent roofs, roof overhangs, hooded front doors, awnings, or other similar architectural elements shall define the front entrance to all buildings.

- D. Roof design. New buildings may be designed with traditional roof forms that are compatible with the character of the Town, including but not limited to gambrel, gable, flat and hipped roofs commonly found in Smithfield and other small New England towns.
- E. Building materials. Traditional building materials such as shingles, wood clapboards, brick and stone may be used for the exterior skin of new construction, renovations, or additions. High quality composite, veneer, PVC, may also be used if they follow the appropriate design standards and simulate traditional materials as outlined in this section. Metal buildings are prohibited.
- F. Lighting. External lighting must be directed downward and be designed to eliminate illumination of adjoining property. Wall-pack mounted lighting is prohibited unless used to illuminate external doors.
- G. Chain Store or Chain Restaurant Design. The construction of buildings which are designed primarily according to themes or architectural styles associated with chain stores or restaurants shall be reviewed by the Planning Board, and may be modified if found to be inconsistent with the guidelines as set forth in this Section.

9.4.10. Schematic Building Elevations. The Planning Board may require schematic architectural drawings of the building elevations of all proposed new buildings to be submitted as part of review of land development projects. The Board may review these drawings for conformity with the design guidelines set forth herein. The Board may permit specific written or graphic architectural standards or codes for building appearance and design to be submitted by the applicant for review and approval.

9.4.11 Dimensional and Density Standards.

- A. The lot dimensional standards and total density shall not exceed the regulations set forth in this section. Developments proposing a subdivision or existing lots of record within the EGOD utilized for a singular use shall conform to the following table. Developments proposing multiple uses and/or structures on the same lot shall comply with the Retail, Office, Restaurant, Mixed Use dimensional standards in Table 4.

Use	Lot Area Min.	Width Min.	Front Yard Min.	Front Yard Max.	Rear Yard	Side Yard	Minimum Pervious Area	Maximum lot bldg. coverage
Two-household detached structures (duplex)	7,000 sf	80 ft.	0 ft.	25 ft.	25 ft.	10 ft.	40%	50%
Multi-household dwelling structure	8,800 sf	80 ft.	0 ft.	20 ft.	55 ft.	10 ft.	30%	60%

Residential care/assisted living/independent Living	40,000 sf	50 ft.	0 ft.	25 ft.	55 ft.	10 ft.	30%	60%
Retail, Office, Restaurant, mixed use	2,500 sf	25 ft.	0 ft.	10 ft.	25 ft.	0 ft.	20%	70%
Light Industrial	10,000 sf	50 ft.	25 ft.	40 ft.	40 ft.	40 ft.	10%	80%
Hotels	100,000 sf	50 ft.	0 ft.	25 ft.	25 ft.	10 ft.	30%	50%

B. Supplemental Dimensional Standards:

1. In order to encourage the placement of buildings close to interior roadways, the front yard minimum and maximum setbacks shall be measured from the back of sidewalk for interior roadways.
2. Two-household detached structures (duplex) – For structures on the same lot or on commonly owned land, the dimensional standards in Table 3 shall apply.
3. Multi-household dwelling structure - For structures on the same lot or on commonly owned land, the dimensional standards in Table 3 shall apply.
4. Residential care/assisted living/independent living structure(s) –
  - a) For structures on the same lot or on commonly owned land, the dimensional standards in Table 3 shall apply.
  - b) No residential care/assisted living/independent living unit shall have more than two beds and no unit shall have more than two permanent occupants
  - c) Permitted uses within the residential care/assisted living/independent living structure(s) shall include the following:
    - i. Residential unit (apartment or condominium)
    - ii. Common dining area or kitchen
    - iii. Central laundry facilities
    - iv. Offices for staff and administration of the facility only
    - v. Indoor and/or outdoor facilities for the residents and guests; including library, exercise room, lounge, patio area, or similar accessory uses.
5. Retail, office, restaurant, mixed use –
  - a) For structures on the same lot or on commonly owned land, the dimensional standards in Table 3 shall apply. In addition, the minimum separation between buildings on the same lot or

commonly owned land shall be:

- b) Side yard – 0 feet if attached to an adjacent building.
- c) The minimum pervious area may be included on another parcel or parcels in the EGOD.

C. Residential Density Calculations for EGOD:

- 1. Permitted residential uses shall be regulated by net density as well as by the dimensional standards set forth in this Section. The provisions of Article 5, Dimensional Regulations shall not apply to uses in the Economic Growth Overlay.
- 2. Maximum Density per dwelling type:

<b>Table 5: Residential Densities</b>	
Dwelling Type	Units per Residential Developable Acre
Two-household detached structures (duplex)	8 units per acre
Multi-household dwelling structure	20 units per acre
Residential care/assisted living/independent	32 units per acre

- 3. Density calculation – When calculating the maximum number of dwelling units allowed on a parcel proposed with an EGOD, land included in any of the following categories shall be deducted from the total lot area to determine the land developable for residential units.
  - a) Freshwater wetlands, as defined by RIGL Section 2-1-20.1, as amended, However the 100’ Town setback shall not be deducted in determining land developable for residential units.
  - b) Areas within a 100 year flood zone, as defined by FEMA.
  - c) Land within existing or proposed rights of way.
  - d) Cemeteries.
  - e) Areas designated for commercial, retail, office, or mixed use.

The remaining land shall be utilized for calculating residential development density at the above densities. If more than one dwelling type is proposed, the remaining land shall be divided among the dwelling types.

9.4.12. Reserved.

9.4.13. Circulation Standards. The circulation system shall provide for different modes of transportation. The circulation system shall provide functional links to abutting parcels where possible. The circulation system shall provide adequate traffic capacity, pedestrian and bicycle routes, limit access onto streets of lower traffic volume classification, and promote safe

and efficient mobility through the EGOD.

- A. Site Access – The intent of the EGOD is to limit access onto existing public rights of way to strategically placed locations. In addition, the location(s) shall be designed to effectively allow for the efficient movement of vehicular traffic in and out of the EGOD. The following shall apply to new and existing uses within the EGOD:
1. New Uses. All new uses constructed after the effective date of this Article shall be provided with vehicular access to a common internal street or frontage road(s) that shall intersect with a public right of way at a location approved by the RI Department of Transportation.
  2. Existing Uses. All existing uses with direct vehicular access to a public right of way shall be permitted to retain such access. Change of existing uses to other permitted uses in the EGOD or additions or enlargements which do not involve significant expansion of a structure or a more intensive use shall not require new access. Any expansion, enlargement or intensification of such existing use may require the relocation of existing driveways on public right of way to internal streets or common driveways. New streets and street patterns shall consider and accommodate parcels within and adjacent to the EGOD wherever physically possible.
- B. Pedestrian Circulation - Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the EGOD. All streets, except for alleys, shall be bordered by sidewalks.
- C. Motor Vehicle Circulation - Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as “queuing streets,” curb extensions, roundabouts, and medians may be used to encourage slow traffic speeds.
- D. Street Hierarchy - Each street within the EGOD shall be classified according to the following: Collector - Two 12’ wide lanes, Sub-collector - Two 10’ wide lanes, Local Street - Two 10’ wide lanes, and Alley - Two 8’ wide lanes for two-way traffic or one 12’ wide lane for one-way traffic.
- E. Street Layout - The Economic Growth Overlay shall strive to be designed in a traditional street grid pattern so much as the existing site conditions permit. In addition:
1. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment where the through street receives precedence.
  2. Corner Radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of [15 feet] for local streets and [20 feet] for intersections involving collector

streets. A tangential arc with a maximum radius of 10 feet shall round the intersection of a local street and an access lane or alley.

3. Street Orientation. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. Streets shall terminate at other streets or at public land where possible, except local streets may terminate in stub streets when such streets act as connections to future phases of the development.
4. Roundabouts are allowed as applicable.

#### 9.4.14. Parking Requirements, Standards, and Design.

A. Parking Requirements - The base parking requirements per use as outlined in Article 7.4. Schedule of Off-Street Parking Requirements shall apply to individual uses in the EGOD. Available innovative parking strategies include:

1. Shared On-Site Parking
  - a) Non-competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 75% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses are offset.
  - b) Competing Uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands are not offset. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to 30%.
  - c) The Board may require written easements or other assurances as may be required to enforce shared parking arrangements.
2. Shared Off-Site Parking - Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:
  - a) Shared off-site parking shall be within five hundred (500) feet of the property for which it is being requested.
  - b) Shared off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Planning Board. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Officer that the agreement has been extended.

B. Parking Lot Design - To the greatest extent possible, off-street

parking lots and loading facilities shall be located to one side or behind commercial, industrial and multi-household buildings in order to screen such facilities from adjacent streets. Parking and garages for all single- and two-household dwellings shall be prohibited in front yard minimum setback areas.

1. The Planning Board shall review the proposed location of parking facilities and may require relocation, modification or additional screening as required in order to protect views from adjacent public and private streets.
- C. On-Street Parking - On-street parking may be permitted by the Planning Board for any development within the EGOD. The number of on-street spaces may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements.
- D. Service Access - Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas. When required, loading and other service areas such as trash dumpsters shall be placed to the rear or side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas from adjacent properties or from streets within the EGOD or public right of ways. Screening and buffering shall be achieved through walls, fences and landscaping, shall be a minimum of five feet tall, and shall be opaque.
- 9.4.15. Outdoor Lighting – Streets, parking areas, pedestrian areas, and other actively used areas within the EGOD shall be provided with adequate lighting while minimizing adverse impacts, such as glare, overhead sky glow, and light trespass on adjacent properties and public rights-of-way.
- A. Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Streetlights shall be installed on both sides of the street at intervals of no greater than 75 feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society. Street lighting should be 12' high maximum decorative lamp posts along roadways.
  - B. Parking lot lighting shall be provided to meet the minimum standards developed by the Illumination Engineering Society. Parking lot lighting may be period lighting or traditional down lighting.
  - C. Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties by the use of full cut-off luminaire lighting. Use of minimum wattage metal halide, color corrected sodium light sources, or superior technology such as LEDs is encouraged. Non-color corrected low pressure sodium and mercury vapor lights are prohibited, except in light industrial areas where access by the public is restricted.

- 9.4.16. Landscaping and Screening Standards. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas.
- A. General Screening - Where screening is required by this ordinance, the Planning Board shall review to ensure that the screening is appropriate. Screening shall be evaluated by height, material quality, and opaqueness. Required screening shall be at least 50 percent opaque throughout the year. Required screening shall be satisfied by one or some combination of:
1. Decorative fence not less than 50 percent opaque behind a continuous landscaped area.
  2. Masonry wall.
  3. Hedge.
- B. Street Trees - A minimum of one deciduous canopy tree per [40] feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced.
- C. Parking Lot Landscaping and Screening - All parking and loading areas fronting on collector streets in the EGOD, and all parking and loading areas abutting residential uses, shall provide:
1. A landscaped area at least 6 feet wide along the public street or sidewalk;
  2. Screening at least 3 feet in height and not less than 50 percent opaque; and
  3. One tree for each 25 linear feet of parking lot frontage along collector street or residential use.
- D. Parking area interior landscaping - The corners of parking lots, “islands,” and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking. In large parking lots containing more than 100 spaces, an additional landscaped area of at least 360 square feet shall be provided for each 25 spaces or fraction thereof, containing at least one canopy tree. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.
- E. Screening from adjacent residential uses - Screening of uses proposed to be developed within the EGOD shall be governed by the applicable provisions of the Smithfield Landscape Ordinance. Provided, however, that in reviewing any new use proposed to be developed within the EGOD adjacent to existing residential uses, the Planning Board may require additional screening, landscaping or buffering, including, but not limited to, the construction of fences,

walls or other architectural barriers.

- F. Refuse areas - All outdoor refuse storage, collection and recycling areas shall be enclosed and solidly screened by wood or fence enclosures or by brick walls, with a minimum height of six feet, and shall extend on three sides of such an area, with a gate or door on the fourth side. Such a brick wall, if used, shall be capped at the top. A landscaped planting strip a minimum of three feet in width shall be planted on three sides of such area. The Planning Board may modify this requirement if such area is not visible from abutting property or streets.

9.4.17 Signs. The Planning Board shall require the submission of a comprehensive signage plan for all uses, individual buildings or complex of buildings and uses as part of its review. The signage plan shall include conceptual drawings and supporting information describing the proposed signage for all major buildings and uses, including entrance signs, directional signs, etc. Signs shall comply with the following:

- A. Entrance Sign –The location of entrance signs shall be limited to roads or driveways that provide access to major complexes of uses and buildings within the EGOD, and not to individual uses or buildings. No such entrance sign shall be permitted for individual uses or buildings, unless in existence at the time of this ordinance. Such entrance signs shall be not more than 300 square feet in sign display area per side and no more than 25 feet in height.
- B. Wall mounted signs (per building side) - For retail, commercial, institutional, office and light industrial uses in the EGOD there may be one or more wall-mounted sign(s) for each building side, the total of which does not exceed one square foot for each lineal foot of the building frontage on which the sign is located, not to exceed one hundred (100) square feet for mixed use buildings, but not to exceed two hundred (200) square feet for single use retail buildings.
- C. Wall mounted or projecting signs (per use) - There may be one individual wall mounted sign or projecting sign on each side of the building to identify each individual use in a multiple use building. An individual use may place said signs only on those sides of the building that are contiguous to the use. Such signs shall not exceed thirty (30) square feet for mixed use buildings, but not to exceed sixty (60) square feet for single use retail buildings and shall be located at or near any entrance open to the public.
- D. Freestanding Signs (per building side) - In addition to permitted wall-mounted signs, there shall also be allowed one freestanding sign for each building not to exceed 40 square feet per side. Such freestanding signs shall not exceed 20 feet (Min 8') in height above the ground. No such freestanding sign shall be erected in such a manner as to

materially impede vision or obstruct access to or from any public or private street, sidewalk, driveway, off-street parking or loading facility or any other access required by this Ordinance. Said freestanding signs shall not be located within 50 feet of an intersection with an existing public right of way.

- E. Sign Revisions - Revisions to signs in an approved signage plan shall be reviewed by the Administrative Officer as an amendment to an approved plan, as provided in the Subdivision and Land Development Regulations.
- F. Sign Lighting – Signs within the EGOD may be illuminated or indirectly illuminated. Flashing or animated signs are prohibited.
- G. Residential Signs – The provisions of Article 8 shall govern buildings within the EGOD that are predominately residential.
- H. The proposed use of variable message signs (VMS) or dynamic message signs (DMS) shall be reviewed by Planning Board and RIDOT, as applicable.

9.4.18. Open Space. Usable open space shall be required within the EGOD, including but not limited to: commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, greenbelts, trail connections, and other areas where access to the EGOD residents is not permitted. Design shall encourage comfortable and safe pedestrian use including landscaping, seating areas, and lighting, as appropriate and shall encourage the development of a comprehensive system of open space throughout the entire EGOD. The requirements of open space shall be as follows:

- A. Minimum open space – At least 5 percent of the total area of the EGOD shall be designated as open space. A maximum of 50 percent of the minimum open space may include Land Unsuitable for Development as per Section 6.8
- B. Open Space design – The areas proposed as open space within the EGOD that shall count towards the minimum open space shall be:
  - 1. Any lands undisturbed by development activity including Land Unsuitable for Development up to 50%.
  - 2. Any lands that are utilized to provide buffers to adjacent properties.
  - 3. Plaza – intended to be a paved space in a neighborhood center – 1,000 sf minimum.
  - 4. Green or Square – intended to be a primarily rectilinear or squared amenity – 3,000 sf minimum.
  - 5. Mini Park – intended to provide greater opportunity for open space and recreational activity – 10,000 sf minimum.
  - 6. Any paved area utilized for pedestrian or bicycle traffic, or recreation use where vehicular use is prohibited (for example: sidewalks (if part of a plaza, square, or park design), trails, plazas,

water features, recreational areas).

7. Landscaped areas where access to the EGOD residents is not prohibited.

C. Open Space Plan - Prior to the approval of any development, the Planning Board shall require the submission of an Overall Conceptual Open Space Use Plan for the parcel(s) being developed for review and approval. This plan shall indicate the general patterns and types of open space proposed to be created or reserved on the parcel(s). This plan may be amended and refined by approval of the Planning Board as individual portions of the EGOD are developed over time.

D. Open Space Dedication - Required open space dedications on individual parcels may be combined with open space dedicated from other parcels to a common open space area(s) within the EGOD. Such open space dedication shall be consistent with an approved Overall Conceptual Open Space Use Plan as provided above. Open space shall be protected against further development and unauthorized alteration in perpetuity by appropriate deed restrictions.

9.4.19. Utilities. All proposed new uses in the EGOD shall be serviced by public sewer and water service. Electric and communications lines shall be placed underground. The Planning Board may modify these standards as required in order to meet special conditions or other requirements particular to development in the EGOD so as to meet Best Management Practices.

9.4.20. Stormwater Control and Environmental Standards. Construction and design of stormwater control facilities within the EGOD shall be as provided in the Subdivision and Land Development Review Regulations. The Planning Board may modify these standards as required in order to meet special conditions or other requirements particular to development in the EGOD so as to meet Best Management Practices.

Design of the stormwater management system shall follow the most recent version of the RI DEM Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act. For the purposes of development within the EGOD, all setbacks of development including buildings, roadways, parking areas, and other construction activity shall conform to the plans approved by the RIDEM and not Section 5.3.4 of this ordinance.

9.4.21. Timing of Development. The Master Plan documents shall contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the work and completion schedules for approvals and construction of the phases.

## **ARTICLE 10 - ADMINISTRATION, ENFORCEMENT AND RELIEF**

### **10.1 ZONING OFFICIAL - DUTIES**

#### **A. Designation**

A Zoning Official, hereinafter referred to as the Official, shall be designated by the Town Manager to administer and enforce this Ordinance. He/she may be provided with the assistance of such other persons as the Town Manager may direct.

#### **B. Duties**

1. It shall be the duty of the Official to interpret and enforce the provisions of this Ordinance in the manner and form and with the powers provided in the laws of the State and in the Charter and Ordinances of the Town.
2. The Official shall refer all Applications for Variances, Special Use Permits and other Appeals to the Zoning Board of Review, and shall grant or deny Applications for Modifications, as set forth in §10.3.
3. In order to provide guidance or clarification, the Official shall, upon written request, issue a Zoning Certificate or provide information to the requesting party within fifteen (15) days of the written request. Any determination of the Official may be appealed to the Board in accordance with §10.10 of this Ordinance.
4. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may convey to the Official a complaint, which shall be in writing, stating fully the causes and basis thereof. The Official shall properly record such complaint, immediately investigate and take appropriate action thereon as provided by the Ordinance. All complainants shall be promptly notified by the Official as to the disposition of their complaint. The Official shall make a determination in writing, within fifteen (15) days, to any written complaint received, regarding a violation of this Ordinance. Any determination of the Official may be appealed to the Board in accordance with §10.10 of this Ordinance.
5. If the Official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance or by State Law or by policies or procedures adopted by Town Council to ensure compliance with or to prevent violation of their provisions.

### **10.2 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

#### **A. Building Permits Required**

No building or other structure shall be erected, moved, added to, altered or structurally altered, nor shall any excavation or filling commence without a permit issued by the Building Official. No Building Permit shall be issued except in conformity with the provisions of this Ordinance, unless the Building Official receives a written order from the Board in the form of an Administrative Appeal, Special Use Permit or Variance as provided by this Ordinance.

**B. Application for Building Permit**

All Applications for Building Permits shall be submitted on such forms and accompanied by such plans and supporting documentation as may be from time to time required by the Town. The Application shall include such other information as lawfully may be required by the Building Official, including existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the buildings designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

**C. Retention of Plans**

One (1) copy of the plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy. The original, similarly marked, shall be retained by the Building Official as a Town record.

**D. Relation To Other Codes, Regulations and Ordinances**

The issuance of a Building Permit shall, in no way, relieve the applicant of the responsibilities of obtaining such permits or approvals as may be required under the provisions of other codes, regulations and ordinances, whether Federal, State or Town, relating to the use, erection, alteration or modification of a building or structure or to the use of subdivision of land.

**E. Soil Erosion and Sediment Control**

No Building Permit may be issued until such time as the applicant has complied with all applicable provisions of the Smithfield Soil Erosion and Sediment Control Ordinance, has posted all necessary performance bonds and is otherwise in compliance with all other applicable Town and State requirements.

**F. Certificate of Occupancy**

A Certificate of Occupancy as required by the Rhode Island Building Code shall be required for any of the following:

1. Occupancy and use of a building hereafter erected or enlarged;
2. Change in use of an existing building to a different use;
3. Intensification of an existing use of either a building or land;
4. Occupancy and use of vacant land except for the raising of crops;
5. Change in the use of land to different use except for the raising of crops; or
6. Any change in use of a nonconforming use.

The occupancy, use or change of use shall not take place until a Certificate of Occupancy has been issued by the Building Official in accordance with the requirements for the issuance of a Certificate of Occupancy as stated in the Rhode Island Building Code.

**G. Expiration of Building Permit**

If the work described in any Building Permit has not begun within six (6) months from the date of issuance thereof, said Permit shall expire, it shall be canceled by the Building Official and written notice thereof shall be given to the persons affected.

**H. Construction and Use To Be As Provided in Applications, Plans and Permits**

Building Permits issued on the basis of plans and Applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved

plans and Applications, and no other use, arrangement, or construction. A use, arrangement, or construction that differs with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by §10.6 hereof.

### **10.3 MODIFICATIONS GRANTED BY THE OFFICIAL**

The Official is hereby empowered to hear and grant Modifications. Submission requirements for Applications for such Modifications shall be the same as those for a Dimensional Variance Application, provided that references to the Zoning Board shall refer to the Official.

- A. A Modification may be requested for adjustments or deviations not exceeding 25% of any of the requirements of Table I, “Dimensional Regulations” in §5.4 or quantitative or dimensional requirements of parking, signs, landscaping, and other similar requirements of this Ordinance, but excluding the moving of lot lines, lot area, and density.
- B. Within ten (10) days of receipt of a request for a Modification, the Official shall make a decision as to the suitability of the requested Modification based on the following determinations:
  1. The Modification requested is reasonably necessary for the full enjoyment of the permitted use;
  2. If the Modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
  3. The Modification requested is in harmony with the purposes and intent of the Comprehensive Plan and this Zoning Ordinance; and
  4. The Modification requested does not require a Variance of a flood hazard requirement.
- C. Upon an affirmative determination on the Modification, the Official shall give notice in the same manner as would be given for a Variance Application, pursuant to §10.8(B), that the Modification will be granted unless written objection is received within thirty (30) days of the public notice, and inviting the public to inspect the plans and Application during normal working hours. If any written objection is received within thirty (30) days, the request for a Modification shall be denied. In such case, the changes requested will be considered a request for a Dimensional Variance and may only be issued by the Zoning Board following the standard procedures for Variances.
- D. If no written objections are received within thirty (30) days, the Official shall grant the Modification. The Official may apply such special conditions to the Permit as may, in the opinion of the Official, be required to conform to the intent and purposes of the Zoning Ordinance. The Official shall keep public records of all requests for Modifications, and of findings, determinations, special conditions, and any objections received. If the Official grants the Modification, the written decision thereof shall be recorded in the Land Evidence Records of the Town.
- E. If the Official denies the Modification, or if the applicant is aggrieved by some part of the Official's decision, there is no right of appeal. Rather, the changes requested will be considered a request for a Dimensional Variance and may only be granted by the Zoning Board following the standard procedures for Dimensional Variances.

### **10.4 SCHEDULE OF FEES, CHARGES AND EXPENSES**

- A. The Town Council shall establish a schedule of fees, charges and expenses and a collection procedure for Building Permits, Appeals, Applications and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Official and may be altered or amended only by the Town Council.

- B. Until all applicable fees, charges and expenses have been paid in full, and until all real estate and tangible taxes owned by the applicant and owner to the Town of Smithfield are current, no action shall be taken on any Application or Appeal.

### **10.5 MINIMUM REQUIREMENTS AND CONFLICTS OF LAW**

- A. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare.
- B. All departments, officials and public employees of the Town which are vested with the duty or authority to issue Permits or Licenses shall conform to the provisions of this Ordinance and shall issue no Permit or License for any use, building or purpose if the same would be in conflict with the provisions of this Ordinance. Any Permit or License, issued in conflict with the provisions of this Ordinance, shall be null and void.

### **10.6 PENALTIES AND ENFORCEMENT**

- A. The erection, construction, enlargement, intensification, conversion, moving or maintenance of any building or structure and the use of any land or building or structure which is continued, operated or maintained, contrary to any of the provisions of this Ordinance is hereby declared to be a violation of this Ordinance and unlawful. Any person or corporation, whether as principal, agent, employee or otherwise, who violates or is the owner of property in violation of any of the provisions of this Ordinance may be fined by the Official for each offense, such fine to inure to the Town. For a minor violation of this Ordinance, including the violation of a Dimensional Regulation, the fine shall be one hundred dollars (\$100.00) per offense. For a major violation of this Ordinance, including the violation of a Use Regulation, the fine shall be five hundred dollars (\$500.00) per offense. For a violation of this Ordinance involving a sign, the fine shall be two hundred and fifty dollars (\$250.00) per offense. Each day of the existence of any violation shall be deemed a separate offense.
- B. The Official shall be empowered to levy such fines, and to enforce such fines by bringing an action in the Rhode Island District Court, in conjunction with the Police Prosecution Officer and/or the Town Solicitor. Any such fine from the official may be appealed by the violator to the Zoning Board.
- C. The Town Solicitor shall also be empowered to institute injunction, abatement or any other appropriate action in any appropriate court to prevent, enjoin, abate or remove such violation, or compel compliance with the provisions of this Ordinance. The Town Solicitor may consolidate an action for injunctive relief and/or fines under this Ordinance in any court having jurisdiction. The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

### **10.7 ZONING BOARD OF REVIEW**

#### **A. Establishment and Procedures**

A Zoning Board of Review, herein called the Board, is hereby created. Board members may be remunerated in the performance of official duties, at an amount to be established by the Town Council. The Board, with the approval of the Town Council may engage technical assistance to aid in the discharge of its duties. The Town Solicitor or Assistant Town Solicitor shall serve as legal counsel to the Board. The Board shall establish written rules of procedure within six (6) months of the adoption of this Ordinance. Appeals and correspondence to the Board shall be sent to the Board in care of the Official. The Official shall file all records and decisions of the Board.

**B. Membership**

The Zoning Board shall consist of five (5) members, appointed by the Town Council, each to hold office for the term of five (5) years; provided, however, that the original appointments shall be made for terms of one (1), two (2), three (3), four (4), and five (5) years respectively. The Board shall also include two (2) alternates, to be appointed by each year by the Town Council, to be designated as the first (1st) and second (2nd) alternate members, for terms of one (1) year. These alternate members shall sit and may actively participate in hearings. The first (1st) alternate shall vote if a member of the Board is unable to serve at a hearing and the second (2nd) shall vote if two (2) members of the Board are unable to serve at a hearing. In the absence of the first (1st) alternate member, the second (2nd) alternate member shall serve in the position of the first (1st) alternate. No member or alternate may vote on any matter before the Board unless they have attended all hearings concerning such matter. No member or alternate may participate in any way whatsoever on any matter for which they would have a conflict of interest as defined by the Rhode Island law and the Rhode Island Ethics Commission.

**C. Qualifications of Members**

All members of the Board shall be residents of the Town and no member shall be an elected official or salaried or otherwise paid employee of the Town. Appointees shall be reasonably expected to serve the full term.

**D. Vacancies**

If a vacancy occurs on the Board, for whatever reason at any time, the Town Council shall appoint a new member for the unexpired term. The following shall constitute termination of membership.

1. Voluntary resignation
2. Non-reappointment
3. Failure to maintain qualifications of membership
4. Removal

**E. Removal**

Members of the Board may be removed from office for cause by a majority vote of the Town Council upon written charges and after a public hearing.

**F. Prior Members**

Members of the Board serving on the effective date of adoption of this Ordinance shall be exempt from provisions of this Article respecting terms of originally appointed members until the expiration of their current terms.

**G. Organization**

Once a year, during the month of June, the Board shall organize by electing from its membership a Chair (hereinafter Chair) and Vice-Chairperson (hereinafter Vice-Chair). The Board may engage the services of a clerk and a stenographer within the limits of the funds available to it or may appoint one of its members as Secretary.

**H. Procedures of the Board**

1. The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chair and at such times as the Board may determine.

2. The Board shall prepare a schedule of its regular meetings, on a calendar year basis, and have such schedule published in January of each year in a newspaper of general circulation in the Town. Special meetings of the Board may be called and public notice given when necessary at the discretion of the Chair. In addition, the Board shall post a copy of the Agenda for any scheduled regular or special meeting in the Town Hall and at any other location(s) deemed proper at least ten (10) days prior to said meeting.
3. The Chair, or in his or her absence the Vice-Chair or other replacement, may administer oaths and compel the attendance of witnesses.

I. **Powers and Duties**

The Board shall have the following powers and duties:

1. To hear and decide Appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer or agency in the enforcement of interpretation of this Ordinance.
2. To hear and decide Appeals from a party aggrieved by a decision of an Historic District Commission, when and if historic district zoning is established in the Town.
3. To authorize upon Application, in specific cases of hardship, Variances in the application of the terms of this Ordinance.
4. To authorize upon application, where specified in this Ordinance, Special Use Permits.
5. To refer matters to the Planning Board, Planning Department, Town Engineer, or to other boards or agencies of the Town as the Board may deem appropriate, for findings and recommendations.
6. To provide for issuance of conditional zoning approvals where a proposed Application would otherwise be approved except that one (1) or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked, upon motion of the Board, after a public hearing with due notice, in the instance where any necessary state or federal agency approvals are not received within a specified time period.
7. To hear and decide such other matters, according to the terms of this Ordinance or other statutes, and upon which the Board may be authorized to pass under this Ordinance or other statutes.

J. **Voting**

The Board shall be required to vote as follows:

1. Five (5) active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall excuse himself/herself, and shall not sit as an active member and shall take no part in the conduct of the hearing. Only five (5) active members shall be entitled to vote on any issue.
2. The concurring vote of three (3) of the five (5) members of the Board sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of the Planning Board or any zoning administrative officer from whom an Appeal was taken.
3. The concurring vote of four (4) of the five (5) members of the Board sitting at a hearing shall be required to decide in favor of an applicant on any matter within

the discretion of the Board upon which it is required to pass under this Ordinance, including Variances and Special Use Permits.

**K. Application Procedure**

Application procedures for the filing of Appeals, request for Variances, Special Use Permits, development plan review, Site Plan review, and such other Applications as may be specified in this Ordinance, shall be prepared by the Official and published. For any Application requesting a Special Use Permit where Technical Review is required pursuant to §10.9 of this Ordinance, the Official shall immediately transmit the Application and refer the applicant to the Town Engineer. The Zoning Board may, after initial public hearing of any Application for a Variance, refer the applicant for such Variance to the Town Engineer for Technical Review. The Zoning Board also may, immediately upon receipt of an Application, request that the Planning Board report its findings and recommendations, including a statement on the general consistency of the Application with the goals and purposes of the Comprehensive Plan of the Town, in writing to the Board within thirty (30) days. The failure of the Planning Board or Town Engineer to render an opinion shall not be construed to signify either approval or disapproval of the Application.

**L. Decisions and Records of the Zoning Board of Review**

1. Following a public hearing, the Board shall render a decision within sixty (60) calendar days. The Board shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the Official within thirty (30) working days from the date when the decision was rendered, and shall be a public record. The Board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the Official in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the superior or supreme court, the Board shall have the minutes taken by a competent stenographer.
2. Any decision by the Board, including any special conditions attached thereto, shall be mailed to the applicant, to the Planning Board, and to the Associate Director of the Division of Planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a Variance or Special Use Permit shall also be recorded in the Land Evidence Records of the Town.

**10.8 VARIANCES AND SPECIAL USE PERMITS**

**A. Application**

An Application for relief from the literal requirements of a Zoning Ordinance because of hardship or an Application for a Special Use Permit may be made by any person, group, agency or corporation, provided that the owner or owners of the subject property must join in any Application, by filing with the Official an Application describing the request and supported by such data and evidence as may be required by the Board. An Application from a corporation must be signed by its attorney or duly authorized officer of the corporation. The Official shall immediately transmit such Application received to the Board and shall transmit a copy of each Application to the Planning Board.

**B. Hearing and Notice**

The Board shall hold a public hearing on any Application for Variance or Special Use Permit in an expeditious manner, after receipt, in proper form, of an Application, and

shall give public notice thereof at least fourteen (14) days prior to the date of the hearing, which notice shall include the precise location of the subject property, including the street address, and a description of the relief sought, as follows:

1. In a newspaper of general circulation in the Town, and,
2. By Certified Mail, Return Receipt Required, to:
  - a) all owners of the subject property in question; and,
  - b) all property owners of record of land within two hundred (200) feet of the property, which is the subject of the Application, whether within the Town or within an adjacent City or Town; and,
  - c) the City or Town Council of any City or Town to which one or more of the following pertain:
    - (1) Which is located in or within not less than two hundred (200) feet of the boundary of the subject property; or
    - (2) Where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within two thousand (2,000) feet of the subject property, regardless of municipal boundaries; and,
  - d) the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is within two thousand (2,000) feet of the subject property, provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the Official a map survey, which shall be kept as public record, showing areas of surface water resources and/or watersheds and parcels of land within two thousand (2,000) feet thereof.

C. **Standards for Relief**

1. **Variance**

In granting a Variance, the Board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and not due to a physical or economic disability of the applicant.
- b) that said hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- c) that the granting of the requested Variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town.
- d) that the relief to be granted is the least relief necessary.
- e) The Board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

- (1) in granting a Use Variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of land or structures in an adjacent district shall not be considered grounds for granting a Use Variance; and
- (2) in granting a Dimensional Variance, that the hardship that will be suffered by the owner of the subject property if the Dimensional Variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

## 2. Special Use Permit

In granting a Special Use Permit, the Board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a) that the Special Use is specifically authorized by this Ordinance, and setting forth the exact subsection of this Ordinance containing the jurisdictional authorization;
- b) that the Special Use meets all of the criteria set forth in the subsection of this Ordinance authorizing such Special Use; and
- c) that the granting of the Special Use Permit will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan of the Town. In so doing, the Board shall consider, where applicable, the following:
  - (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - (2) Off-street parking and loading areas where required, with particular attention to the items set out in subsection (1) hereof.
  - (3) Required yards and other open spaces.
  - (4) Refuse and service areas, with particular reference to the items set out in Subsections (1) and (2) hereof.
  - (5) Utilities with reference to location, availability, and compatibility.
  - (6) Screening and buffering with reference to type, dimensions, and character.
  - (7) Signs, if any, and proposed exterior lighting with reference to glare and traffic safety.
  - (8) General compatibility, the pertinent traffic, economic, noise, glare or odor effects of the Special Use Permit on adjoining properties and properties generally in the district.
  - (9) Protection of sensitive features.

- (10) The use will not result in or create conditions that will exceed the Performance Standards in §6.3.
- (11) After the date at which the Town Council adopts a schedule of impact fees, said fees shall be paid before a Building Permit may be issued.
- (12) After the date on which the Town Council adopts a schedule of vehicle trips per acre, uses shall not result in a greater number of trips per acre than can be calculated from said table.

### 3. Special Conditions

In granting a Variance or Special Use Permit, or in making any determination upon which it is required to pass after public hearing under this Ordinance, the Board may apply such special conditions that may, in the opinion of the Board, be required to promote the intent and purposes of the Comprehensive Plan of the Town and this Ordinance. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:

- a) minimizing adverse impact of the development upon other land, including the type, intensity, design, and performance of activities;
- b) controlling the sequence of development, including when it must be commenced and completed;
- c) controlling the duration of use or development and the time within which any temporary structure must be removed;
- d) assuring satisfactory installation and maintenance of required public improvements;
- e) designating the exact location and nature of development; and
- f) establishing detailed records by submission of drawings, maps, plats, or specifications.

### D. Special Use Permits & Dimensional Variance in General

Upon application for any zoning variance or special use, the applicant as provided for by R.I.G.L. section 45-24-42(c) and existing case law may apply for both types of zoning relief as part of one application. Any inconsistencies in this Zoning Ordinance where such would not be allowed are hereby deemed void and are allowed by this section.

## 10.9 TECHNICAL REVIEW

All uses which require a Special Use Permit shall also require Technical Review by the Town Engineer, as set forth below. All uses permitted in non-residential zones shall require a review and approval by an Administrative Review Team appointed by the Town Manager, as set forth below.

### A. Procedure

- 1. A Site Plan must be submitted and reviewed in accordance with this Section for all uses requiring a Special Use Permit. A Site Plan must be submitted and approved in accordance with this Section prior to the issuance of a Building Permit for all uses permitted in non-residential zones.

2. Five (5) copies of the Site Plan shall be submitted to the Town Engineer or the Administrative Review Team, as appropriate. Within thirty (30) days of the filing of the Plan, the Town Engineer shall render an advisory opinion to the Board concerning any Special Use Permit requested. The Administrative Review Team shall approve or disapprove any Site Plan to be reviewed by it within thirty (30) days of the filing of the Plan, otherwise the Plan will be deemed to be disapproved.
3. The Town Engineer or Administrative Review Team shall review the Site Plan in order to determine if the Plan complies with this Ordinance. The Town Engineer shall report in writing to the Board as to whether the Plan complies, and if not, what parts of the Plan do not comply. The Administrative Review Team shall state its reasons in writing should it disapprove a Plan hereunder and this decision shall be appealable to the Board in accordance with §10.10(A), hereof.
4. If a use shown on an approved Site Plan is to be changed or expanded, a revised Site Plan shall be submitted for approval in the same manner as the original submittal.

**B. Contents**

1. Said Site Plan, which may comprise multiple sheets, shall be prepared by a registered Professional Land Surveyor, Professional Engineer, and/or Professional Architect as appropriate to the content of the specific sheet of the Site Plan and shall show each of the following for the entire site, whether or not development is to be phased, unless an item or items are waived in writing by the Town Engineer or Administrative Review Team, as applicable.
2. For all Site Plans:
  - a) Location map at six hundred (600) feet per inch.
  - b) The name of the owner or owners of property shown.
  - c) Perimeter survey of lot, indicating location of all easements, rights-of-way, property boundaries, dimensions, lot area and zoning district boundaries, existing and proposed; survey shall be certified as to Class and stamped by a Professional Land Surveyor.
  - d) Topographic Plan indicating existing and proposed contours at intervals not greater than five (5) feet; Plan shall be certified as to Class (as adopted by the Rhode Island Board of Registration for Professional Land Surveyors) and stamped by a Professional Land Surveyor.
  - e) Elevations and perspective drawings which thoroughly illustrate and define the features of the entire project; shall be stamped by a Professional Land Surveyor, Professional Engineer, or Registered Architect as appropriate.
  - f) All other data required to make a determination of compliance with off-street parking and loading requirements.
3. In the case of condominiums, cooperatives or similar forms of ownership for any real estate, in addition to all other requirements for a Site Plan, a true copy of the Condominium Declaration or Articles of Incorporation, and the bylaws of the Owner's Association shall be submitted.
4. Where required by the Town Engineer or Administrative Review Team, photographs eight (8) inches by ten (10) inches and/or slides in sufficient quality and detail to indicate the environmental features of the site, including, but not

limited to topography views of the water, if any, adjacent or nearby open space and adjacent structures and/or uses of land.

5. Where required by the Town Engineer or Administrative Review Team, schematic design plans which accurately locate all existing and proposed buildings and structures, parking areas, driveways, driveway openings, service areas, usable open space, landscaped areas and the proposed treatment thereof (including fences, walls, planting areas and walks), all facilities for storm drainage, sewerage, refuse, other waste disposal, and other utility systems, and which define all materials, finishes, structural and mechanical systems, and floor areas (including the proposed uses thereof.)
6. In the case of two (2) or more residential buildings on a site in one ownership, assumed lot lines for each building shall be indicated on the Site Plan submitted with the Application showing that all required dimensional and parking regulations would be met if each building were in separate ownership.

C. **Guidelines**

1. In approving any Application for a Site Plan, the Town Engineer, or Administrative Review Team shall use the following criteria:
  - a) The protection of visual corridors to the water bodies.
  - b) The use of landscaping to establish buffers between incompatible land uses.
  - c) The provision of open spaces and pedestrian amenities available to the public.
  - d) The arrangement of access points, service roads, driveways, parking areas, and pedestrian walkways in a manner which facilitates interior circulation and minimizes conflict between vehicles and pedestrians.
  - e) Provisions for underground placement of utilities.
  - f) Provisions for surface run-off and the protection of the site and adjacent properties from erosion as a result thereof.
  - g) The siting of buildings, structures, and open spaces to permit maximum use of passive solar energy and to permit maximum protection of pedestrian areas from adverse impacts of winds, vapors or other emissions, shadows and or noise.
  - h) Provisions for maintenance of common areas.
  - i) All construction and development in the Village, Commercial, Highway Commercial, Light Industrial, Industrial, Planned Corporate, and Planned Development districts, as well as multi-family uses, shall comply with those terms and specifications of the Smithfield Land Development and Subdivision Review Regulations which relate to street construction, drainage, sewer lines, water lines, and performance bonds.

## **10.10 APPEALS TO THE ZONING BOARD**

A. **Procedure**

An Appeal to the Board from a decision of any zoning enforcement agency or officer, or from the Planning Board, or from any other officer, agency or board of the Town for which the Zoning Board is designated as the Appeal Board, may be taken by an aggrieved party. Such Appeal shall be taken within thirty (30) days of the date of the

rendering of the decision of the officer or agency. The Appeal shall be commenced by filing an Application with the Board, with a copy to the officer or agency from whom the Appeal is taken, specifying the ground thereof. The officer or agency from whom the Appeal is taken shall forthwith transmit to the Board all papers, including any transcript or audio tapes, constituting the record upon which the action appealed from was taken. Notice of the Appeal shall also be transmitted to the Planning Board.

**B. Stay of Proceedings**

An Appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the Appeal is taken certifies to the Board, after the Appeal shall have been duly filed, that by reason of facts stated in the certificate, a stay would in the officer's opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer from whom the Appeal is taken on due cause shown.

**C. Public Hearing**

The Board shall fix a reasonable time for the hearing of the Appeal, give public notice thereof in the same manner as set forth in §10.8B of this Ordinance, as well as due notice to the parties of interest, and decide the same within 20 days of the hearing. The hearing of any Appeals shall be at a separate meeting from the hearing of any Variance or Special Use Permit Applications, although such hearings may be held on the same day or night. At the hearing, any party may appear in person or by agent or by attorney. The officer or a designated individual of the agency, commission, or board from whom the Appeal is taken shall appear before the Zoning Board at the hearing to represent such agency, commission or board. Other members of the agency, commission or board may appear and be heard, but shall not represent the agency, commission or board. The cost of any notice required for the hearing shall be borne by the appellant.

**D. Decisions and Records of the Board**

In exercising its powers in ruling, the Board may, in conformity with the provisions of this Ordinance, reverse or affirm wholly or partly and may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the officer or agency from whom the Appeal was taken. All decisions and records of the Board respecting Appeals shall conform to the provisions of §10.7L of this Ordinance.

**10.11 EXPIRATION OF VARIANCES AND SPECIAL USE PERMITS**

- A. Any Variance or Special Use Permit shall expire one year after the date of the filing of the resolution with the Town Clerk unless the applicant shall, within one year, obtain a legal Building Permit and proceed with the construction; or obtain a Certificate of Occupancy when no legal Building Permit is required. The Board may, upon written request and for cause shown prior to the expiration of the initial one year period, renew the Variance or Special Use Permit for a second one year period. Said request for an extension need not be advertised nor noticed.
- B. Should an applicant fail to begin construction with a legal Building Permit, or obtain a Certificate of Occupancy within the second one year period, the Board may upon written request prior to the expiration of the second one year period, renew the Variance or Special Use Permit for a third one year period provided that the applicant can demonstrate due diligence in proceeding and substantial financial commitment in promoting the subject of the Variance or Special Use Permit since the date of the filing of

the resolution, and notice shall be given in accordance with §10.8B and a hearing shall be held on the request.

- C. None of the year periods shall run during the pendency of any court actions seeking to overturn the grant.

### **10.12 REPETITIVE PETITIONS**

Where the Board denies a request for a Special Use Permit or Variance or otherwise rules against the applicant on other than procedural grounds, the Board may not consider another Application requesting any or all of the same changes for a period of one (1) year from the date of such denial or withdrawal except:

- A. Where ordered to do so by a court of competent jurisdiction, or
- B. Where the Application is accompanied by an affidavit setting forth facts, to the satisfaction of said Board, showing a substantial change of circumstances justifying a rehearing.

### **10.13 APPEALS TO SUPERIOR COURT**

An aggrieved party may appeal a decision of the Board to the Superior Court for Providence County by filing a complaint setting forth the reasons of appeal within twenty (20) days after such decision has been filed and posted with the Town Clerk. The decision shall be posted in a location visible to the public in the Town Hall for a period of twenty (20) days following the recording of the decision. The Board shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the Clerk of the Court within thirty (30) days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the members of the Board shall be made parties to such proceedings. The Appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the Appeal.

## **ARTICLE 11 - ADOPTION AND AMENDMENT**

### **11.1 ADOPTION, AMENDMENT & ADMINISTRATION OF ZONING ORDINANCE**

#### **A. Procedure**

All applications to amend the Zoning Ordinance Text or Map(s), except those submitted by the Planning Board, must be sponsored by a Town Council member who shall introduce the proposed Ordinance Amendment for consideration by the Town Council in accordance with Section 2.13 of the Home Rule Charter. Applications without the required sponsor shall not be accepted by the Official. Other than for proposals originated by the Town Council, the Official shall be the officer to receive a proposal for adoption, amendment, or repeal of a Zoning Ordinance or Zoning Map(s). Immediately upon receipt of such proposal, the Official shall refer such proposal to the Town Council, the Municipal Planner, the Town Engineer and the Planning Board for study and recommendation. If the proposal originates with the Town Council, the Town Council shall refer such proposal to such entities. The Municipal Planner, the Town Engineer and the Planning Board shall report to the Town Council within forty-five (45) days after receipt of the proposal, each giving its findings and recommendations. The Town Council shall hold a public hearing within sixty-five (65) days of receipt of proposal, after receiving the aforementioned recommendations, giving proper notice as prescribed in this Article. The Town Council shall render a decision on any such proposal within forty-five (45) days after the date of completion of the public hearing. The provisions of this subsection pertaining to deadlines shall not be construed to apply to any extension consented to by the applicant.

#### **B. Review by Planning Board**

Among its findings and recommendations to the amendment or repeal of this Ordinance or Zoning Map, the Planning Board shall:

1. include a statement on the general consistency of the proposal with the Comprehensive Plan of the Town, including the goals and policies statement, the implementation program, and all other applicable elements of the Comprehensive Plan; and
2. include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in §1.1 of this Ordinance.

#### **C. Notice and Hearing Requirements**

1. No Zoning Ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the Town Council. The Town Council shall first give notice of such public hearing by publication of notice in a newspaper of general circulation within the Town at least once each week for three (3) consecutive weeks prior to the date of such hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter to the proposed Ordinance. Written notice, which may be a copy of said newspaper notice, shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration, and, where applicable, to the parties specified in subsections (2), (3), (4) and (5) of this section, at least two (2) weeks prior to the hearing. Such newspaper notice

shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

- a) specify the place of said hearing and the date and time of its commencement;
  - b) indicate that adoption, amendment or repeal of a Zoning Ordinance is under consideration;
  - c) contain a statement of the proposed amendments to the Ordinance that may be printed once in its entirety, or summarize or describe the matter under consideration;
  - d) advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
  - e) state that the proposal shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any such alteration or amendment must be presented for comment in the course of said hearing.
2. Where a proposed general amendment to an existing Zoning Ordinance includes changes in an existing Zoning Map, public notice shall be given as required by Subsection (1) of this section.
  3. Where a proposed amendment to an existing Ordinance includes a specific change in a zoning district map but does not affect districts generally, public notice shall be given as required in Subsection (1) of this section, with the additional requirements that:
    - a) notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and Town boundaries where appropriate; and
    - b) written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located within two hundred (200) feet of the perimeter of the area proposed for change, whether within the Town or within an adjacent city or town in which the property is located.
  4. Notice of a public hearing shall be sent by first class mail to the City or Town Council of any City or Town to which one (1) or more of the following pertain:
    - a) which is located within two hundred (200) feet of the boundary of the area proposed for change; or
    - b) where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within two thousand (2,000) feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
  5. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used, or is suitable for use, as a public water source and that is within two thousand (2,000) feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any

state or municipal water company has filed with the Zoning Official a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within two thousand (2,000) feet thereof.

6. No defect in the form of any notice under this section shall render any Ordinance or amendment invalid, unless such defect is found to be intentional or misleading.
7. Costs of any notice required under this section shall be borne by the applicant.

**D. Conditions or Limitations**

In granting a Zoning Ordinance amendment, the Town Council may limit the change to one (1) or more of the permitted uses in the zone to which the subject land is re-zoned, and impose such limitations, conditions and restrictions, including without limitation:

1. requiring the petitioner to obtain a permit or approval from any and all Federal State or local governmental agencies having jurisdiction over the land and use which are subject to the zoning change;
2. relating to the effectiveness or continued effectiveness of the zoning change; and/or
3. relating to the use of the land as it deems necessary.

The Official and the Town Clerk shall cause the limitations and conditions so imposed to be clearly noted on the Zoning Map and recorded in the Land Evidence Records, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the Zoning Map until the zone change has become effective. If the permitted use for which the land has been re-zoned is abandoned or if the land is not used for the requested purpose for a period of two (2) years or more after the zone change becomes effective, the Town Council may, after a public hearing as herein before set forth, change the land to its original zoning use before such petition was filed. If any limitation, condition, or restriction in an Ordinance amendment is held to be invalid by a court in any action, that holding shall not cause the remainder of the Ordinance to be invalid.

**E. Maintenance of Zoning Ordinance**

1. The Town Clerk shall be the custodian of this Zoning Ordinance and Zoning Map or Maps created thereunder. The Town Clerk and the Official shall be responsible for maintenance and update of the text and Zoning Map comprising this Ordinance. Changes which impact the Zoning Map shall be depicted on the Map within ninety (90) days of such authorized change(s).
2. The Planning Board shall continually review the content of the Zoning Ordinance and Map to insure that it is and remains in consonance with the Comprehensive Community Plan of the Town of Smithfield, and that it properly reflects the flexibility and control required for the orderly growth of the Town.
3. The Planning Board shall annually, not later than October 31<sup>st</sup> of each year, submit a report to the Town Council in writing, either endorsing the continuance of this Ordinance (as amended, if the case) or making specific change recommendations.

4. At least once every five (5) year period commencing with the effective date of this Ordinance, the Planning Board shall undertake a thorough review of the entire Comprehensive Plan, Zoning Ordinance and Map. The purpose of this full review is to provide for a periodic update of the Plan, Ordinance, and Map, and the systematic incorporation of all amendments into a new publication of the current documents. A report on this complete review shall be submitted to the Town Council in writing, not later than the end of the five (5) year period, or within five (5) years of the date of the last such report by the Planning Board.

**F. Publication and Availability of Zoning Ordinance**

Printed copies of this Ordinance and Map(s) shall be available to the general public through the Town Clerk and shall be revised to include all amendments. A reasonable charge may be made for copies to reflect printing and distribution costs. Upon publication of this Ordinance and Map(s), and any Amendments thereto, the Town Clerk shall send a copy, without charge, to the Associate Director of the Division of Planning of the Department of Administration of the State of Rhode Island and to the State Law Library.

**11.2 APPEAL OF ENACTMENT OF OR AMENDMENT TO ZONING ORDINANCE**

An Appeal of the Enactment of or an Amendment to this Ordinance may be taken to the Superior Court for Providence County by filing a complaint within thirty (30) days after such Enactment, or Amendment has become effective. The complaint shall set forth with specificity the area or areas in which the Enactment or Amendment does not conform with the Comprehensive Plan and/or the manner in which it constitutes a taking of private property without just compensation. Such Appeal may be taken by an aggrieved party or by any legal resident or landowner of the Town, or by any association of residents or landowners of the Town. This Appeal shall not stay the enforcement of the Zoning Ordinance, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the Appeal.

**11.3 VESTED RIGHTS**

**A. Completeness of Application**

Any Application for development under this Ordinance or a previous Zoning Ordinance, including an Application for a Building Permit, Special Use Permit, Variance, Planned Development, or Cluster Development, shall be deemed substantially complete when all required documents, including plans, together with required fees, are received by the Official designated herein to receive such Applications. Required documents shall include only those documents specified either by this Ordinance or by rules adopted and published by the permitting authority prior to the time the Application is filed.

**B. Substantially Complete Application**

Any Application for development under this Ordinance that is substantially complete prior to the enactment or amendment of this Ordinance, may, at the discretion of the applicant, be reviewed according to the regulations applicable in the Zoning Ordinance in force at the time the Application was submitted. If such Application is approved, the applicant must begin construction or exercise the right granted in the Application if no construction is involved, not more than one year after the date of such approval. All

construction must be completed not more than two years after the date of such approval, unless specifically set forth to the contrary in the original approval. If the applicant chooses to have the Application for Development reviewed under this Ordinance as amended, the applicant may do so provided that the review process shall be recommenced at the first stage of review.

C. **Actual Construction**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the lawful plans, construction, or designated use of any building on which actual construction was begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is defined as the placing of construction materials in permanent position and fastened in a permanent manner. Where filling, excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such filling, excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

D. **Approved Applications**

In addition, nothing in this Ordinance shall be deemed to require a change in the lawful plans, construction or designated use of any building or land which has been approved by the Zoning Board of Review or has been granted Pre-Application Approval by the Planning Board prior to the effective date of adoption or amendment of this Ordinance.

**11.4 EFFECTIVE DATE**

This Ordinance is effective when passed by the Town Council as of

19 MAY 1998

*(date of adoption)*

**11.5 SEVERABILITY**

If any provision of this Ordinance or of any rule, regulation or determination made thereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this Ordinance or the rule, regulation, or determination and the application of such provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of this Ordinance shall not affect the validity of the remainder of the Ordinance.

## **ARTICLE 12 – COMPREHENSIVE PERMIT FOR LOW AND MODERATE INCOME HOUSING**

### **12.1 DECLARATION OF POLICY**

The “Rhode Island Low and Moderate Income Housing Act” was established pursuant to Title 45, Chapter 53 of the General Laws of Rhode Island to provide opportunities for the establishment of low and moderate income housing within each City and Town throughout the State. It is the policy of the Town of Smithfield to facilitate the development of low and moderate income housing in accordance with the “Rhode Island Low and Moderate Income Housing Act” and in conformance with the Smithfield Comprehensive Community Plan. In the event that any provision of the Smithfield Zoning Ordinance, the Smithfield Land Use Regulations, or the Smithfield Comprehensive Plan is in conflict, or is not in conformance with the Rhode Island Low and Moderate Income Housing Act, then the provisions of the Rhode Island Low and Moderate Income Housing Act shall be controlling with respect to all Low and Moderate Income Housing Comprehensive Permits.

### **12.2 DEFINITIONS**

The following words, wherever used in this chapter, unless a different meaning clearly appears from the context, have the following meanings:

(1) "Comprehensive plan" means a comprehensive plan adopted and approved by the Town pursuant to chapters 22.2 and 22.3 of Title 45 of the Rhode Island General Laws.

(2) "Consistent with local needs" means reasonable in view of the state need for low and moderate income housing, considered with the number of low income persons in the Town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residence of the Town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by Town Council after comprehensive hearing in the Town where:

(i) Low or moderate income housing exists which is in excess of ten percent (10%) of the year-round housing units reported in the census.

(ii) The Town of Smithfield has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan which has been adopted and approved pursuant to chapters 22.2 and 22.3 of Title 45 of the Rhode Island General Laws, and the housing element of the comprehensive plan provides for low and moderate income housing in excess of ten percent (10%) of the year-round housing units.

(3) "Infeasible" means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it impossible for a public agency, nonprofit organization, or limited equity housing cooperative to proceed in building or operating low or moderate income housing without financial loss, within the limitations set by the subsidizing agency of government, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the public agency, nonprofit organization, or limited equity housing cooperative.

- (4) "Local board" means any Town official, zoning board of review, planning board or commission, board of appeal or zoning enforcement officer, local conservation commission, historic district commission, or other municipal board having supervision of the construction of buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.
- (5) "Low or moderate income housing" means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to low or moderate income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.
- (6) "Affordable housing plan" means a component of a housing element, as defined in RIGL 45-22.2-4(33), to meet housing needs in the Town that is prepared in accordance with guidelines adopted by the state planning council, and/or to meet the provisions of RIGL 45-53-4(b)(1) and (c).
- (7) "Approved affordable housing plan" means an affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council.
- (8) "Letter of eligibility" means a letter issued by the Rhode Island Housing and Mortgage Finance Corporation in accordance with RIGL 42-55-5.3(a).
- (9) "Local review board" means the zoning board of review for the Town of Smithfield established pursuant to RIGL 45-24-56.
- (10) "Meeting housing needs" means adoption of the implementation program of an approved affordable housing plan and the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan.
- (11) "Municipal government subsidy" means assistance that is made available through a Town program sufficient to make housing affordable, as affordable housing is defined in RIGL 42-128-8.1(d)(1); such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance.
- (12) "Administrative officer" The municipal official designated by the local regulations to administer the land development and subdivision regulations and to coordinate with local boards and commissions, municipal staff and state agencies. The administrative officer may be a member of, or the chair, of the planning board, or an appointed official of the municipality.

### **12.3 LOCAL REVIEW BOARD**

#### **A. Designation of "local review board"**

Pursuant to RIGL 45-53-3(9) the Zoning Board of Review for the Town of Smithfield (established pursuant to RIGL 45-24-56) is hereby designated by this ordinance as the "local board of review" to act on all comprehensive permit applications, including but not limited to Minor Land Development and Minor

Subdivision Review and Major Land Development and Major Subdivision Review for the Town of Smithfield for all stages of review.

**B. Power of the local review board**

Pursuant to RIGL 45-53-4(a)(4)(vi) the local review board shall have the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section.

**12.4 ADMINISTRATIVE PROCEDURES**

**A. Procedure for filing and approval of construction of low and moderate income housing**

(1) A completed application for a comprehensive permit to build low or moderate income housing shall be filed with the administrative officer of the local review board.

(2) Any applicant proposing to build low or moderate income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty-five percent (25%) of the housing is low or moderate income housing.

(3) The application and review process for a comprehensive permit shall be as follows:

(a) **Submission Requirements.** Applications for a comprehensive permit shall include:

(i) A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and

(ii) A written request to the local review board to submit a single application to build or rehabilitate low or moderate income housing in lieu of separate applications to the applicable local boards. The written request shall identify the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief; and

(iii) A proposed timetable for the commencement of construction and completion of the project; and

(iv) A sample land lease or deed restriction with affordability liens that will restrict use as low and moderate income housing in conformance with the guidelines of the agency providing the subsidy for the low and moderate income housing, but for a period of not less than thirty (30) years; and

(v) Identification of an approved entity that will monitor the long-term affordability of the low and moderate income units; and

(vi) A financial pro-forma for the proposed development; and

(vii) For comprehensive permit applications: (A) not involving major land developments or major subdivisions including, but not limited to,

applications seeking relief from specific provisions of the zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other Smithfield ordinances and regulations: those items required by local regulations promulgated pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and (B) involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in the local regulations promulgated pursuant to § 45-23-40. Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in the local regulations promulgated pursuant to RIGL 45-23-41, with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and

(viii) A comprehensive permit application fee; and

(ix) Notwithstanding the submission requirements set forth above, the local review board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.

(b) **Certification of Completeness.** The application must be certified complete or incomplete by the administrative officer according to the provisions of RIGL 45-23-36; provided, however, that for a major land development or major subdivision, the certificate of completeness for a master plan shall be granted within thirty (30) days and for a preliminary plan shall be granted within forty-five (45) days. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(c) **Pre-Application Conference.** Where the comprehensive permit application proposal is a major land development project or a major subdivision pursuant to RIGL 45-23, an applicant proposing a project under this chapter shall first schedule a pre-application conference with the administrative officer for the local review board and other local officials, as appropriate. To request a pre-application conference, the applicant shall submit a short description of the project in writing including the number of units, type of housing, as well as a location map. The purpose of the pre-application conference shall be to review a concept plan of the proposed development. Upon receipt of a request by an applicant for a pre-application conference, the Town has thirty (30) days to schedule and hold the pre-application conference. If thirty (30) days has elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a comprehensive permit.

(d) **Review of Applications.** An application filed in accordance with this ordinance shall be reviewed by the local review board at a public hearing in accordance with the following provisions:

(i) *Notification.* Upon issuance of a certificate of completeness for a comprehensive permit, the local review board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.

(ii) *Public Notice.* Public notice for all public hearings will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with RIGL 45-23-42. The cost of notice shall be paid by the applicant.

(iii) *Review of minor projects.* The review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this subsection, shall be conducted by the local review board, in substitution of the Planning Board, following the procedures in the applicable local regulations, with the exception that all minor land developments or minor subdivisions under this section are required to hold a public hearing on the application, and within ninety-five (95) days of issuance of the certificate of completeness, or within such further time as is agreed to by the applicant and the local review board, render a decision.

(iv) *Review of major projects.* In the review of a comprehensive permit application involving a major land development and/or major subdivision, the local review board shall hold a public hearing on the master plan and shall, within one hundred and twenty (120) days of issuance of the certification of completeness, or within such further amount of time as may be agreed to by the local review board and the applicant, render a decision. Preliminary and final plan review shall be conducted by the local review board, in substitution of the Planning Board, in accordance with local regulations promulgated pursuant to chapter 23 of title 45 of the Rhode Island General Laws except as otherwise specified in chapter 53 of title 45 of the Rhode Island General Laws.

(v) *Required findings.* In approving on an application, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:

(A) The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

(B) The proposed development is in compliance with the standards and provisions of the Smithfield zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been

affected by the relief granted do not outweigh the state and local need for low and moderate income housing.

(C) All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

(D) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.

(E) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

(F) All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of RIGL 45-23-60(5).

(G) The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

(vi) In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons: (A) if the town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or Smithfield's zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance with the comprehensive plan; (D) the community has met or has plans to meet the goal of ten percent (10%) of the year-round units; or (E) concerns for the environment and the health and safety of current residents have not been adequately addressed.

(vii) All local review board decisions on comprehensive permits shall be by majority vote of the membership of the board and may be appealed by the applicant to the state housing appeals board.

(viii) If the public hearing is not convened or a decision is not rendered within the time allowed in subsection (3)(d)(iii) and (iv), the application is deemed to have been allowed and the relevant approval shall issue immediately.

(ix) A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of final plan approval unless a longer and/or phased period for development is agreed to

by the local review board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.

(x) The Town of Smithfield has an approved affordable housing plan that is meeting local housing needs and the Town Council has adopted an Ordinance (Chapter 68, Article IV) which limits the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing units in the town, as recognized in the affordable housing plan and notwithstanding the timetables set forth elsewhere in this section, the local review board shall have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted.

**B. Appeals**

(1) Any person aggrieved by the issuance of an approval may appeal to the superior court within twenty (20) days of the issuance of approval.

(2) Whenever an application filed under the provisions of RIGL 45-53-4 is denied, or is granted with conditions and requirements that make the building or operation of the housing infeasible, the applicant has the right to appeal to the state housing appeals board for a review of the application. The appeal shall be taken within twenty (20) days after the date of the notice of the decision by the local review board by filing with the state housing appeals board a statement of the prior proceedings and the reasons upon which the appeal is based. All proceedings and decisions of the state housing appeals board shall be in accordance with the provisions of RIGL 45-53-5.

**12.5 REVIEW PROCESS FOR PROJECTS LISTED IN TABLE 22 SELECTED PROPERTIES FOR THE CONSTRUCTION OF LOW AND MODERATE INCOME HOUSING**

- A. The owner of any property identified on Table 22 of the Smithfield Low and Moderate Income Housing Plan may file an application with the Zoning Board seeking approval for an affordable housing project which conforms to the density provisions as detailed below. Such projects shall be referred to herein as Table 22 affordable housing projects. Density provisions are based on Table 22 of the Low and Moderate Income Housing Plan. If the application is approved by the Zoning Board, the development plans will be reviewed by the Planning Board as a land development project.
- B. If the total number of units proposed for the Table 22 affordable housing project is within the limits established by Smithfield Ordinance Section 68-5, the Zoning Board shall review the project under the comprehensive permit process. If the total number of units proposed for the project exceeds the limit established by Smithfield Ordinance Section 68-5, the Zoning Board shall review the project as an application for a special use permit.
- C. The dimensional regulations which apply to the R-20M District shall also apply to all approved Table 22 affordable housing projects with the exception of density regulations
- D. The Zoning Board may permit a maximum density of up to seven (7) units per developable acre for any Table 22 affordable housing project in which at least

twenty-five percent (25%), but less than one hundred percent (100%), of the total units will be low or moderate income housing units that satisfy the State requirements for affordability. The number of affordable housing units in a Table 22 affordable housing project shall be established by the Zoning Board based on the most recent building rate as detailed in Appendix A to the Smithfield Low and Moderate Income Housing Plan so that the Town may attain the 10% affordability goal by 2020 as outlined in said Appendix A.

- E. The Zoning Board may permit a maximum density of up to twelve (12) units per developable acre for any Table 22 affordable housing project in which one hundred percent (100%) of the total units will be low or moderate income housing units that satisfy the State requirements for affordability. This density will apply to all housing types including family, elderly and special needs.
- F. The Zoning Board may permit a maximum density of up to thirty (30) units per developable acre for an elderly housing Table 22 affordable housing project in which one hundred percent (100%) of the total units will be low or moderate income housing units that satisfy the State requirements for affordability.
- G. For purposes of this Article, the following land shall be considered undevelopable:
  - 1. land deemed unsuitable for development under sections 6.8.1 and 5.3.4A herein;
  - 2. land within the development that is proposed for non-residential use within a mixed use development, including the parking areas designated for nonresidential uses;
  - 3. land within the development that is proposed for use as drainage detention or retention basins; and
  - 4. land with other constraints to development which the Zoning Board finds to be undevelopable.
- H. In reviewing a Table 22 affordable housing project, the Planning Board shall insure that the architectural standards utilized in the development reflect the Town's vision of community character and are aesthetically compatible with similar residential developments within the Town.
- I. An affordable housing development proposal for a property not included on Table 22 of the Low and Moderate Income Housing Plan may not be considered for low and moderate income housing unless the project conforms with the zoning regulations of the district in which the property is located.