



November 13, 2015

**TO: SMITHFIELD TOWN COUNCIL**

**FROM: PETER M. STEPHENSON, AICP, ICMA-CM  
TOWN MANAGER**

**SUBJECT: NOVEMBER 2015 COMMITTEE MEETINGS WILL BE HELD AT THE SMITHFIELD  
CENTER LOCATED AT 220 NORTH CHURCH STREET, SMITHFIELD, VA**

**MONDAY, NOVEMBER 16<sup>TH</sup>, 2015**

**4:00 p.m.      Police                      Members: Tynes (CH), Chapman, Gregory**

1. Public Comment
2. Operational Updates
3. Update on Colonial Avenue and Kendall Haven Streetlight Requests

**Immediately following the conclusion of the above meeting:**

**Water and Sewer                                      Members: Gregory (CH), Smith, Tynes**

1. Public Comment
2. Operational Updates

**Immediately following the conclusion of the above meeting:**

**Finance    Members: Pack (CH), Gregory, Cook**

1. Public Comment
2. November Financial Statements and Graphs
- TAB # 1** 3. November Cash Balances / VML Investment Pool Update
- TAB # 2** 4. Invoices Over \$10,000 Requiring Council Authorization:
  - a. Blair Brothers, Inc. (South Mason Street)      \$19,082.46
- TAB # 3** 5. Procurement Policy Manual

**TUESDAY, NOVEMBER 17<sup>TH</sup>, 2015**

**4:00 p.m.      Parks and Recreation      Members: Chapman (CH), Pack, Tynes**

- TAB # 4**      1.      Public Comment
- 2.      Operational Update – Parks and Recreation Committee Report
- TAB # 5**      3.      Clontz Park Boat Ramp – VMRC RFAB Grant Update
- 4.      Windsor Castle Park Project Signage

**Immediately following the conclusion of the above meeting:**

**Public Works      Members: Smith (CH), Cook, Tynes**

- TAB # 6**      1.      Public Comment
- TAB # 7**      2.      Operational Updates
- 3.      Professional Engineering Services Contract Renewals
- 4.      Waterworks Dam – Primary Spillway Maintenance

**Immediately following the conclusion of the above meeting:**

**Public Buildings & Welfare      Members: Cook (CH), Chapman, Smith**

- TAB # 8**      1.      Public Comment
- TAB # 9**      2.      Pinewood Heights Relocation Project Update
- 3.      Pre-Public Hearing Staff Report: Flood Plain Ordinance

---

**\*\*\* Additional Item Not Listed on Committee but will be on Council's December 1st, Agenda\*\*\***

- Approval of October 27<sup>th</sup>, 2015 continued Town Council Meeting and November 3<sup>rd</sup>, Town Council Meeting Minutes
  - 2016 Meeting Schedule
  - Appoint Nominating Committee to Fill Two (2) Expiring Terms of the Board of Historic and Architectural Review
-

CASH BALANCES AS OF OCTOBER 2015					
ACCOUNT NAME	BANK NAME	ACCOUNT BALANCE	Current Year	Prior Year	ADJUSTED BALANCES
			Interco. Balances	Interco./Interdep Balances	
<b>Water</b>	Farmers Bank	2,015,502.92	(649,222.25)	(972,621.07)	393,659.60
<b>Water-Debt Service</b>	Farmers Bank	796,641.87	61,900.46	20,110.75	878,653.08
<b>Water Capital Escrow (availability fees)</b>	TowneBank	404,665.67	20,680.00	5,440.00	430,785.67
<b>Water Treatment Plant Escrow</b>	TowneBank	11,931.09	-	-	11,931.09
<b>Water Deposit Account</b>	TowneBank	120,077.92	-	-	120,077.92
<b>Water Development Escrow</b>	TowneBank	95,757.33	-	2,400.00	98,157.33
<b>Subtotal Water</b>		<b>3,444,576.80</b>	<b>(566,641.79)</b>	<b>(944,670.32)</b>	<b>1,933,264.69</b>
			-		
<b>Sewer</b>	Farmers Bank	281,659.40	166,964.95	(527,850.04)	(79,225.69)
<b>Sewer Development Escrow</b>	TowneBank	353,016.67	-	2,400.00	355,416.67
<b>Sewer Capital Escrow (availability fees)</b>	TowneBank	827,052.40	31,040.00	8,240.00	866,332.40
<b>Sewer Compliance</b>	Farmers Bank	1,013,164.67	161,248.15	52,135.68	1,226,548.50
<b>Subtotal Sewer</b>		<b>2,474,893.14</b>	<b>359,253.10</b>	<b>(465,074.36)</b>	<b>2,369,071.88</b>
<b>Highway</b>	Farmers Bank	65,704.71	172,604.67	-	238,309.38
<b>General Fund</b>	Farmers Bank	1,378,488.31	70,934.31	1,409,744.68	2,859,167.30
<b>Payroll</b>	Farmers Bank	182,824.44			182,824.44
<b>Money Market-General Fund</b>	TowneBank	2,191.35			2,191.35
<b>Business Super Now-General Fund</b>	Farmers Bank	33,173.55			33,173.55
<b>Money Market-General Fund</b>	Farmers Bank	290,282.68			290,282.68
<b>General Fund Capital Escrow Account</b>	TowneBank	215,161.83			215,161.83
<b>Certificate of Deposit</b>	Farmers Bank	526,234.85			526,234.85
<b>Certificate of Deposit-Police Dept</b>	Farmers Bank	36,771.46			36,771.46
<b>Special Project Account (Pinewood)</b>	Farmers Bank	19,997.79			19,997.79
<b>Pinewood Heights Escrow</b>	Farmers Bank	37,016.26			37,016.26
<b>SNAP Account</b>	Farmers Bank	2,287.75			2,287.75
<b>Museum Account</b>	Farmers Bank	113,025.81			113,025.81
<b>Windsor Castle Acct</b>	TowneBank	19,000.00			19,000.00
<b>S. Church Street Account</b>	TowneBank	36,159.20	(36,150.29)	-	8.91
<b>Subtotal General Fund</b>		<b>2,892,615.28</b>	<b>34,784.02</b>	<b>1,409,744.68</b>	<b>4,337,143.98</b>
<b>TOTAL ALL FUNDS</b>		<b>8,877,789.93</b>	<b>0.00</b>	<b>-</b>	<b>8,877,789.93</b>

REGIONS BANK  
1900 5TH AVE N - 25TH FL  
BIRMINGHAM AL 35203

ADMINISTRATOR:	JEAN DOBBINS 205-264-5394
INVESTMENT OFFICER	
RELATIONSHIP MANAGER	
ACCOUNT NUMBER	9246002035

TOWN OF SMITHFIELD, VA  
ATTN: ELLEN D. MINGA, TREASURER  
310 INSTITUTE STREET  
PO BOX 246  
SMITHFIELD VA 23431

---

IF YOU HAVE QUESTIONS CONCERNING THIS STATEMENT, PLEASE CONTACT  
YOUR ACCOUNT ADMINISTRATOR.

REGIONS BANK  
VACO/VML VIRGINIA INVESTMENT  
POOL, TOWN OF SMITHFIELD,  
VIRGINIA PARTICIPANT  
ACCOUNT

# ACCOUNT STATEMENT

---

Statement Period 10/01/2015 through 10/31/2015  
Account Number 9246002035

## [Table Of Contents](#)

---

Balance Sheet	1
Summary Of Fund	2
Asset Summary As Of 10/31/2015	3
Summary Of Earnings	5
Chronological Schedule Of Transactions	6

# ACCOUNT STATEMENT

Statement Period  
Account Number

10/01/2015 through 10/31/2015  
9246002035

## Balance Sheet

	AS OF 10/01/2015		AS OF 10/31/2015	
	COST VALUE	MARKET VALUE	COST VALUE	MARKET VALUE
<b>A S S E T S</b>				
CASH	0.00	0.00	0.00	0.00
<b>TOTAL CASH &amp; RECEIVABLES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
CIF/CTF FUNDS-BALANCED				
CIF/CTF FUNDS-BALANCED	501,737.75	505,585.01	502,015.24	505,306.55
<b>TOTAL CIF/CTF FUNDS-BALANCED</b>	<b>501,737.75</b>	<b>505,585.01</b>	<b>502,015.24</b>	<b>505,306.55</b>
<b>TOTAL HOLDINGS</b>	<b>501,737.75</b>	<b>505,585.01</b>	<b>502,015.24</b>	<b>505,306.55</b>
<b>TOTAL ASSETS</b>	<b>501,737.75</b>	<b>505,585.01</b>	<b>502,015.24</b>	<b>505,306.55</b>
<b>L I A B I L I T I E S</b>				
<b>TOTAL LIABILITIES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>TOTAL NET ASSET VALUE</b>	<b>501,737.75</b>	<b>505,585.01</b>	<b>502,015.24</b>	<b>505,306.55</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>501,737.75</b>	<b>505,585.01</b>	<b>502,015.24</b>	<b>505,306.55</b>

REGIONS BANK  
VACO/VML VIRGINIA INVESTMENT  
POOL, TOWN OF SMITHFIELD,  
VIRGINIA PARTICIPANT  
ACCOUNT

## ACCOUNT STATEMENT

Page 2

Statement Period 10/01/2015 through 10/31/2015  
Account Number 9246002035

### Summary Of Fund

---

<b>MARKET VALUE AS OF 10/01/2015</b>		<b>505,585.01</b>
CTF DISTRIBUTIONS	327.20	
REALIZED GAIN OR LOSS	0.00	
UNREALIZED GAIN OR LOSS	555.95-	
ADMINISTRATIVE EXPENSES	49.71-	
<b>TOTAL MARKET VALUE AS OF 10/31/2015</b>		<b>505,306.55</b>

# ACCOUNT STATEMENT

Statement Period 10/01/2015 through 10/31/2015  
Account Number 9246002035

## Asset Summary As Of 10/31/2015

DESCRIPTION	MARKET VALUE	COST	% OF PORT
CIF/CTF FUNDS-BALANCED	505,306.55	502,015.24	100
TOTAL INVESTMENTS	505,306.55	502,015.24	
CASH	0.00		
DUE FROM BROKER	0.00		
DUE TO BROKER	0.00		
TOTAL MARKET VALUE	505,306.55		

REGIONS BANK  
VACO/VML VIRGINIA INVESTMENT  
POOL, TOWN OF SMITHFIELD,  
VIRGINIA PARTICIPANT  
ACCOUNT

## ACCOUNT STATEMENT

Page 4

Statement Period  
Account Number

10/01/2015 through 10/31/2015  
9246002035

### Asset Detail As Of 10/31/2015

UNITS/BOOK VALUE	DESCRIPTION	MARKET VALUE	COST	% OF PORT
CIF/CTF FUNDS-BALANCED				
50,161.531	CUSIP # CF5400035 VIRGINIA INVESTMENT POOL	505,306.55	502,015.24	100
		505,306.55	502,015.24	100
	TOTAL INVESTMENTS	505,306.55		
	CASH	0.00		
	DUE FROM BROKER	0.00		
	DUE TO BROKER	0.00		
	NET ASSETS	505,306.55		
	TOTAL MARKET VALUE	505,306.55		

# ACCOUNT STATEMENT

Statement Period  
Account Number

10/01/2015 through 10/31/2015  
9246002035

## Summary Of Earnings

---

### INCOME EARNED

CTF DISTRIBUTIONS 327.20

**TOTAL INCOME EARNED 327.20**

**TOTAL INCREASES IN FUND VALUE 327.20**

### FEES AND OTHER EXPENSES

ADMINISTRATIVE EXPENSES 49.71

**TOTAL FEES AND OTHER EXPENSES 49.71**

UNREALIZED LOSS IN THE PERIOD 555.95

**TOTAL DECREASES IN FUND VALUE 605.66**

NET CHANGE IN NET ASSET VALUE 278.46 -

# ACCOUNT STATEMENT

Statement Period  
Account Number

10/01/2015 through 10/31/2015  
9246002035

## Chronological Schedule Of Transactions

DATE	DESCRIPTION	CASH	COST
10/01/2015	BEGINNING BALANCE	0.00	501,737.75
10/01/2015	DISTRIBUTION FROM 50,134.02 UNITS VIRGINIA INVESTMENT POOL EFFECTIVE 09/30/2015 CUSIP # CF5400035	179.78	0.00
10/01/2015	PURCHASED 179.78 SHS MORGAN STANLEY PRIME ADVISORY #8341 ON 10/01/2015 AT 1.00 CUSIP # 61747C723	179.78-	179.78
10/02/2015	PURCHASED 17.827 UNITS VIRGINIA INVESTMENT POOL ON 09/30/2015 AT 10.0847 INCOME REINVESTMENT CUSIP # CF5400035	179.78-	179.78
10/02/2015	SOLD 179.78 SHS MORGAN STANLEY PRIME ADVISORY #8341 ON 10/02/2015 AT 1.00 CUSIP # 61747C723	179.78	179.78-
10/16/2015	FEE TO VML/VACO FINANCE PARTICIPANT FEE FOR MONTH ENDING 09/30/2015	49.71-	0.00
10/16/2015	DISTRIBUTION FROM 50,151.85 UNITS VIRGINIA INVESTMENT POOL EFFECTIVE 10/15/2015 CUSIP # CF5400035	147.42	0.00
10/16/2015	PURCHASED 97.71 SHS MORGAN STANLEY PRIME ADVISORY #8341 ON 10/16/2015 AT 1.00 CUSIP # 61747C723	97.71-	97.71
10/19/2015	PURCHASED 9.683 UNITS VIRGINIA INVESTMENT POOL ON 10/15/2015 AT 10.0911 INCOME REINVESTMENT CUSIP # CF5400035	97.71-	97.71
10/19/2015	SOLD 97.71 SHS MORGAN STANLEY PRIME ADVISORY #8341 ON 10/19/2015 AT 1.00 CUSIP # 61747C723	97.71	97.71-
10/31/2015	ENDING BALANCE	0.00	502,015.24

REGIONS BANK  
VACO/VML VIRGINIA INVESTMENT  
POOL, TOWN OF SMITHFIELD,  
VIRGINIA PARTICIPANT  
ACCOUNT

## ACCOUNT STATEMENT

---

Statement Period  
Account Number

10/01/2015 through 10/31/2015  
9246002035

**IMPORTANT INFORMATION FOR REGIONS CORPORATE TRUST CUSTOMERS:**

INVESTMENT, INSURANCE AND ANNUITY PRODUCTS: ARE NOT FDIC INSURED, ARE NOT A DEPOSIT, ARE NOT BANK GUARANTEED, ARE NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY, MAY GO DOWN IN VALUE, AND ARE NOT A CONDITION OF ANY BANKING ACTIVITY.

FOR MORE DETAILED INFORMATION REGARDING FEES, PLEASE CONSULT THE FUND PROSPECTUS OR CONTACT YOUR ADMINISTRATOR.

**IMPORTANT DISCLOSURE INFORMATION FOR ALL FLORIDA ACCOUNTS:**

AN ACTION FOR BREACH OF TRUST BASED ON MATTERS DISCLOSED IN A TRUST ACCOUNTING OR OTHER WRITTEN REPORT OF THE TRUSTEE MAY BE SUBJECT TO A SIX MONTH STATUTE OF LIMITATIONS FROM THE RECEIPT OF THE TRUST ACCOUNTING OR OTHER WRITTEN REPORT. IF YOU HAVE QUESTIONS, PLEASE CONSULT YOUR ATTORNEY.



# The Blair Bros., Inc.

P.O. Box 5413  
Suffolk, VA 23435  
(757) 538-1696 Fax: (757) 538-0714  
www.blairbros.com  
SWaM Cert #: 664748

# Invoice

Terms	P.O. No.	Date	Invoice #
NET 30 DAYS		10/31/2015	11974

Bill To:

Project:

Town of Smithfield  
P O Box 246  
Smithfield VA 23431

South Mason St.

Item	Qty	Description	Rate	Amount
Contract		Work completed as per proposal number 101046	19,286.00	19,286.00
Contract		Credit for line striping	-203.54	-203.54

VENDOR # \_\_\_\_\_  
ACCOUNT # 4-204-412001-3104  
PT HEAD W. R. [Signature]  
TOWN MANAGER [Signature]

*THANK YOU FOR YOUR BUSINESS*

All charges during the month are due and payable by the 10th of the following month or as per stated terms. A SERVICE CHARGE OF 2% PER MONTH will be added to account from invoice date on past due accounts. This is an annual percentage rate of 24%. The customer agrees to pay service charges and the cost of collection, including attorney's fees

If prices and terms on invoice are not as agreed, or if any claim or damage or deficiency is to be made, please notify us at once, as no claim made at maturity will be allowed

**Invoice Total:** \$19,082.46





**TOWN OF SMITHFIELD**  
**PROCUREMENT POLICY MANUAL**

## **Table of Contents**

- I. PURPOSE**
- II. POLICY**
- III. APPLICABILITY**
- IV. RESPONSIBILITY**
- V. CONTRACT APPROVALS**
- VI. SMALL PURCHASE POLICY**
- VII. LARGE PURCHASES AND PROCEDURES FOR COMPETITIVE SEALED BIDS AND COMPETITIVE NEGOTIATION**
- VIII. EXCEPTIONS TO THE ABOVE**
- IX. DISCRIMINATION PROHIBITION**

## **I. Purpose**

The policies contained herein have been developed pursuant to the Virginia Public Procurement Act of the Code of Virginia (VPPA). The VPPA has certain mandatory provisions and allows for the use of certain optional policies provided they are adopted in writing for the governing body and are based on competitive principles. These policies are intended to provide the framework to respond to user needs, strengthen the public confidence in the integrity of public purchasing and bring the most favorable price for purchase of needed goods, services and construction by the Town.

## **II. Policy**

All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation unless otherwise authorized or exempted by law or regulation.

## **III. Applicability**

These policies and procedures apply to all contracts for procurement of goods, services, insurance and construction entered into by the Town involving any expenditure of public funds except those specifically exempted herein.

## **IV. Responsibility**

1. The Town Manager shall exercise overall responsibility for the conduct of the Town's procurement system.
2. The Town Treasurer serves as the Chief Purchasing Officer (CPO) for the Town under the direction of the Town Council. The CPO shall have the power and duty to:
  - a. Keep current, observe and enforce the policies and procedures adopted herein;
  - b. Ensure that procurement transactions be conducted in a fair and impartial manner, that competition be promoted and that the best interests of the Town be served;
  - e. Implement procedures that ensure that all goods, services or construction purchased are properly inspected and conform to the purchase order, contract and/or specifications;

- f. Ensure that appropriate personnel are trained and possess copies of this Procurement Policy Manual and the Procurement Procedures Manual; and
  - g. Participate in state and regional cooperative purchasing programs and organizations.
3. Department Directors of the Town shall be responsible for the following:
- a. Assuring compliance by the personnel of their departments with the procurement policies herein and procedures implemented to comply with such policies;
  - b. Assuring that procurements are made for authorized purposes and within the budgetary limits approved by the Town Council;
  - c. Ensure that all goods, services or construction purchased are properly inspected and conform to the purchase order, contract and/or specifications;
  - d. Exercising delegated procurement responsibility within the limits and procedures established by this regulation and procedures implemented by the CPO; and
  - e. Assuring that appropriate personnel are trained and possess copies of this Procurement Policy Manual.
4. Failure to follow the provisions of these policies and established procurement procedures shall be grounds for disciplinary action to include termination.

## **V. Contract Approvals**

1. Only the Town Manager or his designee is authorized to sign contracts which bind the Town for the procurement of goods, services, insurance or construction.
2. Contracts shall be processed as follows:
  - a. The using department or the company awarded contract shall draft the contract documents and forward them to the CPO for review;
  - b. After review, the CPO shall forward them to the Town Attorney if needed for approval as to legal form; and,

- c. The contract is then returned to the CPO to secure the signature of the Contractor, and the Town Manager or his designee.

## VI. Small Purchase Policy

The competitive pricing methods set forth below shall be followed for purchases not expected to exceed the limit set in the VPPA. Purchases over \$10,000 must be approved by Town Council.

1. **Purchases less than \$1,000**, must be authorized by a Department Director or his/her authorized representative. Prices in the form of telephone quotations, catalogue comparisons and other similar means may be obtained as is practicable.
2. **Purchases greater than \$1,000 and less than \$10,000** must be authorized by a Department Director and Town Manager. Price quotes are to be obtained from two or more sources. Verbal quotes may be obtained provided all pertinent information is properly documented. Proper documentation includes: item description; date and time of quotation; company name; quoted unit and extended price; and name of authorized representative providing the quotation.
3. **Purchases between \$10,000.01 - \$30,000** require at least 3 attempted telephone, catalog, electronic or written quotes.
4. **Purchases between \$30,000.01- \$50,000** require at least 4 attempted written quotes.
5. **Professional services over \$60,000** require a formal Request for Proposal. (RFP)
6. Goods and non-professional services over \$50,000 require a formal Request for Proposal (RFP) or Invitation to Bid (ITB) if competition is not practicable or fiscally advantageous.
7. Nothing in this Policy shall prevent the use of competitive sealed bidding or competitive negotiation in procurements under the VPPA limit if deemed appropriate by the CPO.
8. Orders may not be arbitrarily split so as to constitute a small purchase.

## X. Large Purchases and Procedures For Competitive Sealed Bidding and Competitive Negotiation

Large purchases are defined as any purchase whereby supplies, goods, construction and services are estimated to cost over \$50,000 and above and professional services over \$60,000. This level of service requires that a formal Invitation For Bid or Request For

Proposal (RFP) be issued. All bids or RFP's must be advertised for a minimum of 10 days as required by law. The Town of Smithfield is governed by the Virginia Public Procurement Act and follows all procedures for competitive sealed bidding and competitive negotiation.

#### Required Components of Formal Solicitation Documents

1. Public Notice (Newspaper ad required for RFP).
2. List of vendors contacted directly (if applicable)
3. Solicitation of Small Businesses and Minority-Owned Businesses in cooperation with the Virginia Department of Small Businesses and Supplier Diversity. (Town of Smithfield Supplier Diversity Program attached).
4. Detailed specifications and requirements for goods and services
5. Qualifications required of bidders/offerors; description of prequalification process (if applicable).
6. Factors Considered in Evaluating Bids or Proposals including whether a numerical scoring system will be used in evaluation of proposal. If numerical scoring system is used, the point values assigned to each of evaluation criteria shall be included in Request for Proposal.
7. Bid Form (ITB)
8. Instructions to Bidders/Offerors
9. Special Terms and Conditions (unique contract requirements); specifications
10. General Terms and Conditions (general requirements for all contracts)
11. Public Notice of Intent to Award or Notice To Award

### **XI. Exceptions To Above**

1. Emergency Purchases – Health or Safety of the public or operation of equipment is in jeopardy. Competition is not required. Written justification is required. Emergency purchases must be approved by the Town Manager or his designee and posted in a public place for 10 days.
2. Sole Source - Written determination of the basis for finding that a particular vendor is the “sole source practicably available”.
3. State Contracts – No competition is required.
4. Other exceptions as outlined in the Virginia Public Procurement Act.

## **XII. Discrimination Prohibitions**

All public bodies shall include in every contract of more than \$10,000 the following provisions (Code of Virginia 2.2-4311):

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor.

**Parks and Recreation Committee Report**

**November 2015**

**Event Listing (since last committee meetings)**

<b>Day</b>	<b>Date</b>	<b>Event Type</b>	<b>Location</b>
Mon	Oct 26	Committee Meetings	Smithfield Center
Tue	Oct 27	Committee Meetings	Smithfield Center
		Continued Town Council Meeting	Smithfield Center
Thu	Oct 29	Banquet	Smithfield Center
Fri	Oct 30	Reception	Smithfield Center
Sat	Oct 31	Wedding & Reception	Smithfield Center
		Hamoween	Downtown Smithfield
Sun	Nov 1	Banquet	Smithfield Center
<b> </b>			
Mon	Nov 2	Banquet	Smithfield Center
Tue	Nov 3	Election Day	Smithfield Center
		WCFB Meeting	Smithfield Center
		Town Council	Smithfield Center
Wed	Nov 4	Cross Country Tri-Meet	Windsor Castle
Thu	Nov 5	Meeting	Smithfield Center
Fri	Nov 6	Banquet	Smithfield Center
Sat	Nov 7	Wedding & Reception	Smithfield Center
<b> </b>			
Mon	Nov 9	Meeting	Smithfield Center
Tue	Nov 10	Meeting	Smithfield Center
		Planning Commission	Smithfield Center
Wed	Nov 11	Veterans Day Service	Veterans Memorial
Thu	Nov 12	Wedding & Reception	Smithfield Center
Sat	Nov 14	Reception	Smithfield Center
Sun	Nov 15	Wedding & Reception	Smithfield Center

<b>Upcoming Events to Note</b>				
<b>OTP</b>	<b>Day</b>	<b>Date</b>	<b>Event Type</b>	<b>Location</b>
OTP	Thu	Nov 19	Affordable Care Act Meeting	Smithfield Center
OTP	Sat	Nov 21	Festival of Trees Gala	Smithfield Center
OTP	Sat	Dec 5-6	Antique Show & Historic Home Tours	Smithfield Center & Downtown
OTP	Fri	Dec 11	Women's Club Tree Lighting	Smithfield Center
OTP			Christmas Market	Downtown
OTP	Sat	Dec 12	Santa Breakfast	Smithfield Center
OTP			Christmas Parade	Downtown
OTP	Thu	Dec 17	Navy Band Concert	Smithfield Center
	Tue	Dec 22	Town Employee Christmas Lunch	Smithfield Center

**Parks and Recreation Committee Report**

**November 2015**

**Programming**

**(No programming taking place at this time)**

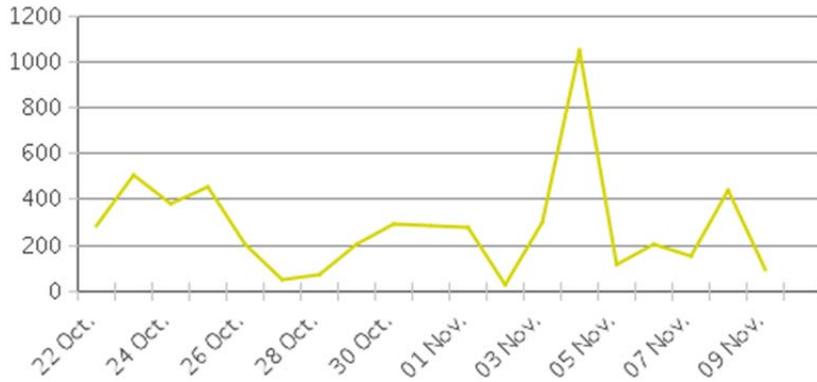
**Trail Doctors**

Our Windsor Castle Trail Doctors have been busy on the last several months completing various projects such as trail maintenance involving leaf removal, tree trimming, English ivy removal and the cleaning of the bridges. Total hours for volunteers for 2015 are over 91 hours. Steve Senkovich has been leading the way with the most hours. His work has included English Ivy removal and bridge cleaning.

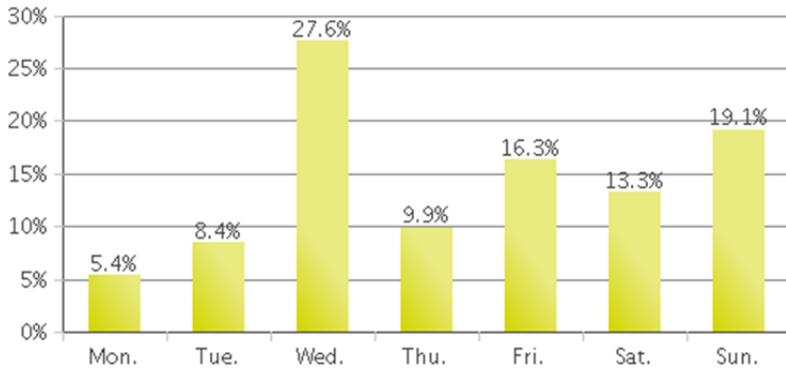
# Parks and Recreation Committee Report

November 2015

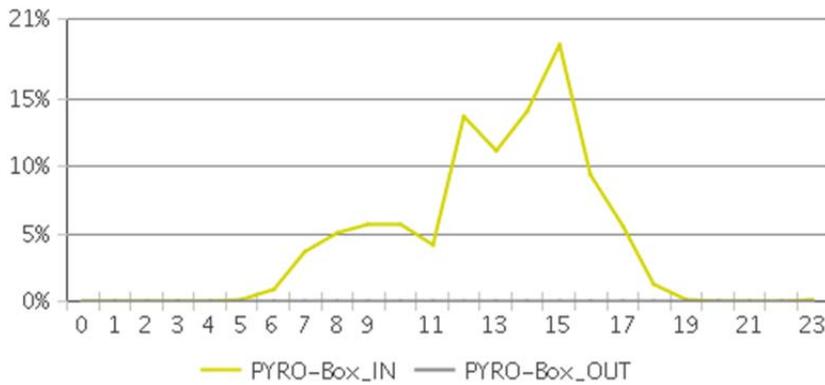
Eco Counter Data for Windsor Castle Park			
Location: Main Parking (Dan Smith Lane)		Daily Average -283	
Busiest Days	Wednesday 04 Nov 1,052	Friday 23 Oct 502	Sunday 25 Oct 451



Daily Data



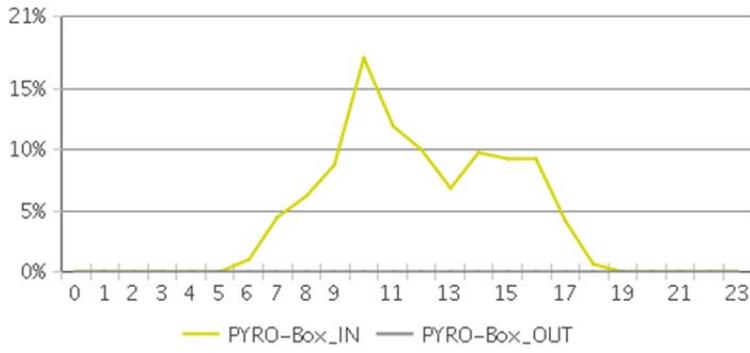
Weekly Profile



Hourly Profile During the Week

# Parks and Recreation Committee Report

November 2015



**Hourly Profile During the Weekend**



# WOOD DUCK BOXES

COMPLETED BY:

**GIRL SCOUT ASHLYNN NEWBERRY**

Wood Duck Boxes are vital to increase the wood duck population in the eastern Tidewater region. Wood Duck Boxes are vital to increase the wood duck population in the eastern Tidewater region. Wood Duck Boxes are vital to increase the wood duck population in the eastern Tidewater region. Wood Duck Boxes are vital to increase the wood duck population in the eastern Tidewater region.

## Park Projects

18"x24" Digitally printed graphic with UV overlamine, mounted to 1/4" aluminum composite panel on 4"x4" pressure treated post with aluminum brackets

Font Style: Trajan Pro

Font Size: 126pt title, 36pt completed by, 48pt name,

Font Style: Gotham Light

Font Size: 36pt informational text

Price with post and metal brackets: \$159.00

*Does not include install or design time.*

# Memo

TO: Smithfield Town Council – Public Works Committee  
FROM: Sonja Eubank, Department of Planning, Engineering and Public Works  
DATE: November 16, 2015  
RE: Professional Engineering Services Contract Renewal

---

The Town of Smithfield has a contract with both Draper Aden Associates and Kimley-Horn and Associates for the 2014/2015 fiscal year to provide professional engineering consultant services with the right to renew for two additional years. The current contract will expire January 1, 2016.

The professional engineering consultant contract includes the following type of work:

- Continued implementation of the Regional Sanitary Sewer Consent Order to include Management Operation and Maintenance (MOM) Program and rehabilitation plan assistance
- Review of plans, plats, specifications, traffic and utility impact studies, environmental site assessments and water quality impact assessments
- Inspections of public improvements, analysis of public water and sewer utility system facilities and GIS system

There will be no changes to the current contract terms. Staff has been pleased with the level of service provided by both Draper Aden and Kimley-Horn and therefore we are recommending that these contracts be extended two more years.



# Draper Aden Associates

Engineering • Surveying • Environmental Services

8090 Villa Park Drive  
Richmond, Virginia 23228  
(804) 264-2228 • Fax (804) 264-8773  
www.daa.com

November 12, 2015

Mr. Peter M. Stephenson, AICP ICMA – CM, Town Manager  
Town of Smithfield  
310 Institute Street  
P.O. Box 246  
Smithfield, Virginia 23431

**RE: Smithfield Lake Dam – Primary Spillway Maintenance  
Draper Aden Associates Proposal No. HR04103P**

Dear Mr. Stephenson:

Draper Aden Associates (DAA) is pleased to provide this proposal to the Town of Smithfield (Town) for maintenance on the primary spillway of the Smithfield Lake Dam.

## **I. PROJECT BACKGROUND**

As part of our proposal dated August 11, 2015, Enviroscope, Inc. (Enviroscope) performed routine maintenance on the Smithfield Lake Dam on October 22, 2015; however, following the removal of debris the extent of erosion observed downstream of the primary spillway was greater than anticipated, and Enviroscope was only able to perform two (2) of the scoped tasks. The completed tasks are detailed below:

- ❖ Task 2: Removal of natural debris (e.g., tree branches, twigs, etc.) from the primary spillway.
- ❖ Task 3: Filling of small voids behind grouted sandbag retaining wall immediately adjacent to the primary spillway culvert on the upstream side of the dam.

Given the observed site conditions, Enviroscope, DAA, and the Town agreed that the proposed maintenance work required to return the area downstream of the primary spillway to its former condition would be postponed and completed under a separate proposal, since the work

required would exceed the scope set forth in the original proposal. To account for the postponed work, it was agreed by Enviroscope, DAA, and the Town that a \$2,000 credit would be applied to a revised proposal. Accordingly, our revised proposal is detailed below.

## **II. SCOPE OF WORK**

In order to address the aforementioned outstanding primary spillway maintenance item, DAA will subcontract Enviroscope to perform the following:

- A. Temporary Flow Diversion:** Enviroscope will sandbag the inlet of the primary spillway (14.96 ft., NAVD) to divert flow through the secondary (i.e., auxiliary) spillway (16.38 ft., NAVD). Please reference the attached location map (Figure 1).
- B. Concrete Work:** Enviroscope will place the rip-rap delivered on October 22, 2015 downstream of the primary spillway and form a reinforced concrete structure to repair the area that was most heavily eroded. Enviroscope will then apply approximately 16 cubic-yards of concrete via pump truck to the eroded area and stabilize / fill-in voids within the existing and newly placed rip-rap. Please reference the attached sketch detailing the area where the above detailed maintenance work will be performed (Figure 2).
- C. Removal of Temporary Flow Diversion / Clean-Up:** Once the concrete has set, Enviroscope will remove the sandbags from the inlet of the primary spillway, allowing water to again flow through the primary spillway.
- D. Maintenance Observation and Construction Administration:** DAA personnel will be on-site each day to observe the work and verify that the work is completed in accordance with the scope outlined in this proposal. Upon completion of Tasks A, B, and C above, DAA will provide the Town with a memorandum detailing the completed maintenance work to the primary spillway, which will include pre-work and post-work photos.

**III. SCHEDULE**

Upon receipt of authorization from the Town, DAA will coordinate with Enviroscope to provide a schedule to the Town for performing the work detailed herein. In light of the site conditions observed on October 22, 2015, we estimate that three (3) days will be required for Enviroscope to complete Tasks A, B, and C.

**IV. FEES**

We propose performing the work outlined above on a Time and Materials basis. Estimates for each of the outlined tasks are shown below:

**A. Temporary Flow Diversion**

Estimated Labor .....	\$2,500.00
Estimated Materials .....	<u>\$800.00</u>
Task A Subtotal: .....	\$3,300.00

**B. Concrete Work**

Estimated Labor .....	\$2,500.00
Estimated Materials .....	<u>\$3,550.00</u>
Task B Subtotal: .....	\$6,050.00

**C. Removal of Temporary Flow Diversion / Clean-Up**

Estimated Labor .....	<u>\$2,500.00</u>
Task C Subtotal: .....	\$2,500.00

**D. Maintenance Observation and Construction Administration**

On-Site Maintenance Observation (3 days) .....	\$2,675.00
Construction Administration .....	<u>\$1,820.00</u>
Task D Subtotal .....	\$4,495.00

**E. Budget Contingency**

Contingency Materials .....	\$2,000.00
Contingency Labor (2 days) .....	\$5,000.00
Contingency On-Site Maintenance Observation (2 days) .....	<u>\$1,550.00</u>
Contingency Subtotal: .....	\$8,550.00

**F. Credit for Work Not Performed under the Original Proposal**

Credit ..... (\$2,000.00)

**Total Estimated Fee (Excluding Budget Contingency) ..... \$14,345.00**

**Total Project Budget (Including Budget Contingency)..... \$22,895.00**

In the event that the anticipated work effort and/or material amounts exceed the levels provided for in this revised proposal, we recommend that the above budget contingency fee be included as part of the overall total project budget. The establishment of a budget contingency will provide the ability to avoid delays if unforeseen conditions are encountered during the course of the construction work. This budget contingency fee will only be available following a submitted written request from DAA with noted justifications and approval from the Town. If actual field conditions warrant additional work above the budget contingency level provided for herein, a separate scope of work and associated fee will be provided for the Town’s consideration.

**V. ASSUMPTIONS / LIMITATIONS**

This proposal was developed based on the following assumptions:

- ❖ No changes to the dam will be made that could alter or affect the structural integrity; therefore, it is assumed that no Alterations Permit will be required.
- ❖ DAA will not be providing surveying services, engineering services, or mapping related to the work detailed within this proposal.

**VI. CONTRACT TERMS AND PROVISIONS**

The terms and provisions of our existing Annual Engineering Services Agreement will apply to all project work.

On behalf of Draper Aden Associates, thank you for giving us the opportunity to provide our proposal. If this proposal meets your approval, please sign one (1) copy of the Authorization to Proceed below and return it to us. Please retain the other copy of the proposal for your records. We look forward to working with you on this project. Please do not hesitate to contact us if you have any questions or require any additional information.

Sincerely,  
**DRAPER ADEN ASSOCIATES**



Andrew M. Snyder, P.E.  
Senior Program Manager



Kenneth M. Piazza, Jr., P.E.  
Principal/Vice President

Attachments – Figure 1: Smithfield Lake Dam Location Map  
Figure 2: Sketch of Proposed Primary Spillway Maintenance

CC: Wayne Griffin – Town of Smithfield

---

**AUTHORIZATION TO PROCEED**

I/We agree and accept Draper Aden Associates' proposal to provide the above described services. We understand the Scope of Services as provided herein and agree to the fees estimated for these services. We further acknowledge that Draper Aden Associates will provide a proposal for any change in the Scope of Services described herein and that a signed agreement to provide those additional services will be executed prior to any work being performed.

---

Printed Name

---

Title

---

Signature

---

Date

**Legend**

 Town Boundary



P:\HR04\100\HR04103\HR04103-75\GIS\MAP - 15 1110 - Smithfield Lake Dam Location Map - VHV.mxd



**Draper Aden Associates**  
*Engineering • Surveying • Environmental Services*

BLACKSBURG, VA CHARLOTTESVILLE, VA HAMPTON ROADS, VA RICHMOND, VA

Smithfield Lake Dam  
Location Map  
Smithfield, Virginia

FIGURE  
1

DAA# HR04103-75

Eroded Area Downstream of Primary Spillway - Area for preparation of concrete forms using rebar, wire mesh, and rip-rap

Approximate area for concrete to be applied via pump truck to stabilize and fill-in voids within the existing rip-rap (Note: Concrete to be applied from eroded area to outlet of primary spillway)

P:\HR04\100\HR04103\HR04103-75\GIS\MAP - 15 1110 - Sketch of Proposed Primary Spillway Maintenance - VHV.mxd



**Draper Aden Associates**  
*Engineering • Surveying • Environmental Services*

BLACKSBURG, VA CHARLOTTESVILLE, VA HAMPTON ROADS, VA RICHMOND, VA

Smithfield Lake Dam  
Sketch of Proposed Primary  
Spillway Maintenance  
Smithfield, Virginia

DAA# HR04103-75

FIGURE  
2

# PROJECT STATUS MAP

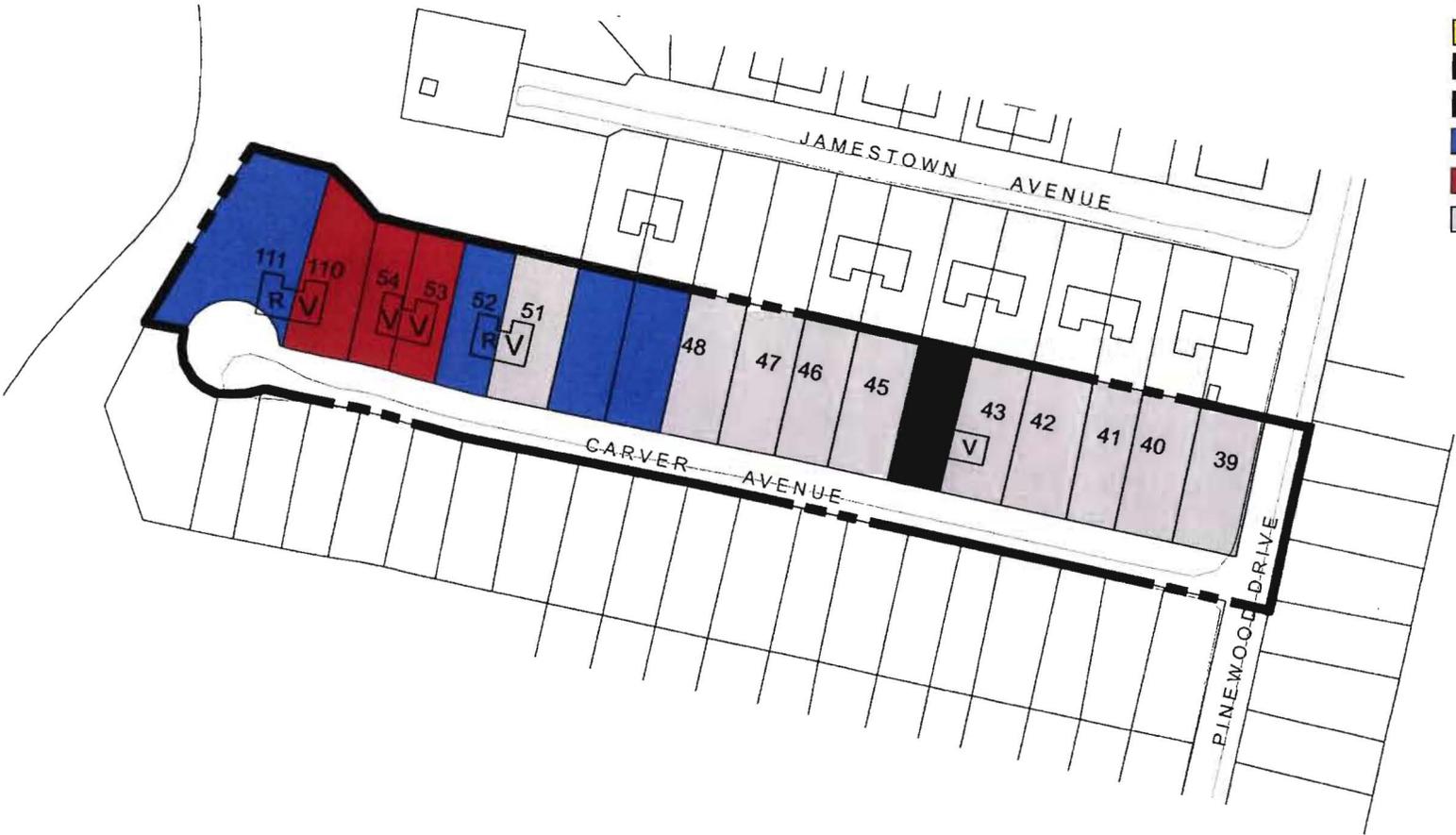
Pinewood Heights Phase II Redevelopment Project  
Multi-Year 2  
Town of Smithfield, Virginia

### LEGEND

--- PHASE II BOUNDARY

### STATUS:

- PRELIM ACQ LETTER RECEIVED BY OWNER
- OFFER TO PURCHASE ACCEPTED
- RELOCATION IN PROCESS
- RELOCATION COMPLETE
- READY FOR DEMOLITION/DEMO PREP
- PROPERTIES ACQUIRED IN MY1
- O OWNER OCCUPIED
- R RENTER OCCUPIED
- 8 SECTION 8 TENANT



MONTHLY PROGRESS REPORT FOR OCTOBER 2015

Locality: Town of Smithfield  
Project Name: Pinewood Heights Phase II

Contract #: 13-01 MY2  
Contract Completion Date: 06/20/2016

Prepared by: Michael Paul Dodson, CFM  
Date: 10/15/2015

FINANCIALS

CDBG Contract Amount: \$375,280 Leverage Amount: \$589,894  
CDBG Amount Expended: \$81,000 Leverage Amount Expended: \$190,052

CUMLATIVE CONSTRUCTION PROGRESS  
{INSERT PROJECT SPECIFIC PRODUCTS HERE}

ADMINISTRATIVE ACTIVITY

Management Plan: Is project on schedule as shown in PMP?  Yes  No If no, update will be furnished by: \_\_\_\_\_

When was the last Management Team meeting? 09/08/2015 Next meeting? 11/10/2015

Budget: Is project proceeding within the approved budget?  Yes  No If no, revision will be furnished by: \_\_\_\_/\_\_\_\_/\_\_\_\_

Technical Assistance Required?  Yes  No If yes, in what area(s)?

Status: All purchase offers have been accepted. The residents at 52, 53, 54, 110 Carver have all been relocated. The tenant at 52 Carver has been relocated and now is an owner in Isle of Wight County. The tenant/heir at 54 Carver has relocated to a new apartment. The Town owns 54 Carver and it has been secured. Title issues are preventing the closings on 52 Carver but condemnation procedures were approved and have been started by the Town Attorney. The resident at 53 Carver has completed the purchase of her new home and is moving item out of the home Pinewood Heights home. The Town will also be working to close on 110 & 111 Carver Street. The tenant at 111 Carver has completed the relocation forms and we are awaiting preparation site work at their new home to be completed before they can relocate. The Town will then secure and demolish 53/54 and 110/111 Carver. The owners of 44 Carver have accepted their offers to sale and we are working on relocation actions now that would place them in a new purchased home.

Are problems anticipated? None

Other comments: A one-year extension has been sent to the state for grant to ensure time to complete the acquisition and relocation of the two homes that have complex title issues (44 and 52 Carver).

**Project Specific Products:**

**Owner-Occupied Acquisition** (Goal=2)

Owner Occupied Homes

1) 44 Carver      2) 53 Carver

Preliminary Acquisition Letters Sent 2

1) 44 Carver      2) 53 Carver

Appraisals Completed 2

1) 44 Carver      2) 53 Carver

Review Appraisals Completed 2

1) 44 Carver      2) 53 Carver

Offer to Purchase Letters Sent 2

1) 44 Carver      2) 53 Carver

Offers Accepted 2

1) 44 Carver      2) 53 Carver

Properties Closed On 1

1) 53 Carver

**Tenant-Occupied Acquisition** (Goal=4)

Tenant Occupied Homes

1) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Preliminary Acquisition Letters Sent 4

2) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Appraisals Completed 4

1) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Review Appraisals Completed 4

1) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Offer to Purchase Letters Sent 4

1) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Offers Accepted 4

1) 52 Carver      2) 54 Carver      3) 110 Carver      4) 111 Carver

Properties Closed On 1

1) 54 Carver

**Owner-Occupied Relocation** (Goal=2)

Owner Occupied Homes

1) 44 Carver      2) 53 Carver

Household Surveys Completed 2

1) 44 Carver      2) 53 Carver

Income Verifications Completed 2

1) 44 Carver      2) 53 Carver

Eligibility of Relocation Letters Sent 2  
1) 44 Carver 2) 53 Carver  
Comparable Units Found and Inspected 2  
1) 44 Carver 2) 53 Carver  
Households Relocated 0  
1) 53 Carver

**Market-Rate, Renter-Occupied Relocation** (Goal=3)

Market-Rate Occupied Homes  
1) 52 Carver 2) 54 Carver 3) 111 Carver  
Household Surveys Completed 3  
1) 52 Carver 2) 54 Carver 3) 111 Carver  
Income Verifications Completed 3  
1) 52 Carver 2) 54 Carver 3) 111 Carver  
Eligibility of Relocation Letters Sent 3  
1) 52 Carver 2) 54 Carver 3) 111 Carver  
Comparable Units Found and Inspected 2  
1) 52 Carver 2) 54 Carver 3) 111 Carver  
Households Relocated 2  
1) 52 Carver 2) 54 Carver

**Section 8, Renter-Occupied Relocation** (Goal=1)

Section 8 Occupied Homes  
1) 110 Carver  
Household Surveys Completed 1  
1) 110 Carver  
Income Verifications Completed 1  
1) 110 Carver  
Eligibility of Relocation Letters Sent 1  
1) 110 Carver  
Comparable Units Found and Inspected 1  
1) 110 Carver  
Households Relocated 1  
1) 110 Carver

**Demolition** (Goal=6)

Units to be Demolished  
1) 44 Carver 2) 52 Carver 3) 53 Carver 4) 54 Carver 5) 110 Carver 6) 111 Carver  
Units that have been Demolished 0

**STAFF REPORT TO THE  
TOWN COUNCIL**

**ZONING ORDINANCE REVIEW**

**Article 3.O: FP-O, Floodplain Overlay District and Article 13: Definitions**

**\*\*\*PUBLIC HEARING\*\*\***

**December 1, 2015**

The Federal Emergency Management Agency (FEMA) and the Federal Insurance Agency have comprehensively redrawn the Flood Insurance Rate Maps (FIRM) for the first time since Sept. 4, 2002. The new maps are more accurate due to the improvements of computer mapping technology and they are intended to become the maps of record on December 2, 2015.

Updates to municipalities' floodplain management ordinances are expected to go along with these changes in mapping. Due to the numerous updates necessary to bring the currently adopted floodplain ordinance into conformance with these new changes, it was decided to modify the model ordinance provided by the Department of Conservation and Recreation (DCR) to fit the town's needs, rather than to revise the previous town floodplain ordinance. A draft of this modified floodplain ordinance, Article 3.O: FP-O, is enclosed here for your review. If approved, it would replace the currently adopted floodplain ordinance completely.

Also enclosed for your review is a draft of Article 13: Definitions of the ordinance, to which numerous definitions related to the new floodplain ordinance requirements, were added. This amended version, if approved, would replace the currently adopted version of the definitions article.

The Planning Commission held a public hearing on these items at their November 10, 2015 meeting and recommended approval to the Town Council.

If you have any questions about this item, please contact William Saunders at 365-4266.

DRAFT

Article 3.O:  
**FP-O, Floodplain Overlay District**

Article 3.O:  
**FP-O, Floodplain Overlay District**

**SECTION I - GENERAL PROVISIONS**Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]

This ordinance is adopted pursuant to the authority granted to localities by Va. **Code** § 15.2 - 2280.

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

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

Section 1.2 – Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of **The Town of Smithfield** and identified as areas of special flood hazard *identified by the community or* shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the **Town of Smithfield** by FEMA. **The flood insurance rate map panels specifically referenced by this ordinance and dated to take effect on December 2, 2015 include the following: 51093C0088 E, 51093C0135 E, 51093C0151 E, 51093C0152 E, 51093C0153 E, 51093C0154 E.**

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood

heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

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

Section 1.4 – Records [44 CFR 59.22(a)(9)(iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

Section 1.5 - Abrogation and Greater Restrictions [44 CFR 60.1(b)]

To the extent that the provisions are more restrictive, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 1.6 - Severability

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

Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this article or directions of the ~~director of planning~~ **Planning and Zoning Administrator** or any authorized employee of the **Town of Smithfield** shall be guilty of ~~the appropriate violation and subject to the penalties thereof~~ **a Class 1 Misdemeanor.**

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of **The Town of Smithfield** are addressed in **Article 11: Section Q and Article 2: Section X** of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the **Town of Smithfield** to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

**SECTION II - ADMINISTRATION**Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The ~~Floodplain Administrator~~ **Planning and Zoning Administrator** is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the **Town of Smithfield** chief executive officer.
- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- C. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

- F. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).
- G. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- H. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- I. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- J. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the **Town of Smithfield**, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- K. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and
  2. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- L. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- M. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- N. Administer the requirements related to proposed work on existing buildings:
1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
  2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures

necessary to secure a property or stabilize a building or structure to prevent additional damage.

- O. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- P. Notify the Federal Emergency Management Agency when the corporate boundaries of the **Town of Smithfield** have been modified and:
1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- Q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- R. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

#### Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- A. Where field surveyed topography indicates that adjacent ground elevations:

1. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
  2. Are above the base flood elevation and the area is labeled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- B. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- C. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- D. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- E. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
1. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
  2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
  3. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood

hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

#### Section 2.5 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the **Town of Smithfield** where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.

#### Section 2.6 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the **Zoning Officer Planning and Zoning Administrator**. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

#### Section 2.7 – Submitting Model Backed Technical Data [44 CFR 65.3]

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

#### Section 2.8 – Letters of Map Revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44  
*Code of Federal Regulations §65.3 and §65.6(a)(12)*

## SECTION III - ESTABLISHMENT OF ZONING DISTRICTS

### Section 3.1 - Description of Special Flood Hazard Districts [44 CFR 59.1, 60.3]

#### A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for **The Town of Smithfield** prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated **December 2, 2015**, and any subsequent revisions or amendments thereto.

The **Town of Smithfield** may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the **Town of Smithfield** offices

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. ~~The areas included in this District are specifically defined in Table \_\_\_\_\_ of the above-referenced FIS and shown on the accompanying FIRM.~~

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the **Town of Smithfield** endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III Section 3.1 A 1 a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

2. The **AE, ~~or AH~~ Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE ~~or AH~~ zone [44 CFR 60.3(c)] where FEMA has provided base flood elevations **(The requirement in 60.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.):**

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, **or AE, ~~or AH~~** on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the **Town of Smithfield**.

Development activities in Zones A1-30, **or AE, ~~or AH~~** on the **Town of Smithfield** FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the **Town of Smithfield** endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high

water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (18) inches.

During the permitting process, the Floodplain Administrator shall obtain:

1. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
2. If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

~~4. The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]:~~

~~a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.~~

~~b. All new construction and substantial improvements of non-residential structures shall~~

~~1) have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,~~

~~2) together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of~~

~~buoyancy.~~

~~c.—Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.~~

5. The **Coastal A Zone** is labelled as AE on the FIRM; it is those areas that are seaward of the limit of moderate wave action (LiMWA) line. As defined by the VA USBC, these areas are subject to wave heights between 1.5 feet and 3 feet. For these areas, the following provisions shall apply:

Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus ~~one-foot~~ **eighteen (18) inches** of freeboard, and must comply with the provisions in Article III, Section 3.1 A 2 and Article IV, Sections 4.2 and 4.3.

6. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast or other areas subject to high velocity waves. For these areas, the following provisions shall apply [44 CFR 60.3(e)]:
  - a. All new construction and substantial improvements in Zones V and VE, including manufactured homes, shall be elevated on pilings or columns so that:
    - 1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level **plus eighteen (18) inches**; ~~if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least two feet above the base flood level if the lowest horizontal structural member is perpendicular to the direction of wave approach~~; and,
    - 2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
  - b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Article III, Section A 6 a.
  - c. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator shall maintain a record of all such information.

- d. All new construction shall be located landward of the reach of mean high tide.
  - e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - 1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
    - 2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year.
  - f. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation. *The enclosed space shall should be less than 299 square feet (to avoid triggering high insurance rates).*
  - g. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
  - h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
7. *The mapped floodplain includes all of the above regions and also the regions designated as having a 0.2 percent annual chance of flooding on any flood map or flood insurance study. In this area no emergency service, medical service or governmental records storage shall should be allowed except by special exception using the variance process.*

### Section 3.2 - Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on

the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

#### **SECTION IV - DISTRICT PROVISIONS** [44 CFR 59.22, 60.2, 60.3]

##### Section 4.1 – Permit and Application Requirements

###### A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the **Town of Smithfield Subdivision and Zoning Regulations**. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

###### B. Site Plans and Permit Applications

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be built according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Section 3.1 A 3, the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, ~~AH~~ and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level *plus eighteen(18) inches*. See Section 3.1.5 and Section 3.1.6 for requirements in the Coastal A and VE zones.

B. Non-Residential Construction

1. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level *plus eighteen (18) inches*. See Section 3.1.5 and Section 3.1.6 for requirements in the Coastal A and VE zones.
2. Non-residential buildings located in all A1-30, ~~or AE, and AH~~ zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE ~~plus two feet~~ *eighteen (18) inches* are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the ~~Town~~ *Clerk*.

C. Space Below the Lowest Floor

In zones A, AE, ~~AH, AO,~~ and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

3. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
    - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
    - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
    - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
    - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
    - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
    - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- D. Standards for Manufactured Homes and Recreational Vehicles
1. In zones A, AE, ~~AH, and AO~~, ~~VE and V~~, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in sections 3.1.A.6., 4.2, and 4.3.
  2. All recreational vehicles placed on sites must either:
    - a. be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
    - b. meet all the requirements for manufactured homes in Article 4.3(D)(1).

#### Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;

- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.

## SECTION V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:

- A. The floodplain manager has determined that
  - a. change is not a substantial repair or substantial improvement AND
  - b. no new square footage is being built in the floodplain that is not complaint AND
  - c. no new square footage is being built in the floodway AND
  - d. the change complies with this ordinance and the VA USBC AND
  - e. ~~the change, when added to all the changes made during a rolling 5-year period does not constitute 50% of the structure's value.~~
- B. The changes are required to comply with a citation for a health or safety violation.
- C. The structure is a historic structure and the change required would impair the historic nature of the structure.

**SECTION VI - VARIANCES: FACTORS TO BE CONSIDERED** [44 CFR 60.6]

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variations generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variations may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.

- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. Such other factors which are relevant to the purposes of this ordinance.

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

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

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

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

**SECTION VII – ENACTMENT**

Enacted and ordained this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. This ordinance, number \_\_\_\_ of **The Town of Smithfield**, Virginia, shall become effective upon passage.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Attested

DRAFT

DRAFT

Article 13:  
**DEFINITIONS**

Article 13:  
**Definitions**

**A. Interpretations:**

For the purpose of this Ordinance, certain words and terms are to be interpreted as follows:

1. Words used in the present tense can include the future; words used in the masculine gender can include the feminine and neuter; words in the singular number can include the plural; and words in the plural can include the singular, unless the obvious construction of the wording indicates otherwise.
2. The word "shall" is mandatory. The word "may" is permissive.
3. Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.
4. The word "building" includes the word structure, and the word "structure" includes the word building; the word "lot" includes the word plot; the word "used" shall be deemed also to include designed, intended, or arranged to be used; the term "erected" shall be deemed also to include constructed, reconstructed, altered, placed, relocated or removed.
5. The terms "land use" and "use of land" shall be deemed also to include building use and use of building.
6. The word "adjacent" means nearby and not necessarily contiguous; the word "contiguous" means touching and sharing a common point or line.

**B. Definitions:**

As used in this article, the following terms or words shall have meanings given below unless the context requires otherwise.

**Accessory:** As applied to use or structure, means customarily subordinate or incidental to the primary use or structure, and on the premises of such primary use or structure. The phrase "on the premises of" mean on the same lot or on the contiguous lot in the same ownership.

**Accessory apartment dwelling unit:** A residential apartment which is incidental and subordinate to a single family detached residence for the purpose of accommodating not more than two (2) occupants and as further defined in the Ordinance.

**Accessory use:** A use which is clearly incidental and subordinate to or customarily found in connection with and (except where otherwise provided in the Ordinance) is located on the same lot as the principal use on the premises.

**Acre:** A measure of land equating to 43,560 square feet.

**Acreage:** A parcel of land, regardless of area, described by metes and bounds and not a lot of any recorded subdivision plat.

**Administrator:** The Planning and Zoning Administrator of the Town of Smithfield as designated by resolution of the Town Council.

**Addition:** Any construction which increases the area of cubic content of a building or structure. The construction of walls which serve to enclose completely any portion of an existing structure, such as a porch, shall be deemed an addition within the meaning of the chapter.

**Adult day care center:** A building or structure where care, protection and supervision are provided on a regular schedule for disabled adult persons and senior citizens for less than 24 hours per day.

**Agricultural lands:** Those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising or poultry and/or livestock.

**Alley:** A public or private way less than 30' in width intended for vehicular traffic and designed to give access to the side and rear of properties whose principal frontage is on a street.

**Alteration:** Any material change in the architectural features of a structure and its surrounding site including, but not limited to, additions and removals, change in use, substantial landscaping and any subdivision. Modifications classified as ordinary repair are excluded from this definition.

**Amusement arcade:** Establishments in which a principal use is the operation of video, mechanical, electronic and/or coin operated games and/or devices for the amusement of the general public.

**Amusement machines:** Any video, mechanical, electronic and/or coin operated game and/or device for the amusement of patrons. This definition shall not be constructed to include coin operated music players, coin operated mechanical children's rides or coin operated television.

**Animal shelter:** As differentiated from a **Kennel** as defined herein, any place designated to provide for the temporary accommodation of five (5) or more common, unowned household pets until appropriate disposition of such pets can be effectuated.

**Apartment:** See **Dwelling, Multiple family**.

**Architect:** A professional who is registered with the State Department of Professional and Occupational Registration as an architect.

**Attached residential buildings:** A row of two (2) or more dwelling units, separated from one another by continuous vertical wall(s) without opening from basement floor to roof, with each unit located on a separate lot of record. Townhouses are included in this category.

**Automobile and/or trailer sales area:** An open space, other than a street or required automobile parking space, used for display or sale of new or used automobiles or trailers and where no repair work is done.

**Automobile salvage yard:** Any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind incapable of being licensed or operated on the highways are placed, located or found.

**Average Daily Traffic (ADT):** Total volume of traffic during a given period of time (in whole days greater than one day and less than one year) divided by the number of days in that time period.

**Bank:** See **Financial institution**.

**Base Flood:** See **Flood**.

**Base flood elevation:** The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

**Basement:** That portion of a building partly underground, having at least one-half of its height above the average adjoining grade; or, any area of the building having its floor sub-grade (below

ground level) on all sides. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement or cellar shall be counted as a story only if the vertical distance from the average adjoining grade to the ceiling is over five (5) feet.

**Bed and breakfast lodging:** A single family dwelling, occupied by its owner or operator, containing sleeping and breakfast accommodations as an accessory use to the principal use as a private residence. Such lodging shall have no more than five (5) room accommodations for transient persons and wherein a charge is normally paid for such accommodations.

**Berm:** A landscaped earthen mound intended to screen, buffer, mitigate noise and generally enhance views of parking areas, storage areas or required yards particularly from public streets or adjacent land uses.

**Best Management Practices or BMPs:** A practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

**Block:** That land abutting on one side of a street extending to the rear lot lines, or for parcels of land extending through to another street, to a line midway between the two (2) streets and lying between the two (2) nearest intersecting and intercepting streets or between the nearest intersecting or intercepting street and the boundary of any railroad right-of-way, park, school ground or non-subdivided acreage or center line of any drainage channel twenty (20) feet or more in width.

**Board:** The Board of Zoning Appeals of the Town of Smithfield.

**Boardinghouse:** A single detached dwelling where the property owner, after obtaining a boardinghouse permit and license from the Town, must reside on the premises, and where for compensation and by prearrangement for definite periods, lodging and/or meals shall be provided for not more than four (4) persons not of the same family. Operation of a boarding or rooming house shall not be deemed a home occupation. There shall be no more than one (1) boarding or rooming house on each recorded lot.

**Buffer or screening:** Any device or natural growth, or a combination thereof, which shall serve as a barrier to vision, light, or noise between adjoining properties, wherever required by this ordinance and further defined herein.

**Buffer Area:** An area of natural or established vegetation managed to protect other components of a Resource Protection Area (RPA) and state waters from significant degradation due to land disturbances.

**Buildable area:** The portion of a lot remaining after required yards have been provided.

**Building:** Any structure used or intended for supporting or sheltering any use of occupancy.

**Building footprint:** The area on the ground surface covered by the building.

**Building front:** That one (1) face or wall of a building which is architecturally designed as the front of the building, which normally contains the main entrance(s) for use by the general public. Also known as a "facade."

**Building height:** See **Height, building**.

**Building, rear:** That portion of a building which is, by either service area, secondary entry and egress or the facade directly opposite the front facade of the structure; the reverse frontage of the building.

**Bulk regulations:** Regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio and (c) minimum yard requirement.

**Car wash:** A commercial establishment whose structure, or portion thereof, contains facilities for washing motor vehicles, using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical device, and whose primary use is for the purpose of washing motor vehicles for a stipulated fee.

**Carport:** Any space outside a building and contiguous thereto, wholly or partly covered by a roof, and used for the shelter of parked motor vehicles. A carport is to have no enclosure, other than the side of the building to which the carport is contiguous, that is more than eighteen (18) inches in height, exclusive of screens.

**Cemetery:** Property used for the interring of the dead, in which columbariums and mausoleums may be utilized.

**Center line:** A line lying midway between the side lines of a street or alley right-of-way as measured in the horizontal plane.

**Chesapeake Bay Preservation Areas:** Any land designated by the Town Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-10 et seq. and Section §10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area (RPA) and a Resource Management Area (RMA).

**Child care center:** A regularly operating service arrangement for two (2) or more children under the age of thirteen (13) where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection and well-being of a child for less than a twenty-four (24) hour period, in a facility that is not the residence of the provider or of any of the children in care.

**Church or place of religious worship:** A building whose primary use is for the assembly of persons for religious worship and instruction. The religious facility may include offices, classrooms, parlors and meeting rooms for religious purposes.

**Clinic:** An establishment where patients who are not lodged overnight are admitted for examination and treatment by physicians practicing medicine, dentistry or psychiatric treatment.

**Cluster subdivision:** An alternate means of subdividing a lot premised on the concept of reducing lot size, yard and bulk requirements in return for the provision of common open space and recreational improvements within the development. Cluster subdivisions are often permitted at higher net densities in comparison to conventional developments, but also leave more open space by reducing lot sizes.

**Commercial use:** An occupation, employment, enterprise or activity that is carried on for profit or not for profit by the owner, lessee or licensee.

**Commission:** The Planning Commission of the Town of Smithfield.

**Community center:** A building used for recreational, social, educational and cultural activities.

**Comprehensive plan:** The official document or elements thereof, adopted by the Town Council and intended to guide the physical development of the Town or a portion thereof. Such plan,

including maps, plats, charts, policy statement and/or descriptive material shall be that adopted in accordance with Section 15.1-450 of the Code of Virginia.

**Condominium:** Real property and any incidentals thereto or interests therein which have been or are to be lawfully established as such under the Virginia Condominium Act.

**Construction footprint:** The area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas, and sidewalks and the minimal area necessary for construction of such improvements. The Zoning Administrator will evaluate the size of the areas proposed for use during construction and appropriate if appropriately designed.

**Contractor's offices and shops:** Establishments for the installation and servicing of such items as air conditioners, electrical equipment, flooring, heating, painting, plumbing, roofing, tiling and ventilating.

**Convenience store:** A small commercial shopping facility designated as a component of a neighborhood.

**Cul-de-sac:** A local street, one end of which is closed and consists of a circular turn-around.

**Curb grade:** The elevation of the established curb in front of the building measured at the midpoint of such frontage. Where no curb exists, the Town engineer shall establish such curb grade for the existing or proposed street in accordance with the existing street grading plans of the Town.

**Curb line:** The face of a curb along private streets, travelways, service drives and/or parking bays / lots.

**Demolition:** The complete or substantial removal of any structure or external element of any structure.

**Density:** The number of dwelling units per acre.

**Developer:** The legal or beneficial owner or owners of all the land proposed to be included in a given development, or the authorized agent thereof. In addition, the holder of an option or contract to purchase, a lessee having a remaining term of not less than thirty (30) years, or other persons having an enforceable proprietary interest in such land shall be deemed to be a developer for the purpose of this Ordinance.

**Development:** The division of land, or construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures; or, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Development plan, generalized:** A required submission at the time of filing for an amendment to the Zoning Map for all districts, prepared and approved in accordance with the provisions of this Ordinance, and which generally characterizes the proposed development of the subject lot.

**Diameter at breast height or DBH:** means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

**District:** Any section of the Town of Smithfield in which the regulations governing the use of the buildings and premises, the heights of building, the size of yards and the intensity of the use are uniform.

**Dripline:** A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

**Drive-in bank:** Any financial institution which offers its services to persons within a motor vehicle.

**Driveway:** That space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot from one site to another or from the lot to a public street.

**Duplex:** A two-family attached residential use in which the dwelling units are located on individual platted lots, and which share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

**Dustless surface:** A surface adequately covered in accordance with good practice with a minimum of either two (2) applications of bituminous surface treatment, concrete, bituminous concrete or equivalent paving material approved by the Director of Public Works, and to be maintained in good condition at all times.

**Dwelling:** A building or portion thereof, designed or used exclusively for residential occupancy. The term "dwelling" shall not be construed to mean a boat, trailer, mobile home, motor home,

manufactured home, motel, rooming house, hospital or other accommodation used for transient occupancy.

**Dwelling, manufactured or mobile home:** A single family residential unit subject to federal regulation with all of the following characteristics: (a) designed for long-term human occupancy and containing sleeping accommodations, a flush toilet, a tub or shower, bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported in one or more sections after factory fabrication on detachable wheels or on a flat bed or other trailer; (c) must have eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode or cover three hundred and twenty (320) or more square feet when erected on site, (d) ready for occupancy upon the arrival at the intended site except for minor and incidental unpacking and assembly operations, placement on an impermanent concrete foundation, connection to utilities, and the like; (e) designed to be moved from one site to another and to be used without a permanent foundation. A manufactured home may include one (1) or more units, separately towable, which when joined together shall have the characteristics as described above. Mobile homes are further subdivided in this Ordinance into single-wide and double-wide categories, and separate bulk regulations are provided for each. For the purpose of this Ordinance, a manufactured and mobile home shall not be deemed a **Single family detached dwelling**. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Dwelling, industrialized modular unit:** A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location attached to a permanent foundation. A modular unit must bear and be fully supported by the permanent foundation system. The foundation system must be sufficient for weight and potential structure loads as designated by the Uniform Virginia Building Code. For the purpose of this Ordinance, a modular unit shall be deemed a **Single family dwelling** and shall not be deemed a **Manufactured or Mobile home**.

**Dwelling, multiple family:** A dwelling unit within a residential building containing three (3) or more separate dwelling units located on a single lot or parcel of ground. A multiple family dwelling, commonly known as an apartment building, generally has a common outside entrance(s) for all the dwelling units, and the units are generally designed to occupy a single floor one above another. For the purpose of this Ordinance, a multiple family dwelling shall not be construed to mean a **Single family attached dwelling** as defined herein.

**Dwelling, single family:** A residential building containing only one (1) **Dwelling Unit** and not occupied by more than one (1) family.

**Dwelling, single family attached:** A group of two (2) or more single family dwelling units which are generally joined to one another by a common party wall, a common floor/ceiling and/or connecting permanent structures such as breezeways, carports, garages or screening fences or walls, whether or not such a group is located on a single parcel of ground or on adjoining individual lots. Each unit on a lot shall have its own outside entrance(s); architectural facades or treatment of materials shall be varied from one unit to another; and no more than two (2) abutting units in a row shall have the same rear and front setbacks, with a minimum setback offset being two and one half (2 1/2) feet unless otherwise approved by the Planning and Zoning Administrator. For the purpose of this Ordinance, dwellings such as a semidetached, garden court dwelling, patio house, zero lot line dwelling, town house, duplex and two-family dwelling shall be deemed a single family attached dwelling.

**Dwelling, single family detached:** A single family dwelling unit which is entirely surrounded by open space or yards on the same lot. Such dwelling unit may include rental space for occupancy by not more than two (2) persons unrelated to the resident family, provided that such rental space does not include separate kitchen facilities or a separate entrance for the exclusive use of the renters.

**Dwelling, townhouse:** An attached residence located on an individually platted lot, in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one (1) other dwelling unit, and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

**Dwelling unit:** One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use as a complete, independent living facility for one (1) family, and which include permanent provisions for living, sleeping, eating, cooking and sanitation.

**Easement:** A right created by an express or implied agreement of one (1) owner of land to make lawful and beneficial use of the land of another for a special purpose not inconsistent with any other uses already being made of the land.

**Eating establishment:** Establishment in which the principal use is the sale of food and beverages for dining on the premises. A fast food restaurant, a snack bar or refreshment stand at a public or non-profit recreational facility, operated solely by the agency or group operating the recreational facility, and for the convenience of patrons of the facility, shall not be deemed eating establishments.

**Elderly housing:** A structure containing multi-family dwelling units where the occupancy of the dwellings are restricted to persons 60 years of age or older, or couples where either the husband or wife is 60 years of age or older and which meets the Fair Housing Amendments Act of 1988 for elderly housing. Such a structure may consist of individual dwelling units, community dining areas, common recreation areas, special support services and limited medical or nursing care.

**Elevated building:** A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

**Engineer:** A professional who is registered with the State Department of Professional and Occupational Registration as a professional engineer.

**Existing construction:** For the purposes of the flood insurance program, structures for which the “start of construction” commenced before December 5, 1990. “Existing construction” may also be referred to as “existing structures” and “pre-FIRM.”

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

**Family:** One (1) person or two (2) or more persons related by blood, adoption, marriage or guardianship living together as a single housekeeping unit with no more than two (2) boarders; or a group of not more than three (3) unrelated persons living together as a single housekeeping unit.

**Family day home:** A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen (13), exclusive of the provider’s own children and any children who reside in the home, when at least one (1) child receives care for compensation.

**Fast food restaurant:** Any establishment which provides as a principal use wrapped and/or packaged food and drink which is ready for consumption, on the premises or off-premises. For the purpose of this Ordinance, a fast food restaurant shall not be deemed an **Eating establishment** or **Quick service food store**.

**Financial institution:** Any building where the primary occupation is concerned with such State regulated businesses as banking, savings and loans, loan companies and investment / securities

companies; however, for the purpose of this Ordinance, any financial institution having a drive-in window(s) shall be deemed a **Drive-in bank** as defined herein.

**Flood (100-Year) or Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Flood hazard zone:** The delineation of special flood hazard areas into insurance risk and rate classifications on the flood insurance rate map (FIRM) published by the Federal Emergency Management Agency (FEMA) and which include the following zones and criteria:

1. **Zone A:** On the FIRMs accompanying the Flood Insurance Study (FIS) shall be those areas for which no detailed flood profiles or elevations are provided, but the one-percent annual chance floodplain boundary has been approximated.
2. **Zone AE:** On the FIRMs accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated.
3. **Zone VE or Zone V:** On the FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal due along an open coast or other areas subject to high velocity waves.
4. **Zone X:** Areas located above the 100-year flood boundary (areas for which there is a one-percent annual chance of flood) and having moderate or minimal flood hazards.
5. **Floodway District:** Is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying waters of the one- percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 4 of the FIS and shown on the accompanying FIRM.
6. **Coastal A Zone:** Is labelled as AE on the FIRMs and is those areas that are seaward of the limit of moderate wave action (LiMWA) line. As defined by the Virginia Uniform Statewide Building Code, these areas are subject to wave heights between 1.5 feet and 3 feet.

**Flood Insurance Rate Map (FIRM):** An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS):** A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

**Floodplain:** All land areas in and adjacent to streams and water courses subject to continuous or periodic inundation from flood events as designated by the United States Department of Housing and Urban Development (HUD), or the Federal Emergency Management Agency (FEMA), and/or the United States Geological Survey.

**Flood proofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

**Floor area, gross:** The sum of the total horizontal areas of all floors of all buildings on a lot, measured from the interior faces of exterior walls. The term "gross floor area" shall include basements; elevator shafts and stairwells at each story; floor space used for mechanical equipment with structural headroom of six (6) feet, six (6) inches or more; penthouses, attic space, whether or not a floor has actually been laid, providing structural headroom of six (6) feet, six (6) inches or more; interior balconies; and mezzanines.

**Floor area, net:** The total floor area designed for tenant occupancy of all floors of all buildings on a lot, measured from the center line of joint partitions to the interior faces of exterior walls, which excludes areas designed for permanent uses such as toilets, utility closets, corridors for pedestrian or vehicle through traffic, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, fire exits, stairwells, elevators and escalators. For the purposes of this Ordinance, the term "net floor area" shall not include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products.

**Floor area ratio:** The ratio determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

**Freeboard:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

**Frontage:** A lot shall be deemed to have frontage on a street if one (1) property line of a lot abuts an accessible public street right-of-way.

**Funeral home:** A building used for the preparation of the deceased for funeral and the ceremonies connected therewith before burial or cremation.

**Garage, private:** An accessory building designed and used only for storage purposes which is owned and/or by the occupants of the building to which it is accessory.

**Garage, public:** A building, or portion thereof, other than a private garage, designed or used primarily for equipping, servicing, repairing, renting or selling motor driven vehicles and accessories.

**Garage, commercial parking or storage:** A building, or portion thereof, designated or used exclusively for the parking or storage of vehicles for a fee, but within which no licensed and operable passenger vehicles are serviced, repaired, equipped or sold.

**Geometric design:** The dimensions and arrangements of the visible features of a roadway. These include pavement widths, horizontal and vertical alignment, slopes, channelization, interchanges, and other features the design of which significantly affects traffic operation, safety and capacity.

**Golf course:** Land, whether publicly or privately owned, on which the game of golf is played, including accessory uses such as golf driving ranges and buildings customary thereto.

**Golf driving range:** A practice range for hitting golf balls from a common tee-off area, and for purposes of this Ordinance, not operated in conjunction with a golf course or country club.

**Grade:** A horizontal reference plane representing the average of finished ground level adjoining a building at all exterior walls; also referred to as **Grade plane**.

**Gross site area:** The total area measured in acres within the boundaries of a zoning lot. See also **Net developable area** which is a subset of Gross Site Area.

**Group home:** A residential facility which is used to provide assisted community living for persons with physical, mental, emotional, familial or social difficulties and in which a maximum of eight (8) such persons receiving community living assistance reside. For the purpose of this Ordinance, a group home shall not be deemed a family, and a facility which provides assisted community living

for more than eight (8) persons shall be deemed an institutional use for the care of the indigent, orphans and the like.

**Guest House:** Dwelling or lodging units for a temporary or non-paying guest or guests in an accessory building. No such quarters shall be occupied by the same guest or guests for a period of time of more than three (3) months in any twelve (12) month period, and no such quarters shall be rented, leased, otherwise made available for compensation of any kind.

**Hardship, inordinate:** To establish a case of "inordinate hardship," the applicant shall submit evidence that the strict conformance to any of the provisions of the zoning ordinance would burden the applicant, whereby the applicant cannot make reasonable economic use of the property because of such regulations. Such evidence may include proof of consideration of plans for construction, attempts to sell, rent or lease the property, and information regarding annual income and expenses. Any hardship created by action of the applicant shall not be considered in reviewing any application.

**Height, building:** The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten (10) feet distance from the front lot line, or from the **Grade** in all other cases.

**Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Highly erodible soils:** Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for soil is defined as the product of the formula  $RKLS/T$ , where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

**Highly permeable soils:** Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having permeability equal to or greater than six inches of water improvement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture National Resources Conservation Service.

**Historic area or district:** An area or existing site containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features

relating to the cultural or artistic heritage of the community of such significance as to warrant conservation and preservation.

**Historic preservation:** The protection, rehabilitation and restoration of districts, sites, buildings, structures and artifacts significant in American history, architecture, archaeology or culture.

**Historic structure:** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or,
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or,
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. Any structure that is individually listed as a landmark or contributing structure on the local inventory of historic places, Properties of Historic or Architectural Significance, within the Town of Smithfield Historic Preservation District and as delineated by the Town of Smithfield's Zoning Ordinance (Article 4, Section 14).

**Homeowners association:** A community association internally organized in a specific development in which individual owners share common interests in open space or facilities.

**Hospital:** Any institution receiving in-patients and rendering medical, surgical or obstetrical care, to include general hospitals and specialized institutions in which care is oriented to cardiac, eye, ear, nose, throat, psychiatric, pediatric, orthopedic, skin and cancer and obstetric cases.

**Hotel, motel:** A building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly, or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations for transients on a short-term basis, such as an apartment hotel.

**Housing:** See "Dwelling."

**Hydrologic and Hydraulic Engineering Analysis:** Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base

flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

**Impervious cover:** A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

**Industrial, heavy:** Land use classification consisting of, but not limited to, large manufacturing operations, heavy equipment facilities, construction and maintenance yards, fuel businesses and other basic intensive industrial activities.

**Industrial, light:** Land use classification consisting of, but not limited to, light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by highways.

**Industrial park:** A planned coordinated development of a tract of land with two (2) or more separate industrial buildings. Such development 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.

**Institutional home:** A facility providing assisted community living for more than eight (8) persons deemed as indigent, orphaned or the like.

**Institutional use:** A nonprofit corporation or a nonprofit establishment whose purpose is of a civic, educational, charitable, religious or philanthropic nature.

**Intensely Developed Areas or IDAs:** A built-up portion of a Resource Protection Area or a Resource Management Area designated by the Town Council where development is concentrated and the natural environment has been significantly disturbed.

**ITE:** Institute of Traffic Engineers.

**Junk:** Dilapidated and inoperative automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons and other kinds of vehicles and parts thereof, discarded appliances, scrap building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, wood scraps, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed.

**Junk vehicle:** Any motor vehicle, trailer or semi-trailer which is either inoperable or unfit for licensing and which by virtue of its condition may not be economically feasibly restored. In addition, any vehicle may be presumed to be a junk vehicle when State inspection stickers are not displayed or have been expired for more than ninety (90) days.

**Jurisdiction:** The area within the corporate boundaries of the Town of Smithfield.

**Kenel:** Any place or establishment in which dogs and other small domestic animals normally kept as pets are kept, bred, trained, boarded or handled for a fee, or any place where more than five (5) dogs are kept.

**Landfill:** A land depository, excavation, or area operated in a controlled manner by a person for the dumping of debris or inert material other than clean dirt; or a disposal site operated by means of compacting and covering solid waste at least once a day with an approved material. This term is intended to include both debris landfills and sanitary landfills.

**Landscape architect:** Any professional who is registered with the State Department of Professional and Occupational Registration as a Landscape Architect.

**Landscaping:** The improvement of a lot with grass, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statues and other similar natural and artificial objects designed and arranged to produce an esthetically pleasing effect.

**Land Disturbance:** Any land change including, but not limited to, clearing, grading, excavating, transferring, filling or any other construction which results in disturbing the natural vegetation or existing contours or results in soil erosion or sedimentation into public or private property or facilities.

**Land surveyor:** Any professional who is registered with the State Department of Professional and Occupational Registration as a Land Surveyor.

**Letters of Map Change (LOMC):** A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

**Letter of Map Amendment (LOMA):** An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a

land as defined by meets and bounds or structure is not located in a special flood hazard area.

**Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

**Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

**Level of service:** A qualitative measure that represents the collective factors of speed, travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a highway facility under a particular volume conditions.

**Loading space:** A space, within a building or on the premises, providing for the standing, loading or unloading of vehicles.

**Lot:** A parcel of land that is designated at the time of application for a rezoning, a special permit, a special exception, a building permit, or a residential/non-residential use permit, as a tract all of which is to be used, developed or built upon as a unit under single ownership. A parcel of land shall be deemed to be a lot in accordance with this definition, regardless of whether or not the boundaries thereof coincide with the boundaries of lots or parcels as shown on any map of record.

**Lot area:** The total horizontal area measured in the horizontal plane included within the lot lines of a lot.

**Lot, corner:** A lot at the junction of and abutting on two (2) or more intersecting streets when the interior angle of intersection does not exceed 135 degrees. On a corner lot, all yards lying between the principal building and the intersecting streets shall be deemed front yards.

**Lot depth:** The average horizontal distance between the front and rear lot lines.

**Lot, interior:** Any lot, including a through lot, other than a corner lot.

**Lot line:** Any boundary of a lot as defined herein. Where applicable, a lot line shall coincide with a **Street line** or **Right-of-way line**. Where a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc.

**Lot line, front:** A line which is contiguous to the street boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which runs generally parallel to and /or in front of the principal entrance of the main building on the lot.

**Lot line, rear:** That lot line that is most distance from, and is most nearly parallel with, the front lot line. If a rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a ten (10) foot line parallel to the front lot line, lying wholly within the lot for the purpose of establishing the required minimum rear yard.

**Lot line, side:** A lot line which is neither a front lot line nor a rear lot line as defined herein.

**Lot, nonconforming:** An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

**Lot, pipestem:** A lot approved which does not abut a public street other than by its driveway which affords access to the lot.

**Lot of record:** A lot, shown upon a plan or plat, referred to in a deed, and described by metes and bounds, which has been recorded in the Office of the Clerk of the Circuit Court of Isle of Wight County.

**Lot, reverse frontage:** A residential through or corner lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major thoroughfare.

**Lot size requirements:** Restrictions on the dimensions of a lot, to include a specified zoning district size, lot area and lot width, all established to limit the minimum size and dimension of a lot in a given zoning district.

**Lot, through:** An interior lot, but not a corner lot, abutting on two (2) or more public streets.

**Lot width:** The distance between side lot lines, measured in one of the following manners, whichever is applicable:

1. In the case of a rectangular-shaped lot, the width shall be measured along the front lot line; or
2. In the case of an irregular-shaped lot or a curvilinear front lot line, the width shall be measured between the lot's narrowest dimensions at that location on the lot where the center of the building is proposed/located.
3. In the case of a pipestem lot, the width shall be measured between the lot's narrowest dimensions at that location on the lot where the center of the building is proposed/located.

**Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

**Manufactured home:** See **Dwelling, manufactured home.**

**Manufacturing:** The processing, fabrication, assembly, distribution or produces such as, but not limited to: scientific and precision instruments, photographic equipment, communication equipment, computation equipment, household appliance, toys, sporting and athletic goods, glass products made of purchase glass, electric lighting and wiring equipment, industrial controls, radio and TV receiving sets, optical goods, and electrical machinery.

**Marina, commercial:** A marina designed and operated for profit, or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, eating establishments, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

**Marina, private:** A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than those necessary for minor servicing or repair.

**Marquee:** A permanent roof like structure projecting over an entrance.

**Mobile home or trailer:** See **Dwelling, mobile home.**

**Mobile (Manufactured) home park or subdivision:** Any area of twenty (20) acres or more, however designated, that is occupied or designed for occupancy by one (1) or more manufactured homes. The term “mobile home park” shall not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of inspection and sale. For floodplain management purposes the term “manufactured home park or subdivision” constitutes a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mini-warehouse:** A building consisting of individual, small, self-contained units that are leased for the storage of household goods, business goods or contractors’ supplies.

**Motel:** See **Hotel**.

**Net developable area:** The land deemed most suitable for development within a given area or parcel. It is calculated by subtracting the critical environmental areas within the area or parcel that should be protected from development and the estimated right-of-way requirements from the total gross area. The result is the net developable area, which provides a realistic measure of land holding capacity for an area or parcel in the Town. (Refer to illustrative example of the net developable area calculation in Appendix 1 of the Zoning Ordinance.)

**New construction:** For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after December 5, 1990, and includes any subsequent improvements to such structures. For floodplain management purposes, **new construction** means structures for which the **start of construction** commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**Nonconforming building or use:** A building or use, lawfully existing on the effective date of this Ordinance or prior ordinances, which does not conform with the regulations of the zoning districts in which it is located, except as may be qualified by this Ordinance.

**Nonpoint source pollution:** Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

**Nontidal wetlands:** Those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil

conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b, dated November 13, 1986.

**Noxious weeds:** Weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

**Nursery school:** A private school program, as recognized and accredited by the State Board of Education, operated for the purpose of providing training, guidance, education and/or care for children below the age of compulsory school attendance, separated from their parents or guardians during any part of the day other than from 6 pm to 6 am.

**Nursing home:** A home for the aged, or infirm, senile, chronically ill or convalescent in which persons not of the immediate family are received, kept or provided with food, shelter, treatment and care for compensation, not including hospitals, clinics or similar institutions.

**Off-site:** Any area outside the boundary of a lot.

**Office:** Any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, dentists or physicians, urban planners and landscape architects.

For the purpose of this Ordinance, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and/or delivery of any materials, goods or products which are physically located on the premises. An office shall not be deemed to include a veterinary clinic.

**On-site:** That area which is within the boundary of a lot.

**Open space:** That area intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, or areas so located or so small as to have no substantial value for the purpose stated in this definition.

**Open space, common:** All open space that is designed and designated for use and enjoyment by all residents or occupants of the development or by the residents or occupants of a designated portion of the development. Common open space shall represent those areas not to be dedicated as public lands and rights of way, but which are to remain in the ownership of a homeowners association or of a condominium in accordance with the provisions set forth in this Ordinance. Pedestrian paths and sidewalks may be included in the calculation of required common open space. Vehicular travelways, parking lots and individual private yards within the area of platted residential lots may not be included in the calculation of required common open space.

**Open space, dedicated:** All open space which is to be dedicated or conveyed to the Town or an appropriate public agency, board, or body for public use as open space.

**Open space, landscaped:** That open space within the boundaries of a given lot that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to lawns, decorative planting, flower beds, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural or artificial objects, wooded areas and water courses, any or all of which are designed and arranged to produce an esthetically pleasing effect within the development. Landscaped open space may be either **Common** or **Dedicated open space** as defined herein.

**Owner:** Any person who has legal title to the land in question, or the lessee of the land in question having a remaining term of not less than thirty (30) years.

**Parking bay:** A combined travelway and parking area developed as a private improvement designed to provide necessary and sufficient vehicular access and off-street parking service to a private development. Spaces with parking bays are normally oriented perpendicular to the line of travel in the travelway. A parking bay may be either single-loaded (parking only on one side of the travelway) or double loaded (parking on both sides of the travelway). Refer to the Town's Design and Construction Standards Manual for geometric requirements and transportation design criteria for parking bays and travelways.

**Parking lot:** An area containing one (1) or more spaces for the purpose of temporary, daily or overnight off-street parking. A parking lot shall include automobile and truck display lots, lots for the display of other types of vehicles, lots for the storage of vehicles and commercial parking lots.

**Parking, off-street:** Any space specifically allotted to the parking of motor vehicles as an accessory use. For the purpose of this Ordinance, such space shall not be located in a dedicated right-of-way, a travel lane, a service drive, nor any easement for public ingress or egress.

**Parking space:** The area required for parking one (1) automobile which shall be a minimum of nine (9) feet wide and eighteen (18) feet long, not including passageways.

**Parking unit, private:** A self-contained and privately maintained area accessed by a public street but allowing no through traffic routes and providing such off-street parking as may be required under this chapter for the building served. Said parking unit may be entered by a private drive from the public street; provided, that such drive offers adequate ingress and egress for emergency vehicles and otherwise complies with acceptable Town standards.

**Performance standards:** A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

**Permanent Foundation:** A structural foundation system consisting of a continuous poured-in-place concrete footing with fully mortared masonry units designed and constructed in accordance with the Uniform Virginia Building Code.

**Person:** A public or private individual, group, company, firm, corporation, partnership, association, society, joint stock company, or any other combination of human beings whether legal or natural.

**Personal service establishment:** Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this Ordinance, personal service establishments shall include but need not be limited to barber shops, beauty parlors, pet grooming establishments, laundering, cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe cleaning or repair shops, and other similar places of business.

**Pipestem (flag) lot:** A lot which does not abut a public street other than by its driveway which affords access to the lot.

**Plan of development:** A sketch of the site drawn to scale, showing the dimensions and acreage of the property, and approximate location of buildings, roads, parking areas and landscaping, the number of dwelling units or commercial or other types of buildings and other information essential for determining whether the provisions of this chapter are being observed, such as pertinent site engineering data.

**Plat:** A drawing, map or plan for a parcel of land or subdivision, or rearrangement, revision of re-subdivision of land.

**Post-FIRM structures:** For floodplain management purposes, a structure for which construction or substantial improvement occurred after December 4, 1990.

**Pre-FIRM structures:** For floodplain management purposes, a structure for which construction or substantial improvement occurred on or before December 4, 1990.

**Premises:** A lot, together with all buildings or structures occupying it.

**Principal building:** A building in which the primary use of the lot on which the building is located is conducted.

**Principal use:** The main use of land or structures as distinguished from a secondary or accessory use.

**Private club:** An association organized and operated on a non-profit basis for persons who are bona fide members paying dues, from which the association owns or leases premises, the use of which premises is restricted to such members and their guests, and which manages the affairs of such association by and through a board of directors, executive committee, or similar body chosen by the members. Food, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available.

**Pro-rata share:** The payment of a subdivider or developer of land for his share of the cost of providing reasonable and necessary drainage or utility facilities located outside the property limits of the land owned or controlled by the subdivider or developer of land and necessitated or require, at least in part, by the construction or improvement of his subdivision or development.

**Public building:** A building, or part thereof, owned or leased by a governmental agency and used for governmental functions by an agency or political subdivision of the US, the Commonwealth, County or Town. Also referred to as "**Public facility.**"

**Public facility:** See **Public building.**

**Public floor area:** The gross building area, as figured on a per-story basis, which clearly serves the general public, such as vestibules and lobbies, corridors, waiting rooms and toilets, servicing areas, and required stairs, ramps and elevators. Employee-oriented areas, such as kitchens and

freezer rooms, storage, maintenance and service areas, shall not apply. Unfinished areas shall be included and figures on the basis of potential use.

**Public Road:** A publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by the Town of Smithfield in accordance with the standards of the Town of Smithfield.

**Public use:** Any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of the Town of Smithfield, Isle of Wight County, State government, Federal government, without reference to the ownership of the building or structure or of the realty upon which it is situated.

**Public utility:** A business or service having an appropriate franchise from the State, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as, gas, water, transportation or communication.

**Public utility, heavy:** A business or service which is engaged in regularly supplying the public with a service which is of public consequence and whose operations have the potential to negatively impact the environment in terms of noise, odor, and personal harm (i.e. sewage treatment and electricity generation plants).

**Public utility, light:** A use or structure which is engaged in conducting the supply of utility services to the public which is of public consequence and whose operations have little or no potential to negatively impact the environment in terms of noise, odor and personal harm (ie. electric transformer, natural gas, telecommunications facilities, water and sewer transmission, collection, distribution and metering devices; and water and sewerage pumping stations).

**Quick-service food store:** Any food store selling convenience items in a retail establishment of less than 5,000 square feet of net floor area.

**Recreational vehicle:** A vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and,

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

**Recycling center:** A facility which used material is separated and processed prior to shipment to other facilities that will use those materials to manufacture new products.

**Redevelopment:** The process of developing land that is or has been previously developed.

**Refuse:** Waste materials including ashes, garbage, rubbish, junk, industrial waste, dead animals, and other solid waste materials, including salvable waste.

**Rehabilitation:** The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use.

**Renovation:** The upgrading of a building.

**Repair service establishment:** Any building containing no more than 5,000 square feet of net floor area wherein the primary occupation is the repair and general service of common home appliances such as musical instruments, sewing machines, televisions and radios, washing machines, vacuum cleaners, power tools, electric razors, refrigerators and lawn mowers; or any building wherein the primary occupation is interior decorating, to include reupholstering and the making of draperies, slipcovers and other similar articles, but not to include furniture or cabinet-making establishments.

**Repetitive Loss Structure:** A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

**Resource Management Area (RMA):** The component of the Chesapeake Bay Preservation Area not classified as a resource protection. Resource management areas include land types which, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functions value of a resource protection area.

**Resource Protection Area (RPA):** The component of a Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow which have a intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impact which may result in significant degradation to the quality of state waters.

**Restaurant:** See **Eating establishments**.

**Restoration:** The replication or reconstruction of a building's original architectural features.

**Retail sales establishment:** Any building wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. For the purpose of this Ordinance, however, retail sales establishments shall not be interpreted to include **Automobile-oriented uses** and **Quick-service food stores**.

**Review board:** The Smithfield Board of Historic and Architectural Review.

**Right-of-way lines:** Lines which separate private property from dedicated public property containing or proposed to contain publicly owned street surfaces, curb and gutter, sidewalks and planted strips. Where a public street is designated on the major thoroughfare plan, all requirements of this chapter which relate to rights-of-way shall be measured from the indicated proposed right-of-way lines.

**Rooming house:** see **Boardinghouse**.

**Salvage yard:** Any space or area or portion of lots used for the storage, sale, keeping or abandonment of junk or waste materials, including used building material, for the dismantling, demolition, sale or abandonment of automobiles and other vehicles, machinery or parts thereof.

**Semi-permeable or Permeable Materials:** Grid and modular pavements, consisting of bricks or blocks designed to allow water percolation, and other semi-permeable or permeable surfacing materials, such as permeable asphalt or gravel, shall be used for any required parking areas, and low traffic areas and driveways, unless otherwise approved by the Zoning Administrator.

**Service stations:** Buildings and premises wherein the primary use is the supply and dispensation at retail of gasoline, oil, grease, batteries, tires and motor vehicle accessories, and where in addition, the services for minor engine repair, tire servicing, exhaust systems, washing, brake repairs, and other minor repair activities may be rendered and sales made, but only as accessory and incidental to the primary occupation.

**Setback:** In this Ordinance, the term setback is not used, as such term represents a distance that is established in like manner as that for a **Yard** in the minimum yard requirements.

**Severe repetitive loss structure:** A structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage – (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

**Shopping center:** Any group of two (2) or more commercial uses which (a) are designed as a single commercial group, whether or not located on the same lot, (b) are under common ownership or management, (c) are connected by party walls, partitions, canopies or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by walkways and accessways designed to facilitate customer interchange between the uses, (d) share a common parking area, and (e) otherwise present the appearance of one (1) continuous commercial area.

**Shrink-swell soil:** Expansive and contracting soil composed largely of clay and as further defined by geotechnical evaluation of soils subject to land development activity in the Town. The soil will expand generally in an upward direction when water from any source is interspersed into a shrink/swell soil. When a shrink/swell soil dries, cracks and voids are sometimes created between the soil and constructed footings, which can subsequently lead to foundation settlement.

**Sign:** A name, display or illustration which is affixed to, or represented, directly or indirectly, upon a building, structure, parcel or lot which directs attention to an object, place, activity, institution, organization, or business located on the premises. The term “sign” shall not be deemed to include official court or governmental notices nor the flag, emblem or insignia of a nation, political unit, school or religion, or directional aids for traffic flow and other public safety purposes.

**Silvicultural Activity:** Any forest management activity, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

**Site plan:** A required submission, prepared and approved in accordance with the provisions of Article 11 of this Ordinance, which is a detailed engineering drawing of the proposed improvements required in the development of a given lot or lots.

**Special exception:** A yard exception or height exception specifically listed in the Zoning Ordinance which may be permitted in a specified district or in all districts in accord with terms of the Ordinance by the Board of Zoning Appeals under certain conditions, such conditions to be determined in each case by the terms of this Ordinance and by the Board of Zoning Appeals.

**Special flood hazard area:** The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined by the Town of Smithfield's Zoning Ordinance (Article 3.O, Floodplain Overlay District).

**Special use:** A use that, owing to some special characteristics attendant to its size, siting, intensity, operation or installation, is permitted in a district after site specific review and subject to special conditions approved by the Town Council.

**Spot zoning:** The zoning of land for the convenience of the owner and without reference to the land use plan or pattern of development.

**Start of construction:** For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Storage yard:** The use of any space, whether inside or outside a building, for the storage or keeping of construction equipment, machinery, vehicles or parts thereof, boats and / or farm machinery, and inventory which, due to its physical character, is not normally stored within a structure.

**Story:** That part of a building between the level of one (1) finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then part of the building between the level of the highest finished floor and the top of the roof beams.

**Street:** A strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to road, lane, drive, avenue, highway, boulevard or any other thoroughfare.

**Street, arterial:** A street which carries the major portion of the trips entering and leaving an urban area, as well as the majority of through movements desiring to bypass the Downtown Area. Because of the nature of travel served by an arterial street, almost all fully and partially controlled access streets are a part of this functional class, including freeways, major thoroughfares, inter states and expressways.

**Street, collector:** A street which provides for principal internal movements at moderate operating speeds within residential developments, neighborhoods, and commercial or industrial districts. It also provides the primary means of circulation between adjacent neighborhoods and can serve as a local bus route. A collector street functions to distribute trips from arterioles to local and other collector streets. Conversely, it collects traffic from local streets and channels it into the arterial system. The collector street provides for the dual purpose of land access and local traffic movement.

**Street line:** The dividing line between a street and a lot; same as a right-of-way line of a public street, or the curb line of a parking bay, travel lane or private street.

**Street, local:** A street which primarily provides direct access to residential, commercial, industrial or other abutting property. The local street system includes all facilities not classified as a principal arterial, minor arterial or collector street. A local street offers the lowest level of mobility and may not serve a bus route. Overall operating speeds are low in order to permit frequent stops or turning movements is deliberately discouraged.

**Street, principal highway:** Any highway so classified by the Virginia Department of Highways and Transportation, which serves as a multi-lane arterial devoted purely to traffic movement.

**Street, private:** A local or collector street, not a component of the State primary or secondary system, which is guaranteed to be maintained by a private corporation and is subject to the provisions of this Ordinance.

**Street, public:** A platted street, dedicated for the use of the general public, graded and paved in order that every person has the right to pass and to use it at all times, for all purposes of travel, transportation or parking to which it is adapted and devoted.

**Street, service drive:** A public street paralleling and contiguous to a major thoroughfare, designed primarily to promote safety by providing free access to adjoining property and limited access to major thoroughfares. All points of ingress and egress are subject to approval by the appropriate local authorities and the Virginia Department of Highways and Transportation.

**Street tree:** Any tree which grows in the street right-of-way or on private property abutting the street right-of-way.

**Structure:** That which is built or constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground; for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Subdivider:** Any person who subdivides land pursuant to the Subdivision Ordinance of the Town of Smithfield.

**Subdivision:** A division of a lot, parcel, or tract of land into two (2) or more lots for the purpose, whether immediate or future, of transfer of ownership; or any division of land upon which a street, alley, or public right-of-way is involved. The term includes re-subdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two (2) lots, a plat of such division shall be submitted.

**Subdivision, cluster:** An alternate means of subdividing a lot premised on the concept of reducing lot size, yard and bulk requirements in return for the provision of common open space and recreational improvements within the development. Cluster subdivisions are often permitted at higher net densities in comparison to conventional developments, but leave more open space by reducing lot sizes.

**Subdivision, conventional:** The subdivision of a lot in accordance with the lot size requirements and bulk regulations specified in the district regulations.

**Substantial alteration:** Expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the **start of construction** of the improvement. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a **historic structure**, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a **historic structure**. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

**Theater:** A building or structure designed for the enactment of dramatic and other artistic performances and / or showing of motion pictures. For the purpose of this Ordinance, a dinner theater shall be deemed an **Eating establishment**. A drive-in theater shall be deemed a separate use.

**Tidal shore or shore:** Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

**Tidal wetlands:** Vegetated and nonvegetated wetlands. Vegetated wetlands are defined as lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass, saltmeadow hay, saltgrass, black needlerush, saltwort, sea lavender, marsh elder, groundsel bush, wax myrtle, sea oxeye, arrow arum, pickerelweed, big cordgrass, rice cutgrass, wildrice, bulrush, spikerush, sea rocket, southern wildrice, cattail, three-square,

buttonbush, bald cypress, black gum, tupelo, dock, yellow pond lily, marsh fleabane, royal fern, marsh hibiscus, beggar's tick, smartweed, arrowhead, sweet flag, water hemp, reed grass, or switch grass. Nonvegetated wetlands are defined as unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.

**Townhouse:** An attached residence located on an individually platted lot, in which each dwelling unit shares a common wall (including without limitation the wall of an attached garage or porch) with at least one (1) other dwelling unit, and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

**TIA:** Traffic Impact Assessment. A traffic impact assessment is a formal evaluation of traffic required of developers by the Town which is used to provide an efficient means for the incorporation of transportation systems analysis for future development projects, including redevelopment activities.

**TSM:** Transportation Safety Measures. Transportation safety measures are specific transportation applications designed to reduce the potential number of vehicular accidents at a particular intersection or section of road, street or highway.

**Trash:** see **Refuse**.

**Travelway:** A private street which is intended to serve the vehicular access requirements of and provides internal access to a private development. A travelway may incorporate perpendicular or parallel parking. Refer to the Town's Design and Construction Standards Manual for geometric requirements and transportation design criteria for travelways.

**Tree canopy or tree cover:** Shall include all areas of coverage by plant material exceeding five (5) feet in height.

**Unrelated person(s):** More than one (1) person(s) occupying a dwelling and living as a single housekeeping unit, all of whom are not related by birth, adoption, marriage, guardianship or as distinguished from a family as defined.

**Use:** Any purpose for which a structure or tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in or on a structure or on a tract of land.

**Variance:** A reasonable deviation from provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure when

the strict application of this chapter would result in inordinate hardship to the property owner. Such need for a variance is site specific and would not be shared generally by other properties, provided such variance is not contrary to the intended spirit and purpose of the zoning ordinance and the Comprehensive Plan, and such variance would result in substantial justice being done to the property owner. The term "variance" shall not include a change in use that would be accomplished by a rezoning or a conditional zoning.

**Vehicle service establishment:** Buildings and premises wherein mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting, welding or other similar work is performed on vehicles within a completely enclosed structure. Vehicle service establishments shall not be deemed to include **Heavy equipment sale, rental and Service establishments.**

**Vehicle sale, rental and ancillary service establishment:** Any use of land whereon the primary occupation is the sale, rental and ancillary service of any vehicle in operating condition such as an automobile, motorcycle, truck, trailer, ambulance, taxicab, recreational vehicle, mobile home or boat. For the purpose of this Ordinance, vehicle sale, rental and ancillary service establishments shall not be deemed to include **Heavy equipment sale, rental and service establishments.**

**Violation:** For floodplain management purposes, the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**V/C:** Volume to Road Capacity Ratio, where volume represents the number of vehicles passing over a given section of a lane or roadway in a given time, which can be one (1) hour or more and road capacity represents the maximum number of vehicles that can reasonably be expected to pass over a given section of a lane or roadway in one direction, or both directions if so indicated, during a given time (usually one (1) hour) under prevailing roadway and traffic conditions.

**Warehouse:** A building used primarily for the holding or storage of goods and merchandise.

**Water Bodies with Perennial Flow:** A body of water that flows in a natural or man-made channel year-round during a year of normal precipitation. This includes, but is not limited to streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream.

Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

**Water-dependent facility:** A development of land that cannot exist outside the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities may include, but are not limited to:

- (a) Ports;
- (b) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers;
- (c) Marinas and other boat docking structures;
- (d) Beaches and other public water-oriented recreation areas;
- (e) Fisheries or other marine resources facilities; and

**Wetlands:** An area as identified on the national Inventory of Wetlands and/or regulated by the Army Corps of Engineers.

**Wholesale trade establishment:** Any building wherein the primary occupation is the sale of merchandise in gross for resale, and any such building wherein the primary occupation is the sale of merchandise to institutional, commercial and industrial consumers. For the purpose of this Ordinance, a warehouse shall not be deemed a wholesale trade establishment.

**Yard:** Any open space on the same lot with a building or building group lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such open space by the provisions of this Ordinance. On any lot which is occupied by an attached dwelling, no minimum required yard shall be occupied by any part of a vehicular travel way or parking space that is owned and maintained by a homeowners' association, condominium, or by the public.

**Yard, Minimum:** The minimum yard requirements set forth in this Ordinance represent that minimum distance which the principal building(s) shall be set back from the respective lot lines. On a lot where a service drive is to be dedicated to the Town, such dedication shall not affect the applicable minimum yard requirements.

**Yard, front:** A yard extending across the full width of a lot, measured perpendicular to the front lot line and extending to the principal building. On a corner lot, all yards lying between the principal building and the intersecting streets shall be deemed front yards.

**Yard, privacy:** A small area contiguous to a building and enclosed on at least two (2) sides with either a wall or fence of six (6) feet minimum height.

**Yard, rear:** A yard extending across the full width of the lot and lying between the rear lot line of the lot and the principal building group.

**Yard, side:** A yard between the side lot line of the lot and the principal building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines.

**Zoning district:** See "District."

**Zoning Administrator:** See "Administrator." Also referred to as "Planning and Zoning Administrator."

(Ord. of 8-1-2000; Ord. 10-3-2000; Ord. of 4-6-2004; Ord. of 12-6-2005)