

*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 structures or uses:** Any structure located on a lot or parcel not identified as a principal structure as defined herein. Accessory structures include, but are not limited to, detached garages, gazebos, free-standing decks, storage buildings or tool sheds, guest houses, and similar forms of development that are incidental and subordinate to the principal structure. Accessory uses include, but are not limited to, in-ground pools, patios, terraces, tennis courts, synthetic turf, and other impermeable landings that do not permit infiltration to groundwater. Any modification or expansion to an accessory use must be reviewed and approved using a formal exception process unless proposed within a locally designated Intensely Developed Area.

**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, dairy farming, floriculture, or the raising of 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 construed 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.**

**Basement:** That portion of a building partly underground, having at least one-half of its height above the average adjoining grade. 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.

**Boating, country, and/or hunt clubs:** A non-profit association or corporation organized and operated to provide private facilities for boating, horseback riding, golfing, swimming, tennis, and/or other recreational activities associated therein to its private, self-perpetuating membership on a contiguous parcel of land. Any facility which conducts commercial activities including (but not limited to) the construction, manufacture, repair, and/or sale of goods, equipment, supplies,

vehicles, and/or vessels, or which operates a commercial restaurant, refreshment, and/or events facility shall not be deemed a boating, country, and/or hunt club. However, restaurant, refreshment, and small event facilities limited to members and their guests and conducted as an incident to other boating, country, and/or hunt club activities shall be allowed. Nothing in this definition shall be construed to permit archery, fishing, hunting, shooting preserves, shooting ranges, skeet shooting, and/or trap shooting, unless otherwise permitted in the underlying zoning district.

**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 (CBPA):** Any land designated as such on the Chesapeake Bay Preservation Area Map adopted by the Town Council, subject to confirmation by the Town of Smithfield Zoning Administrator on a site-specific basis. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

**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.

**Churches and places of 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.

**Civic, fraternal, and/or social organization halls:** Meeting places for non-profit associations or corporations organized and operated to provide services to their communities, promote the interests of its members, and to engage in charitable activities. They are operated by private, self-perpetuating membership. Restaurant, refreshment, and small event facilities limited to members and their guests and conducted incidentally to other civic, fraternal, and/or social activities shall be allowed. However, the operation of a commercial restaurant, refreshment, and/or events facility shall not be deemed as incidental to civic, fraternal, and/or social organization halls. No part of the net earnings of any civic, fraternal, and/or social organization may benefit any private individual.

**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 cover created by development or redevelopment of land, including, but not limited to, buildings, roads, driveways, parking areas and sidewalks, and any other land disturbed for the construction of such improvements.

**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, excluding Recreational Substance Establishments and Retail Sales Establishments.

**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.

**Dealer:**

**"Precious Metals Dealer:"** Any person, firm, partnership, or corporation engaged in the business of (i) purchasing secondhand precious metals or gems; (ii) removing in any manner precious metals or gems from manufactured articles not then owned by the person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling precious metals or gems removed from manufactured articles. "Dealer" includes all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any purchase for or on behalf of his employer or principal. "Precious metals" means any item except coins composed in whole or in part of gold, silver, platinum, or platinum alloys.

**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 construction, substantial alteration, or installation of any improvement (including residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures) upon a parcel of land, or any land disturbance associated therewith.

**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:** The diameter of a tree measured at a point four and one-half (4-1/2) feet above the existing grade, or the natural surface or contour of a site.

**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.

**Donation Box:** Any container, storage unit or unoccupied structure, other than an accessory building or structure, that is located outside of a building, intended or used for the holding of charitable or for-profit donation items by the general public, including but not limited to clothing, shoes, household items, toys, books, and newspapers, with the collection of donated items made at a later date or time. This term shall not include solid waste facilities, recycling bins, or similar receptacles.

**Dripline:** An imaginary perpendicular line extending downward from the outermost tips of the branches of a tree to the ground.

**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.

**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, Duplex:** A two-family attached residential use in which the dwelling units are located on either one individual platted lot or two individual lots, and either of 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.

**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**.

**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.

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

**Event facility:** A place of public assembly used primarily as an event facility is a place for hosting functions including, but not limited to, parties, lessons/classes/courses, weddings, receptions, banquets, anniversaries, meetings, and/or conferences. The event facility may be a building, tent, uncovered outdoor gathering space, or a combination thereof. For the purposes of this Section, an event facility is one that charges a fee or requires compensation to use the space or charges an entry or other fee for the uses related to the facility. Facilities exclusively used by membership groups such as clubs, or civic, fraternal, and/or social organizations, are excluded from this definition.

**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.

**Floodplain:** All lands that would be inundated by flood water because of a storm event of a 100-year return interval.

**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.

**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.

**Ground source HVAC well:** For the purpose of this ordinance, a ground source HVAC well is a well utilized for a ground source HVAC system that does not discharge water at the surface.

**Group home:** A residential facility in which no more than eight (8) individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons, in residential occupancy by a single family, provided the Department of Behavioral Health and Developmental Services is the licensing authority. 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.

**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.

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

**Homestay:** The provision of a dwelling unit, or any portion thereof, for rent to transient persons for fewer than thirty (30) consecutive days as an accessory use, while the operator remains present on the premises, or in the case where the property is the operator's principal residence.

**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."

**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:** Those areas of existing development and infill sites where development is concentrated and little of the natural environment remained as of September 1990 and which is so designated on the map of Chesapeake Bay Preservation Areas adopted by the Town Council pursuant to Section 104 (D) of this Ordinance.

**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.

**Kennel:** 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 man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting, and filling of land. The term shall not include minor activities such as home gardening, individual home landscaping and home maintenance.

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

**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 play, 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.

**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 home park:** 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.

**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.)

**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:** As defined in Va. Code §3.2-800, any living plant, or part thereof, declared by the Board of Agriculture and Consumer Services through regulations to be detrimental to crops, surface waters, including lakes, or other desirable plants, livestock, land, or other property, or to be injurious to public health, the environment, or the economy, except when in-state production of such living plant, or part thereof, is commercially viable or such living plant is commercially propagated in Virginia. Including, but not limited to plants 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.

**Pawnbroker:** Any natural person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

**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:** An individual, fiduciary, corporation, firm, partnership, association, organization, or any other entity or combination thereof.

**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.

**Pipistem (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:** For the purposes of this Ordinance, plan of development means any process for site plan review in local zoning and land development regulations designed to ensure compliance with Va. Code § 62.1-44.15:74 and with this Ordinance, prior to issuance of a building permit.

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

**Portable Storage Container:** A portable storage container is a portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. Portable storage containers are an alternative to traditional mini-storage and moving options and are delivered via truck or trailer directly to the customer, and are temporary in nature.

**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 Substance:**

- A. Any product made of tobacco, including cigarettes, cigars, smokeless tobacco, and pip tobacco.
- B. Any noncombustible product containing nicotine or vaping fluid that employs a heating element, power source, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other form.
- C. Any product containing Hemp, Kratom, Cannabidiol (CBD), or other similar substance, including any raw materials from these products.
- D. Any pipe, hookah, waterpipe, vaporizer, glassware, other type of device, wrappings, or accessories associated with the consumption and / or inhalation of the abovementioned substances and materials.

**Recreational Substance Establishment:** Unless modified or otherwise conditioned by the Town Council at the time of approval, Recreational Substance uses shall be subject to the following limitations and requirements:

- A. Special use permit authorizing this use shall fully consider the proximity of the proposed shop to schools, religious institutions, libraries, other institutional uses, residential uses, and shall limit hours of operation accordingly.
- B. Hours of operation shall be limited to 8am to 8pm, Monday through Sunday.
- C. Any establishment, facility, or location whose business operation involves the retail sale of Recreational Substances and includes Recreational Substances as 25% or more of its total inventory or 15% or more of its total display areas.
- D. During all hours of operation, all glass portions of windows and doors along the front façade of the shop shall be maintained as transparent and shall not be heavily tinted or obscured.
- E. No smoking or vaping shall be permitted on the premises at any time unless the

establishment complies with the Virginia Indoor Clean Air Act (Virginia Code Section 15.2-2820).

**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.

**Resource Management Area (RMA):** That component of a Chesapeake Bay Preservation Area not classified as a Resource Protection Area. 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 functional value of a Resource Protection Area. Resource Management Areas shall be provided contiguous to the entire inland boundary of the 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 an 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, Quick-service food stores, and Recreational Substance Establishments.**

**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.

**Shipping Container:** An industrial, standardized reusable metal vessel that was originally, specifically, or formerly designed for or used in the packing, shipping, movement, or transportation of freight, articles, goods, or commodities by commercial trucks, tractor trailers, trains, and/or ships. A shipping container modified in a manner that would preclude future use by

a commercial transportation entity shall be considered a shipping container for purpose of this definition. This definition includes, but is not limited to, the following terms, "shipping container," "freight container," "Conex Box," "Container Express," "Transporters," "ISO Container," "Bicon," "Sea Cans," and "Tractor Trailers" for this Ordinance.

**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.

**Short-term rental:** The provision of a dwelling unit, or any portion thereof, for rent to transient persons for fewer than thirty (30) consecutive days as a principal use, known as a short-term rental, or as an accessory use, known as a homestay.

**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 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.

**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, interstates 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.

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

**Subdivision:** The division of any parcel of land into two (2) or more lots or parcels. The term shall include all changes in lot lines, the creation of new lots involving any division of an existing lot or lots and, if a new street is involved in such division, any division of a parcel of land. When appropriate to the context, the term shall also include the process of subdividing and the territory subdivided.

**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.

**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:** An activity on the land other than development including agriculture, horticulture, and silviculture.

**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**.

**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 2000-8-1; Ord. 2000-10-3; Ord. of 2004-4-6; Ord. of 2005-12-6; Ord. of 2019-9-3; Ord. of 2020-09-01; Ord. of 2023-03-07; Ord. of 2023-12-05; Ord. of 2025-04-01; Ord. of 2025-08-05)