

ZONING ORDINANCE
The Town of Smithfield, Virginia

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Article 1:
ZONING ORDINANCE CONSTITUTION

Article 1:
Zoning Ordinance Constitution

A. Title

The regulations embraced in this and the following Articles constitute Chapter ____ of the ____ Code of the Town of Smithfield, which shall be designated "The Zoning Ordinance of the Town of Smithfield, Virginia," and may be so cited.

B. Purpose and Intent

The Zoning Ordinance of the Town of Smithfield, Virginia (hereinafter "ordinance") is intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the Town.

To accomplish these ends, the ordinance is designed to achieve the following goals and objectives:

1. To promote the health, safety, morals, and general welfare of the citizens of the Town of Smithfield and to create and maintain conditions under which the citizens and their environment can exist in a productive and enjoyable harmony while fulfilling the social, economic, and other requirements of present and future generations;
2. To facilitate the creation of a convenient, attractive and harmonious community; to provide for adequate light, air, convenience of access and safety from fire, flood and other dangers; and to reduce or prevent congestion in the public streets;
3. To provide for Town growth that is consistent with the efficient and economic use of public funds and environmental quality;
4. To recognize the needs of housing, industry and business in the Town's future growth;
5. To promote the creation and expansion of land uses that will be developed with adequate highway, utility, health, education and recreational facilities;

6. To provide residential areas with healthy surroundings for family life;
7. To protect against destruction of or encroachment of incompatible uses and buildings upon the Town's historic areas and tourism corridors;
8. To encourage economic development activities that provide desirable employment and a broad tax base;
9. To promote the conservation of sensitive environmental areas and the preservation of the Town's waterfront resources;
10. To encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forestation, scenic vistas, and other similar areas and to ensure that development in such areas is well-controlled;
11. To protect against the following: overcrowding of land; undue intensity of noise; air and water pollution; undue density of population in relation to community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; and loss of life, health, or property from fire, flood, panic or other dangers;
12. To promote housing of such type, size and cost as will allow Town residents of various economic conditions to reside in safe, sanitary dwelling units;
13. To encourage innovative and desirable approaches to designed development; and to promote the distinctive sense of urban and suburban places as well as the sense of community within the Town;
14. To implement the goals and objectives of the Chesapeake Bay Preservation Act; and
15. To accomplish all other objectives and exercise all other powers set forth in Article 7, Chapter 22, Title 15.2 of the Code of Virginia.

C. Severability

Should any article, section or any provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

D. Conflicting Ordinances

Whenever any provision of this ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or any other Town ordinance or regulation, the provision of this ordinance shall govern. Whenever any provision of any State or Federal statute or other Town ordinance or regulation imposes a greater requirement or a higher standard than is required by this ordinance, the provision of such State or Federal statute or other Town ordinance or regulation shall govern. The text of this ordinance shall be applied to any parcel covered by a previous grant of zoning with proffered conditions except where the imposition of the requirements of this ordinance would be in conflict with a specified proffered condition which would supersede the requirements of this ordinance.

E. Interpretation of Minimum Requirements

In interpreting and applying the provisions of this ordinance, they shall be considered the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not the intent of this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use or dimensions of buildings and premises, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall govern, except where expressly qualified by this ordinance.

F. Effective Date

The "Zoning Ordinance of the Town of Smithfield, Virginia" as herein presented, was adopted on September 1, 1998 and became effective at 7:30 PM on September 1, 1998, at which time the "Zoning Ordinance of the Town of Smithfield", adopted July, 1993, as amended, was repealed. Upon its effective date, this ordinance became Chapter CDA:1 of the 1997 Code of the Town of Smithfield, Virginia. Unless otherwise qualified herein, the term effective date when used in this ordinance shall be deemed to be September 1, 1998 or the effective date of an applicable amendment thereto.

A certified copy of the Zoning Ordinance of the Town of Smithfield, Virginia, as may be amended from time to time, shall be filed in the Office of the Planning and Zoning Administrator for the Town of Smithfield.

Article 2:
GENERAL REGULATIONS

Article 2:
General Regulations

A. Purpose and Intent: General Effect of Zoning Ordinance

No building or structure hereafter shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used or arranged for any purpose or manner other than those permitted within the assigned zoning districts and specific provisions of this ordinance. Any building or structure shall be located on an approved lot of record, and, in no case, shall there be more than one principal building on one lot unless otherwise provided in this ordinance.

B. Prior Approvals

Nothing in this ordinance shall be deemed to require any change to the plans, plats, lots or buildings previously approved prior to the effective date of this ordinance.

C. Administration and Enforcement

The provisions of this ordinance shall be administered and enforced by the Planning and Zoning Administrator, who shall be appointed by the Town Manager. The Planning and Zoning Administrator and such staff members or committees as may be assigned to or appointed by him shall have all necessary authority on behalf of the Town to administer and enforce the provisions of this ordinance, including the ordering in writing of the remedying of any condition found in violation of this ordinance, the bringing of legal action to ensure compliance with this ordinance, including, but not limited to, injunction, abatement or other appropriate action or proceeding.

D. Building Permits

1. A building permit is required in advance of the initiation of any building construction activity including erecting, constructing, enlarging, structurally altering, converting or relocating any building or structure and for any other activity as required by the Virginia Uniform Statewide Building Code. All applications for building permits shall be accompanied by building plans, specifications and site plans as required by the Virginia Uniform Statewide Building Code, plus additional information deemed necessary by the Planning and Zoning Administrator to enforce the provisions of this ordinance.

2. Issuance of any building permit is subject to the applicant obtaining a zoning permit or zoning waiver from the Planning and Zoning Administrator. No building permit will be issued by the Isle of Wight County Building Inspections Office until the Planning and Zoning Administrator has certified that the proposed construction and use of the premises conform with all applicable provisions of this ordinance. The Planning and Zoning Administrator shall be responsible for determining whether those applications for permits are in accord with the requirements of this ordinance.
3. It shall be unlawful for any person to erect, construct, enlarge, extend, structurally alter or use any building except in conformance with plans approved by the Planning and Zoning Administrator as required by this Article.
4. All building permits shall be issued by the Isle of Wight Building Inspections Office.

E. Certificates of Use and Occupancy

1. A building hereafter erected under the expressed conditions of a building permit, with the exception of accessory buildings not intended for human occupancy, shall not be occupied in whole or in part until a certificate of use and occupancy has been issued by the Isle of Wight Building Inspections Office and the Planning and Zoning Administrator. Said permit shall certify compliance with current administration requirements as stated within the documents known as the Virginia Uniform Statewide Building Code. In addition, the occupancy permit shall also certify applicable compliance with current zoning regulations as attested by the Planning and Zoning Administrator.
2. An existing building hereafter enlarged, structurally altered, and/or changed in use under the expressed conditions of a building permit, with the exception of accessory buildings not intended for human occupancy, shall not be occupied in whole or in part until an occupancy permit has been issued by the Isle of Wight Building Inspections Office and the Planning and Zoning Administrator under applicable State and Town regulations. For the purpose of zoning interpretation, the conversion of single-family residential dwelling to multi-family or other residential tenant (for lease) facility shall constitute a change in use.
3. The Planning and Zoning Administrator and the Isle of Wight Building Inspections Office shall be responsible for determining whether applications for certificates of use and occupancy as defined in the Virginia Uniform Statewide Building Code are in accord with the requirements of this ordinance.

4. No certificates of use and occupancy or temporary certificate of use and occupancy shall be issued by the Building Official unless the Planning and Zoning Administrator has certified that all applicable provisions of this ordinance have been met.
5. The Planning and Zoning Administrator shall not approve any temporary certificate of use and occupancy where the applicable provisions of this ordinance are not met, except in such instances where lack of compliance is of a temporary nature and involved site related improvements, such as landscaping, vegetative screening and paving which cannot reasonably be completed due to seasonal or weather conditions. In such instances the Planning and Zoning Administrator shall, before approving such temporary certificate of use and occupancy, be satisfied that the premises involved is physically suitable for use and occupancy in terms of access, parking and other site-related improvements.

Temporary certificates of use and occupancy shall state the nature of the incomplete work and the time period within which the work must be complete, which in no case shall exceed one hundred eighty (180) calendar days. Before approving any such temporary certificate of use and occupancy, the Planning and Zoning Administrator may require a performance bond or other form of surety approved by the Town Attorney in an amount equal to one and one fifth (1 1/5) times the amount necessary to meet the requirements of this ordinance, as certified by an architect, engineer or landscape professional. Such bond or surety shall be released within ten (10) days of satisfactory completion, inspection and approval of the installation of all required improvements.

6. If the provisions of this ordinance are violated, the certificate of use and occupancy shall become null and void, and a new certificate shall be required for any further use of such building, structure or land.

F. Zoning Districts

The incorporated territory of the Town of Smithfield, Virginia shall be divided into classes of residential, office, commercial, industrial, and special overlay zoning districts as presented in Article 3. The location and boundaries of the zoning districts established by this ordinance are as indicated on the map entitled "Official Zoning Map of the Town of Smithfield, Virginia," as approved by the Town Council as part of this ordinance, endorsed by the Clerk to the Smithfield Town Council, and filed in the office of the Planning and Zoning Administrator.

G. Interpretation of Zoning District Boundaries

In the event that uncertainties exist with respect to the intended boundaries of the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Where zoning district boundaries of the Town of Smithfield appear to follow streets, alleys, railroads or highways, such boundaries shall be construed as the centerlines of those streets, alleys, railroads or highways.
2. Where zoning district boundaries appear to follow lines of lots or parcels of record, such lot or acre lines shall be construed to be such boundary.
3. Where a zoning district divides a parcel of land, the location of such boundary shall be determined by the use of the Zoning Map scale as measured to the nearest foot unless such line can be more accurately determined by geometric or land surveying computations.
4. Where indicated district boundaries are approximately following corporate boundaries, such corporate boundaries shall be construed to be the district boundaries.
5. Where district boundaries are indicated as approximately following a river, stream, or marsh, the centerline of the river, stream or marsh shall be construed to be the district boundary.
6. The Flood Boundary and Floodway Map, as amended, prepared by the Federal Emergency Management Administration, shall be incorporated into the Official Zoning Map to delineate the boundaries of the Floodplain Overlay District (FP-O District). This map is filed in the office of the Planning and Zoning Administrator.
7. The Chesapeake Bay Preservation Area Map, as adopted by the Town Council, shall be incorporated into the Official Zoning Map to delineate the boundaries of the Resource Protection Areas, Resource Management Areas, and Intensively Development Areas. This map is filed in the office of the Planning and Zoning Administrator.
8. The Historic Areas Map and zoning district language describing the boundaries of the Historic Preservation Overlay, HP-O District of this ordinance, as adopted by the Town Council, shall be incorporated into the Official Zoning Map to delineate the boundaries of the HP-O districts. The Historic Areas Map is filed in the office of the Planning and Zoning Administrator.

9. All areas of the Town which are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, with reference to physical features, Town corporate limits or straight line projection of the district boundaries.

H. Interpretation of District Regulations

1. Permitted uses and special permit uses are listed for the various zoning districts governed by this ordinance. Any use not specifically permitted in a specified district or districts as a by right use or a special permit use shall be prohibited.
2. Where a reference is made to specific prohibitions it is for the purpose of clarification or guidance and no further inference may be drawn therefrom.
3. No structure shall hereafter be built or moved, and no structure or land shall hereafter be occupied, except for a use that is permitted as a by right use or a special permit use as regulated by the provisions for such use and the applicable district requirements of this ordinance.
4. No use of a structure or land that is designated as a special permit use in any district shall be established or hereafter changed to another use designated as a special use, unless a special use permit has been secured from the Town Council.
5. No sign, fence, wall, accessory use or structure, or home occupation shall be hereafter established, altered, or enlarged unless in accordance with the provisions of this ordinance.
6. Within each zoning district there are additional regulations referenced that are directly applicable to development permitted in the district.
7. If any property in the Town is not shown on the Official Zoning Map as being located within a zoning district, such property shall be classified as C-C, Community Conservation District until the property zoning designation has been changed in accord with the provisions of this ordinance.

I. District Size

1. Where no minimum district size is specified, the minimum lot areas and width requirements for that zoning district shall define the minimum district size.

J. Density, Open Space and Lot Coverage

1. The maximum density or yield (in terms of total allowable residential dwelling units or gross square footage of non-residential building area) shall be calculated based on the net developable area of the lot or property subject to development or subdivision, less the area which is either (a) existing deeded and/or dedicated public right of way contiguous to or located within the boundary of the lot, or (b) depicted on the Town's adopted Official Map or Future Land Use Plan for proposed public right-of-way, or the expansion thereof, contiguous to or located within the boundary of the lot.
2. The net developable area of a lot or property is a function of the physical land units of that lot or property, including slopes, soils, wetlands and other sensitive environmental features. Adjustment factors for physical land units are as specified on the following chart.
3. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer to *illustrative example of net developable area calculation in the appendix*.)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined.</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

4. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or

property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

5. Areas deeded to and accepted by the Town for use as a public park, public school site, and/or public facilities (excluding rights of way) shall be included in the computation of the maximum allowable density for the remainder of the parcel and may provide a maximum of fifty (50%) percent of the parcel towards the required open space for the zoning district.
6. In administering the provisions of this article, the Planning and Zoning Administrator shall have the authority to interpret the definitions of qualifying physical land uses to be used for open space or landscaped open space ratios in a given district.
7. Lands in common open space shall be so covenanted and perpetually maintained, managed and owned by a non-profit organization or other legal entity established under the laws of the State of Virginia. Such entity shall be approved by the Town Attorney or designated agent as a condition of final plan approval.
8. Lands proposed for open space, recreational and active community open space, or landscaped open space shall be of a shape, size and location suitable for the intended open space uses.
9. Maximum lot coverage standards, where specified for certain zoning districts, shall be construed to include that portion of a lot occupied by buildings or structures which are roofed or otherwise not open to the sky and which are greater than three feet in height.
10. No new structures (primary or accessory) exceeding the maximum floor area ratio specified for the underlying zoning district shall be permitted to be erected on that lot. The floor area ratio shall be derived by dividing the gross floor area of all buildings on the lot by the net developable area of the lot.

(Ord. of 8-1-2001)

K. Annexation

Repealed. (Ord. of 2025-03-04)

L. Condominiums

Notwithstanding the specific minimum lot size requirements and minimum yard requirements specified for a given zoning district, a single family detached or attached dwelling condominium development and other forms of real estate condominiums may be permitted under the Condominium Laws of Virginia. Condominium developments shall comply with the density and other provisions of the zoning district in which they are located.

M. Public Sanitary Sewerage Facilities

1. The Town may develop a Sanitary Sewerage Facilities Master Plan to determine the projected sewerage flow, collection mains and facilities, easements, and costs to provide ultimate sewerage service to Town drainage sheds at full development of those sheds. Such facilities plan shall be designed to and in accordance with the adopted Comprehensive Plan. The facilities cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be adopted by Town Council.
2. Upon adoption of a Sanitary Sewerage Facilities Master Plan, a subdivider or developer of land shall be required to pay a pro rata share of the cost of providing reasonable and necessary sanitary sewerage facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land, in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Sanitary Sewerage Facilities Master Plan, the subdivision ordinance, and this ordinance.
3. The policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the Town Manager and adopted by the Town Council as part of the Sanitary Sewerage Facilities Master Plan.

N. Public Water Facilities

1. The Town may develop a Public Water Facilities Master Plan to determine the projected public water demand, distribution mains and facilities, easements, and costs to provide ultimate public water services to Town drainage sheds at full development of those sheds. Such facilities plan shall be designed to and in accordance with the adopted Comprehensive Plan. The facilities cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be adopted by Town Council.
2. Upon adoption of any public water facilities plan, a subdivider or developer of land shall be required to pay a pro rata share of the cost of providing reasonable and necessary water facilities which may be outside the property limits of the land owned or controlled by the subdivider or developer, but are necessitated or required, at least in part, by construction or improvement of such land in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Public Water Facilities Master Plan, the subdivision ordinance and this ordinance.
3. The development of Town policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the Town Manager and shall be approved and adopted by the Town Council as part of the Public Water Facilities Master Plan.

O. Storm Drainage and Stormwater Management Facilities

1. The Town may develop a Storm Drainage and Stormwater Management Facilities Master Plan to determine the projected storm drainage impacts, pre- and post-development runoff quantities and flow, storm drainage culverts and pipe systems, storm drainage ditches and structures, stormwater management facilities, waterfront protection measures, best management practices facilities (BMPs), easements and costs to provide adequate and necessary drainage improvements to the Town's drainage sheds at full development of those sheds. This facilities plan shall be designed to and in accordance with the future land uses on the adopted Comprehensive Plan. The facilities and improvements cost shall be updated annually by applying the appropriate Engineering News-Record cost index factor. The facilities plan shall be approved and adopted by Town Council.
2. Upon adoption of a Storm Drainage and Stormwater Management Facilities Master Plan, a subdivider or developer of land shall be required to pay a pro rata share of the cost of providing reasonable and necessary storm drainage improvements facilities which may

be located outside the property limits of the land owned or controlled by the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such land, in accordance with the intent and provisions of Section 15.2-2243 of the Code of Virginia, the adopted Comprehensive Plan, the adopted Storm Drainage and Stormwater Management Facilities Master Plan, the subdivision ordinance, and this ordinance.

3. The policy and criteria for determination of pro rata share of total cost, financial and implementation procedures and other related matters shall be the responsibility of the Town Manager and adopted by the Town Council as part of the Storm Drainage and Stormwater Management Facilities Master Plan.

P. Accessory Uses and Structures

1. Accessory uses are permitted in any zoning district, but only in connection with, incidental to, and on the same lot with, a principal structure which is in use and permitted in such district. Walls and fences are regulated separately in the following section.
2. Except as necessary for ongoing construction activity, the storage or overnight parking of buses, school buses and commercial vehicles (including tractors, trailers and step vans) rated over one ton (as classified by the Department of Motor Vehicles) is prohibited in any residential zoning district.
3. In residential districts, no motor homes, recreational vehicles, trailers or boats shall be parked on the street right of way. No more than two of any combination of the above cited vehicles shall be parked on a residential lot. No parking of any of the above cited vehicles shall be permitted in a front yard or side yard setback of a residential lot. No such vehicle shall be used for any form of habitation on a residential lot and no such vehicle may be connected to a private or public utility.
4. (Repealed by Ord. 9-5-2000)
5. No accessory structure shall be located in a front yard, except for flagpoles, fences and walls.
6. Accessory buildings on lots in commercial and industrial districts which abut a residential district shall be located a minimum of fifty (50) feet from such residential district line.

7. No accessory building may be placed within the limits of a recorded easement, alley or required fire lane.
8. No accessory structure other than garages shall exceed sixteen (16) feet in height. Garages may be as tall as twenty-four (24) feet in height provided that the garage shall meet the primary structure's side yard setback on all lot lines and that the height of the garage shall not exceed the height of the primary residential structure.
9. (Repealed by Ord. 9-5-2000)
10. Accessory dwelling units meeting the conditions listed below in section "Q" are the only accessory buildings that may be used as a residential dwelling unit.
11. No accessory building, except for farm accessory buildings, shall be constructed upon a lot for more than six months prior to the commencement of construction of the principal building, and no accessory building shall be used for more than six months unless the principal building on the lot is being used or unless the principal building is under construction. However, accessory buildings may be located on a parcel in which no primary structure exists, if such parcel is immediately adjacent to a parcel on which a single family dwelling is located and both parcels are under common ownership. Such accessory structure(s) shall be for a use accessory to the primary structure and shall be located in the rear yard. The rear yard of the parcel without a primary structure is defined as being equal to the rear yard for the immediately adjacent commonly owned parcel on which a primary structure is located.
12. Accessory buildings which are not a part of the principal structure (this includes those accessory structures that are connected to the principal building by an open breezeway), may be constructed in a rear yard, provided such accessory building does not occupy more than twenty (20) percent of the area of the required rear yard and provided it is not located closer than five (5) feet to any lot line. Accessory buildings may also be constructed in the side yard provided they meet the primary structures setback requirements.
13. Satellite dish antennas, satellite receiving dishes, satellite earth stations and similar antenna structures are deemed accessory structures. These structures shall be permitted in any zoning district under the following conditions:
 - a. No satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may be located within a front yard;

- b. No satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may be located closer than ten (10) feet from any property line;
- c. In residential districts, no satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may be more than ten (10) feet in height measured at ground grade, nor may they exceed district height requirements if attached to a residence, nor may they extend more than three (3) feet in diameter;
- d. In commercial and industrial districts, no satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may be more than twenty (20) feet in height measured at ground grade, nor may they exceed district height requirements if attached to a building, nor may they extend more than ten (10) feet in diameter;
- e. Such structures shall be of a neutral color and no satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may be repainted to anything other than a neutral color;
- f. No lettering or advertising message shall be allowed on or attached to any satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structure;
- g. The design and placement of the antenna, satellite dish, earth station or similar structure(s) incorporates appropriate landscaping and screening measures as outlined in the Landscaping and Screening regulations in Article 9; and
- h. Where in the opinion of the Planning and Zoning Administrator the installation and location of satellite dish antennas, satellite receiving dishes, satellite earth stations or similar structures may adversely affect the health, safety, community character and welfare of adjacent properties, a Special Exception by the Board of Zoning Appeals shall be required for the installation and location of such structure.

14. Swimming pools may occupy a required rear or side yard, provided that such pools are not located closer than ten (10) feet to a rear lot line or ten (10) feet to an interior or side lot line. Swimming pools are not permitted in the front yard. A pedestrian space at least three (3) feet in width shall be provided between pool walls and the protective fences or barrier walls of the pool. All BOCA code requirements pertaining to fencing around swimming pools shall be adhered to. Permanent swimming pools shall be fenced and/or

landscaped in a manner satisfactory to the Planning and Zoning Administrator. For the purpose of this Ordinance, permanent swimming pools shall be defined as any pool that requires electrical service for its operation. Seasonal, non-permanent, above ground pools are exempt from this provision.

15. Portable storage units are considered temporary accessory structures and are permissible on properties for twenty-one (21) days. After the twenty-one days, portable storage units are permitted for use for a maximum of forty-five (45) days with a zoning waiver after which time a zoning permit must be obtained for up to an additional ninety (90) days of use, based upon a legitimate need for further use having been determined by the Zoning Administrator. If additional time is needed beyond what is permitted above, an appeal to the Planning Commission must be made in order to obtain the approval for further use. The Planning Commission shall have the option to attach conditions to the extended use thereof. Portable storage units can be placed in required front or side yard setback areas but cannot be placed in any right-of-way area. The use of portable storage units can be revoked by the town, whether or not previously permitted, if it is determined by the Zoning Administrator that the use or location constitutes a nuisance or a sight distance hazard. A temporary accessory structure shall not be located on any environmentally sensitive lands (RPAs) or wetlands.
16. Construction debris containers, including but not limited to dumpsters and shipping containers, are considered temporary accessory structures for construction activities. Construction debris containers are permitted for on the premises and may be stored thereon during the time that a valid permit is in effect for construction on the premises. The use of construction debris containers can be revoked by the town if it is determined by the Administrator that the use or location constitutes a nuisance or a sight distance hazard. A temporary accessory structure shall not be located on any environmentally sensitive lands (RPAs) or wetlands.
17. Shipping containers are considered accessory structures for setback placement purposes and shall not be utilized as a primary building or dwelling. Shipping containers shall be permitted by right in the Heavy Industrial Zoning District (I-2) and for construction activities. At no time shall shipping containers be stacked or used for habitation, without the successful acquisition of a Special Use Permit. Shipping containers, except construction debris containers are permissible in the Light Industrial (I-1) Zoning District, Community Conservation (C-C) Zoning District, and Highway Retail Commercial (HR-C) Zoning District, only after the successful acquisition of a Special Use Permit. Shipping containers are not permissible in any other zoning district, except construction debris containers. A shipping container shall not be located on any environmentally sensitive lands (RPAs) or wetlands. Appeals of a decision of the Planning and Zoning

Administrator in the administration of this section shall be to the Planning Commission as provided in Section 15.2-2311 (1997) of the Code of Virginia. Appeals of a decision of the Planning Commission by the applicant or a party in interest regarding a site plan, waiver, variation, or substitution shall be to the Town Council, provided that such appeal is filed with the Town Manager within ten (10) calendar days of the decision being appealed. The appeal shall be placed on the agenda of the Town Council at the next regular meeting. The Town Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission.

18. Donation drop-off boxes, as defined in Article 13, shall be permitted with Planning Commission approval and only in accordance with the following standards and procedures:
 - a. Donation drop-off boxes shall not be allowed in any residential or agricultural zoning district, except on properties where a Special Use Permit exists for a place of religious worship or assembly.
 - b. Donation drop-off boxes are permitted only on properties that contain a primary permitted use.
 - c. Donation drop-off boxes shall be limited to three (3) per location.
 - d. Donation drop-off boxes are subject to the issuance of a Zoning Permit and upon receipt of written authorization by the property owner or legal representative.
 - e. Donation drop-off boxes shall not obstruct pedestrian or vehicular circulation, nor be located in public rights-of-way, required building setbacks, landscape areas, drive aisles, required parking spaces, fire lanes, loading zones, buffers or any other location that may cause hazardous conditions, constitute a threat to the public safety, or create a condition detrimental to surrounding land uses. The Fire Department should review proposed placement.
 - f. Donation drop-off boxes shall not be located closer than 100 feet from a residential district.
 - g. Each donation drop-off box shall have a firmly closing lid and shall have a capacity no greater than four cubic yards. No donation drop-off box shall exceed seven feet in height.
 - h. Donation drop-off boxes may be constructed of painted metal, plastic, or suitable material and shall be properly maintained in a safe and good substantial condition with a neat and tidy appearance.
 - i. Donation drop-off boxes shall be clearly marked to identify the specific items and materials requested to be left for donation, the name of the operator or owners of the donation container, the entity responsible for maintenance of the drop-off box and removal of materials and trash from the immediate area, and a telephone number where the owner, operator or agent of the owner or operator may be reached at any time. The box shall display a notice stating that no items or

materials shall be left outside of the donation drop-off box as well as a notice that shall read "Not for refuse disposal. Liquids are prohibited. Do not use for garbage, candy wrappers, soft drink bottles, etc."

- j. Occupation of parking spaces by donation drop-off boxes shall not reduce the number of available parking spaces below the minimum number required for the site.
- k. All donated items must be collected and stored in the donation drop-off box. Donated items or materials shall not be left outside of donation drop-off boxes and the area around each box shall be maintained by the owner or operator, or the property owner, free of litter and any other undesirable materials.
- l. If unable to comply with any of the above regulations, the applicant can apply for a Special Use Permit for the proposed donation box and location.
- m. Donation boxes shall be placed against buildings, fences, shrubbery or other means so as to not interfere with traffic.

(Ord. of 9-5-2000; Ord. of 8-1-2001; Ord. of 3-1-2005; Ord. of 9-06-2011; Ord. 2023-03-07; Ord. 2024-06-04; Ord. 2024-09-03; Ord. of 2025-09-02)

Q. Accessory Dwelling Units

Accessory dwelling units are permitted after obtaining a special use permit in the C-C, S-R, N-R, DN-R, RO, and PMUD (excluding multifamily dwellings) zoning districts, and subject to the following:

1. Repealed by Ord. 2025-09-02.
2. There shall be no other room rentals in the primary dwelling, the accessory dwelling unit or its accessory buildings.
3. The principal dwelling or the accessory dwelling unit shall be occupied by the property owner as their primary residence.
4. Repealed by Ord. 2025-09-02.
5. A minimum of one (1) off-street parking space shall be required for the accessory dwelling unit, in addition to the required parking for the primary structure.
6. When a building addition or additional parking is proposed, a minor site plan meeting the requirements of Article 11 regarding site planning shall be submitted.

7. The floor plan and exterior elevations of the proposed accessory dwelling unit and of the building housing same shall be presented to and approved by the Zoning Administrator. Exterior elevations shall not be required if no exterior changes are proposed. Exterior elevations shall also be approved by the Review Board when required by the HP-O District.
8. An accessory dwelling unit shall have a floor area of not less than 400 square feet nor greater than 1,000 square feet, but in no event shall the floor area of an accessory dwelling unit exceed forty (40) percent of the existing floor area of the primary structure.
 - a. An accessory dwelling unit shall have one kitchen and shall have not more than two bedrooms, one bathroom and one all purpose room and shall be entirely located either within the outer walls of the main building or connected thereto by a common wall, ceiling or floor. Accessory dwelling unit located on a separate level over a freestanding garage are also permissible provided that it is in compliance with residential building codes.
 - b. The architectural treatment of the accessory dwelling unit shall be consistent with that of the character of the principal single-family dwelling.
 - c. An accessory dwelling unit may be accessible from the interior of the main building of which it is part. Only one main entrance shall be permitted on the front of the accessory dwelling unit; all other exterior entrances shall be at the side or in the rear.
 - d. No accessory dwelling unit shall be permitted in a basement or cellar or above the first floor of the principal dwelling, except over attached garages.
 - e. Any accessory dwelling unit, if in a separate structure from the primary dwelling unit, shall be located in the rear or side of the principal dwelling.
 - f. Aside from the primary dwelling unit, only one accessory dwelling unit may be located on a lot. Accessory buildings not intended for use as a dwelling are permitted.

Ord. of 2025-09-02.

9. Repealed by Ord. 2025-09-02.
10. Repealed by Ord. 2025-09-02.
11. Repealed by Ord. 2025-09-02.

R. Walls and Fences

Walls and fences, berms and similar items which may restrict passage or vision or simply enhance private property may be located within required yards as defined by building setbacks except as restricted herein:

1. No walls or fences located within front and side yards shall exceed a height of forty-two (42) inches as measured from the grade at the point of placement. No walls or fences or similar items other than landscaping within rear yards shall exceed a height of six (6) feet. However, rear yard fences that are taller than forty-two (42) inches may extend to the front corners of the primary structure. Fences in the rear yard on corner lots shall meet the side yard setback adjacent to the right-of-way line in the underlying zoning district. These provisions shall not be interpreted to prohibit the erection of an open-mesh type fence enclosing any school or playground site or business or industrial activity for security purposes.
2. In business, residential and industrial districts, walls and fences which are clearly used for safety or security purposes may be superseded by other height regulations.
3. In all use districts, walls and fences, hedgerows and other dense landscaping and other items which occur on corner lots, which exceed three and one-half (3 1/2) feet in height, and present an obstruction to vision, shall be reduced in height or relocated at least twenty (20) feet from the intersection of right-of-way lines.
4. In all use districts, walls and fences, hedgerows and other dense landscaping and other items which exceed three and one-half (3 1/2) feet in height and present an obstruction of vision to traffic ingress and egress on property shall be reduced in height or relocated in a manner which negates the obstruction.
5. In all residential districts, walls and fences which adjoin property lines shall not be electrified, barbed or otherwise secured in a manner inappropriate or dangerous to the neighborhood. Such restrictions may be waived within customary agricultural areas.
6. Trellises and trellis work, play equipment, outdoor furniture, mailboxes, ornamental entry columns and gates are allowed within required yards.
6. Walls, fences and other enclosures for uses such as swimming pools, refuse enclosures, transformers and substations may be restricted by other regulations which shall supersede this section.

(Ord. of 9-5-2000; 8-1-2001)

S. Telecommunication Towers

1. For the purpose of this ordinance, telecommunication towers shall include radio, cellular telephone, television, microwave, short wave radio and/or any other tower used exclusively for communication purposes as interpreted by the Planning and Zoning Administrator.
2. No telecommunication tower(s) (hereinafter referred to as "tower(s)") shall be located within five hundred (500) feet of a Residential district unless the applicant can otherwise demonstrate by providing coverage, interference and capacity analysis that the proposed location of the antenna is necessary to meet the frequency reuse and spacing needs of the wireless telecommunications facility and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the tower(s) in a less sensitive area.
3. Tower(s) or structures supporting telecommunication antenna(s) or otherwise conforming to all the applicable provisions of this ordinance are hereby permitted subject to approval of a special use permit in the following zoning districts when the tower(s) is considered an accessory use:
 - a. I-1, Light Industrial
 - b. I-2, Heavy Industrial

Tower(s) and supporting telecommunication antenna(s) are also permitted subject to approval of a special use permit in the following locations regardless of the underlying zoning district:

- a. Church sites when camouflaged as steeples or bell towers;
- b. Park sites when compatible with the existing environment and nature of the park; and
- c. Government, school, utility and institutional sites.

4. The minimum setback from the base of the tower to any property line or to any adjacent non-residential structure shall be equal to one-half (1/2) the height of the tower, unless the Town Council grants a waiver due to special or unusual characteristics.
5. The following general criteria shall be considered in determining the appropriateness of sites for communication tower(s) when considering a special use permit:

- a. Whether the proposed tower is to be located in an area where it would be unobtrusive to surrounding uses and would not substantially detract from the local aesthetic or neighborhood character;
- b. Whether the application represents a request for multiple use of a proposed tower(s) as is recommended in the Town's Comprehensive Plan; and
- c. Whether the application exhibits how the site and the tower(s) and/or antenna(s) will be designed and arranged to accommodate future multiple users.

6. No microwave dishes or other dish or conical shaped antennas shall be permitted on the tower(s) unless otherwise approved as part of the special use permit. Photo simulations of the "before and after" visual impacts of the tower(s) shall be submitted to the Town with the special use permit application.
7. Tower(s) and antenna(s) shall be limited in total height to one hundred and ninety-nine (199) feet or lower unless so waived by the Town Council.
8. Line of sight profiles depicting the proposed tower with attached antenna(s) and arrays from no fewer than three (3) locations, including all critical viewsheds determined by the Planning and Zoning Administrator, shall be submitted at the time of initial application for all towers in excess of fifty (50) feet.
9. In the event the tower(s) and antenna array(s) shall serve as the primary use of the property, any accessory facility or building greater than one hundred (100) square feet will be designed so as to be architecturally compatible with principal structures on the site and shall be compatible with the surrounding natural or built-up environment.
10. No communications equipment shall be installed which will interfere in any way with the Town's emergency communications system.
11. Advertising or signage provided for any use other than to provide warning or equipment instruction and/or any other information pertinent to the safe operation of the facility on any portion of the tower and/or antenna or any other accessory facility shall be prohibited, and each tower shall maintain a gray or other neutral colored finish.
12. Towers shall not be artificially lighted, unless required by the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Commission and the Town Council shall review the available lighting alternatives and approve the engineering design solution that would create the least visual disturbance to the surrounding area.

13. Tower(s) and antenna(s) in excess of fifty (50) feet in height shall include screening as deemed necessary by the Town Planning and Zoning Administrator.
14. The applicant shall possess a communication license issued by the FCC and any other federal regulatory agency as deemed necessary by the Town, and the site selection, design and operation of the facility must meet all applicable State and Federal requirements and regulations.
15. If at any time the use of the tower(s) and/or antenna(s) ceases, the owner or lessee of the tower(s) and/or antenna(s) shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - a. A binding lease agreement with another wireless communications provider on the same tower has been executed in which case an additional six (6) months shall be granted; or
 - b. The Town requests, in writing, that the tower(s) and/or antenna(s) be reserved for Town use.

T. Borrow Pits

1. Borrow pits and related uses involving the extraction of natural resources conforming to all the applicable provisions of this ordinance are hereby permitted subject to approval of a special use permit in the following zoning districts:
 - a. C-C, Community Conservation
 - b. I-2, Heavy Industrial
2. The application for special use permit for a borrow pit shall be accompanied by a site plan meeting all the requirements for a major site plan review. In addition, the following information shall be provided with the special use permit application:
 - a. A master phasing plan;
 - b. A vehicular access plan to be utilized by the excavation operator;
 - c. An enhanced erosion and sediment control plan detailing methods to be used to protect surrounding properties and public streets;
 - d. A comprehensive facility operations plan, including an estimate of annual yardage or tonnage to be excavated;
 - e. A detailed reclamation and restoration plan;

- f. Design and construction details for fencing and gating;
- g. Copies of all state and federal permits for use and use operations;
- h. Proffers and plats supporting permanent easements, setbacks and buffer areas;
- i. Evidence of ownership's record of borrow pit operations and prior record of compliance with borrow pit permits;
- j. A site plan depicting enhanced roadside landscape, yard setbacks and related buffers; and
- k. An operations maintenance plan.

3. In addition to the bonding requirements of Article 11, Section K. 4 (Site Plan Requirements), the following bonding (surety) requirements for borrow pits development shall apply:

- a. In addition to other bonding requirements of this Ordinance, the operator shall furnish a bond of the amount on the form to be prescribed by the Town Attorney payable to the Town of Smithfield.
- b. The bond shall serve to condition the use permit subject to the operator performing all of the requirements of this ordinance as well as the conditions of the special use permit, the facility improvements plan, the operations plan, the reclamation and restoration plan and the maintenance plan.
- c. The operator shall submit a cost estimate for the above considerations with the bond form, with said estimate to be prepared by a registered professional engineer qualified to undertake such examinations. The Town Attorney shall employ said estimate in setting the bond or surety amount.
- d. The bond or surety posted by the operator for such use and operations shall not be refunded until the operator has obtained the approval of the Planning Commission.
- e. Within ten days of the anniversary of a bond, the operator shall post any additional bond in the amount determined by the Planning and Zoning Administrator.
- f. If the operator does not undertake to complete any reclamation, operations or maintenance deficiency within thirty (30) days of notification by the Planning and Zoning Administrator, the Town may order the forfeiture of the bond or surety and have the necessary work performed with the money so received.

4. All special use permits issued for borrow pits will be valid for a period of five (5) years from the date of issuance. An extension of time or renewal of said permit will require new applications filed in accordance with the terms of this ordinance.
5. A violation of this article shall be deemed as adequate cause to declare the special use permit null and void upon action by the Planning Commission at a regularly scheduled meetings.

U. Home Occupations

1. A home occupation permit shall be approved by the Planning and Zoning Administrator prior to commencement of business operations.
2. The home occupation shall be clearly incidental to the use of the premises for dwelling purposes.
3. The home occupation shall be conducted only by direct family members residing on the premises and not more than one person who is not a direct member of the family.
4. The home occupation shall not result in the alteration of the appearance of the residential dwelling unit or the lot on which it is located. There shall be no storage or display of goods outside of a completely enclosed structure.
5. The home occupation shall be conducted within the dwelling or fully enclosed accessory building, shall not require external alternative to the appearance of the dwelling, and shall involve no equipment which is deemed to be in conflict with the intent of the residential nature of the community.
6. The home occupation shall not involve the use or storage of explosives, flammable or hazardous materials and may not involve any process that produces smoke, dust, odor, noise, vibration, or electrical interference, which in the opinion of the Planning and Zoning Administrator, is deteriorative or harmful to surrounding properties.
7. The home occupation shall not involve the delivery and storage of materials at a frequency beyond that which is reasonable to the residential use of the property.
8. Any use which generates traffic to and from the home in excess of what is normally associated with a single-family dwelling shall not be permitted as a home occupation.

9. There shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the dwelling is being utilized in part for any purpose other than that of a residential dwelling. There shall be no advertising on the premises.
10. No home occupation shall be permitted which comprises more than twenty-five (25) percent of the gross floor area of the dwelling or more than 400 square feet of the dwelling, whichever is less.
11. A home occupation shall comply with all applicable Town, State and Federal laws and regulations governing the intended use, including applicable business licenses and permits.
12. Home occupation applicants shall permit reasonable inspections of the premises by the Planning and Zoning Administrator or other Town official to determine compliance with this ordinance and the conditions attached to the granting of a home occupation permit.
13. Any home occupation, which in the opinion of the Planning and Zoning Administrator, has violated the provisions of the home occupation permit or becomes a burden to the neighborhood due to excessive traffic, noise, hours of operation, lighting, or use intensity, shall have its permit revoked and the home occupation shall discontinue or correct operations within ten days upon notification.
14. Any person aggrieved by the action of the Planning and Zoning Administrator in granting, denying or revoking a home occupation permit or in stipulating conditions or corrections thereto may appeal the decision to the Board of Zoning Appeals.
15. Within the context of the above requirements, home occupation uses include, but are not limited to, the following:
 - a. Artist, sculptor or photographer.
 - b. (Repealed by Ord. 2025-08-05).
 - c. Internet service provider.
 - d. Home care provider
 - e. Tailor or seamstress.
 - f. (Repealed by Ord. 2020-08-04).
 - g. Tutoring.
 - h. (Repealed by Ord. 2025-08-05).
 - i. (Repealed by Ord. 2025-08-05).
 - j. Music teacher, limited to two students at any one time.
 - k. Caterer.

I. Child day care provider (Babysitting for not more than 5 children; however a Special Use Permit may be an option for 6-11 children in some zoning districts.)
(Ord. of 2025-08-05)

16. Specifically prohibited home occupation uses include, but are not limited to, the following:

- a. Auto repair or auto paint shop.
- b. (repealed 11-2014)
- c. Gift shops.
- d. Adult entertainment businesses and massage parlors.
- e. Medical and dental clinics.
- f. Veterinary activities and kennels.
- g. Wrecking and towing service.
- h. Welding and machine shop.
- i. Beauty parlors.
- j. Barber shops.
- k. Nursing homes, convalescent homes, and adult care facilities.
- l. Child day care center.
- m. Eating establishments.
- n. Antique shops.
- o. Tourist homes.
- p. Fortune tellers.
- q. Small machinery repair shop.
- r. Other similar use.

19. Nothing in this Ordinance shall preclude an owner/occupant from having a professional office within their home. A professional office shall be excluded from obtaining a home occupation permit from the Planning and Zoning Administrator, so long as a business license is obtained from the Town, and all other applicable standards of this Section have been met.

20. Professional office home occupations may enjoy client visits to the property following the successful acquisition of a special use permit from the Town Council.

(Ord. of 2000-09-05; Ord. of 2014-11-04; Ord. of 2020-08-04)

V. Lot and Yard Requirements and Modifications

1. No structure or part thereof shall hereafter be constructed or moved on a lot which does not meet all of the minimum lot area and yard requirements established for the zoning district in which the structure is or is planned to be located.
2. The minimum lot width shall be measured at the minimum front yard setback line approved on the final subdivision plat. No portion of the lot between the front and rear yard setback lines shall be less than the minimum lot width required for the zoning district. Each lot must maintain a minimum street frontage of at least twenty-five (25) feet.
3. Pipestem lots (also known as "flag lots") are not permitted in any residential district.
4. Cornices, awnings, eaves, ADA ramps, gutters, and other similar structural overhangs at least eight feet above grade may extend not more than three feet into any required yard.
5. Uncovered and unenclosed decks, porches, patios, terraces and other similar features not covered by a roof or canopy may extend or project into a front, side or rear yard setback line not more than four (4) feet.
6. (Repealed by Ord. 9-5-2000)
7. Corner lots shall provide a setback equal to the required front setback for all yards adjoining a public street provided, however, that the setback regulations shall not reduce the buildable width of a lot to less than fifty (50) percent of lot width as measured at the point of required setback line.
8. Where the frontage on one side of a street between two (2) intersecting streets is improved with buildings having a setback greater or less than one setback heretofore permitted, no building shall project beyond the average setback line of the existing buildings of the same zoning classification so established.
9. Chimneys, solar devices, architectural features or the like, may project into required yards not more than thirty (30) inches. No such feature shall connect a principle structure with an accessory structure unless the accessory structure conforms with setbacks applicable to principle structures and all building code requirements are met.
10. No commercial above ground fuel storage tanks may be located less than one hundred (100) feet from any residential district. Canopies and pump operations are not classified as accessory buildings and shall comply with standard principal building setbacks for the district concerned.

11. (Repealed by Ord. 5-4-2004)
12. No residential lot shall be created in which an area more than 25% of the total lot area is comprised of one or more of the physical land units: (a) slopes 30% or greater, (b) wetlands, (c) 100-year floodplains and (d) water features.
13. Development on shrink/swell soils is not encouraged by the Town of Smithfield. Any development on lots containing shrink/swell soils shall be subject to specific soils and geotechnical analysis of the lot and detailed foundation engineering evaluations for the intended improvements. The following additional lot regulations and requirements shall apply to any subdivided lot:
 - a. Lots to be developed on shrink/swell soils shall require a geotechnical study and foundation design report for each lot prior to issuance a building permit. Such report shall be prepared by a registered professional engineer and shall address (1) the location and characteristics of the soils and (2) foundation and related structural engineering design recommendations for the intended structure.
 - b. (Repealed by Ord 2022-09-06)
 - c. No subdivision plat or site plan shall be approved for recordation until a geotechnical and foundation report has been reviewed by the Town in conjunction with final site plan, lot development plan and/or final subdivision plat review, or as otherwise required by the Planning and Zoning Administrator.
 - d. All recorded plats for new subdivided lots containing shrink/swell soils shall bear the following notation:

“This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a certified engineering design has been submitted for the foundation and other related structural elements for the proposed structure.”
14. Repealed (Ord. of 2024-06-04).
15. Any plat submitted to the Town must show, as applicable, the existence of a Resource Protection Area (RPA) designation, its implications regarding future development, and acknowledgment of a maintenance agreement for on-site BMPs.
(Ord. of 8-1-2000; Ord. of 9-5-2000; Ord. of 5-4-2004; Ord. 2022-09-06)

W. Public Hearings

1. Public hearings held by the Town Council, Planning Commission, Board of Zoning Appeals or other duly appointed authority, shall be held in accordance with Section 15.2-2204, 2205 and other appropriate sections of the Code of Virginia, 1950, as amended.
2. In accordance with applicable regulations, before such hearings, the following is required:
 - a. Notice of the intended action shall be published once a week for two successive weeks in a newspaper of general circulation in the Town of Smithfield; provided that such notice for matters to be considered by more than one board or commission may be published concurrently. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their views, with the first notice appearing no more than 28 days before and the second appearing no less than five days before the date of the meeting referenced in the notice. (Ord. of 2025-03-04; Ord. of 2025-07-01)
 - b. The applicant for action requiring a public hearing shall bear the cost of said notice. The Zoning Administrator shall be required to obtain the names of the adjacent property owners and notify them with certified letters. Any person entitled to such notice may waive such right in writing.
 - (1) Applications for Appeals, Special Exceptions, Variances, Special Use Permits, Special Sign Exceptions, Special Yard Exceptions, Exceptions to the RPA, Rezonings and amendments to zoning ordinance involving a change in zoning classification of twenty-five or fewer parcels of land, require, in addition to the advertising required herein, written notices to be given at least five days before the hearing to the owner (the last known address as shown on the current real estate assessment records of the Town of Smithfield) of each parcel involved, the owners of all abutting property and the owners of property immediately across the street or road from the property affected. If such notice is sent by an applicant other than a representative of the Town Council, it shall be sent by registered or certified mail and the return receipts shall be filed with the records of the case. If such notice is sent by a representative of the Council, the notice may be sent by first class mail; provided that the representative make affidavit that such mailings have been made and file such affidavit with the records of the case.

- (2) When a proposed amendment to the zoning ordinance involves a change in the zoning classification of more than twenty-five but less than five hundred parcels of land, then in addition to the advertising required hereinabove, written notice shall be given at least five days before the hearing to the owners of each parcel of land involved. Notice shall be sent by first class mail to the last known address of such owner as shown on the current real estate assessment records of the Town of Smithfield. The party responsible for sending the required notice shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.
- (3) When a proposed amendment to the zoning ordinance involves a change in the zoning classification of five hundred or more parcels of land, written notice to the owners of each parcel is not required. Notice shall be advertised as required herein.

c. At least fourteen days preceding a public hearing involving a site specific request, the Zoning Administrator shall erect on the subject parcel or parcels, a sign or signs, in such number as indicated below, stating "PUBLIC HEARING NOTICE" and indicating the telephone number of the Planning and Zoning Administrator. The sign or signs shall be erected by the applicant within ten feet of whatever boundary line of such land abuts a public street and shall be so placed as to be clearly visible from the street. Such signs shall not be erected on the public right-of-way. If more than one such street abuts the subject parcel or parcels, then at least two signs shall be erected in the same manner as specified above, along at least two abutting streets. If no public street abuts thereon, then signs shall be placed in the same manner as above on at least one (or as many as deemed necessary by the Planning and Zoning Administrator) boundary of the property abutting land not owned by the applicant.

3. Any sign erected as required by this article shall be maintained at all times by the Zoning Administrator up to the time of the hearing.
4. It shall be unlawful for any person, except the Planning and Zoning Administrator, or authorized agent, to remove or tamper with any required sign during the period it is required to be maintained under this section.
5. All signs erected under this section shall be removed by the Zoning Administrator within five days following the public hearing for which it was erected.

6. (Repealed by Ord. 5-4-2004)
7. Failure to constantly maintain such sign on the property prior to the date of the public hearing shall not invalidate the public hearing or any approval thereafter granted.
8. If any hearing is continued, written notice of the new hearing date shall be mailed to those persons that received notice of the previous hearing, as required above.
(Ord. of 5-4-2004)

X. Violations and Penalties

1. The Planning and Zoning Administrator and all other Town officials and employees who are vested with duty or authority to issue permits or licenses shall adhere to the provisions of this ordinance and shall issue permits or licenses only when uses and buildings comply with the provisions of this ordinance.
2. The Town reserves the right to revoke, upon written notification and failure to remedy within a reasonable period of time, any permit wrongfully issued or otherwise found to be in conflict with the provisions of this ordinance.
3. Any person who is convicted of violating any of the provisions of this Ordinance shall be found guilty of a Class I misdemeanor.
4. In addition to pursuing the penalties and fines hereinabove provided, the Planning and Zoning Administrator may bring additional legal action to insure compliance with this ordinance, including injunction, abatement or other appropriate action or proceeding.
5. In addition to any other remedies which may be obtained under this ordinance, any person who: (i) violates any provision of any this ordinance or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition authorized or issued by the Planning and Zoning Administrator or the Town Council under this ordinance shall, upon such finding by the circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order.

6. With the consent of any person who: (i) violates any provision of this ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any order, rule, regulation, or variance or permit condition authorized or issued by the Planning and Zoning Administrator or the Town Council under this ordinance, the Town Council may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under Paragraph 5 immediately hereinabove. Civil charges may be in addition to the cost of any restoration required or ordered by the Planning and Zoning Administrator or the Town Council.

(Ord. of 8-1-2000)

Y. Event Facilities

1. 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.
2. All event facilities, and the parcel(s) upon which they are located, must meet the following standards:
 - a. Access to and from the event facility shall not occur via a shared or common driveway.
 - b. To the greatest degree possible, the permanent component(s) of a proposed event facility should be placed on a parcel so as to avoid areas identified by any Town Ordinance or publication (Comprehensive Plan, etc.) as a viewshed.
 - c. Where proposed, temporary tents are allowed for the duration of the event, or a period not to exceed seven (7) consecutive days, whichever is less. The seven (7) day time period may be extended following a written request to the Zoning Administrator or their designee, showing reasonable cause.

- d. The protect the citizens of the Town from excessive noise, events facilities must comply with Chapter 38 of the Town Code.
- e. In any zoning district in which this use is permitted, the maximum number of attendees for any given event is limited to the maximum live load according to the Virginia Uniform Statewide Building Code (VUSBC) for the building in or at which the event is to occur. Outdoor events may exceed this restriction. The maximum number of attendees includes, but is not limited to, any event staff, caterers, photographers, and/or vendors.

3. An application for a new event facility must include the following items:

- a. The applicant must demonstrate that all performance standards would be met by their proposal through the submission of a site plan.
- b. All applicable requirements in this Article, as well as Articles 3, 6, 8, 9, 10, and 11 must be met.

(Ord. of 2019-09-03)

Z. Short-Term Rentals

1. These regulations are established to allow the short-term rental of rooms to transient persons in all residential settings, while at the same time preserving the residential character of the neighborhoods in which the dwellings are located. For the purpose of this section, short-term rentals include short-term rentals and homestays. In any zoning district in which residential uses exist or are permitted, accessory short-term rentals (hereinafter referred to as "homestays") are permitted by-right- short-term rentals as principal uses are permissible by special use permit (SUP) only. Short-term rentals in any mixed-use building or structure shall also require an SUP. In all other cases, the following conditions must be met:

- a. A copy of the declarations page, a certificate of insurance, or a binder of insurance (if newly applied for) showing general, personal, or premises liability insurance in the name of the owner/operator, covering the rental of the property to transient persons, with coverage of not less than \$500,000 must be furnished to the Town. Such insurance coverage must remain in place at all times while any part of the property is being offered for short-term rental.
- b. Short-term rentals shall be permitted for not more than 104 nights per calendar year.

- c. At all times, no more than ten (10) over-night guests shall occupy any short-term rental, or no more than two (2) per bedroom at any one time, whichever is greater.
 - d. Accessory buildings and structures shall not be used or occupied as short-term rentals, except upon the issuance of an SUP by the Town Council.
 - e. All operators engaging in short-term rentals are required to obtain and maintain a business license from the Town, and the operator of the short-term rental shall remain liable for all taxes that may be owed, in addition to the transient occupancy tax.
 - f. Nothing in this section shall be construed to supersede or limit contracts or lease agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provision of condominium instruments of a condominium created pursuant to the Condominium Act (Va. Code § 55-79.39 et seq.), the declaration of a common interest community as defined in Va. Code § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (Va. Code § 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (Va. Code § 55-508 et seq.).
 - g. The short-term rental must be serviced by a Virginia-licensed waste management facilities operator.
 - h. To protect the citizens of the Town from excessive noise, short-term rentals must comply with Chapter 38 of the Town Code.
 - i. The operator of the short-term rental must submit to the Town a signed and notarized short-term rental affidavit assuring compliance with all of the above provisions.
 - j. Any of the above provisions may be waived by the Town Council, upon the issuance of an SUP. Additionally, if there is any uncertainty in interpretation between the applicant and the Administrator as to any of the provisions of this section, the Administrator may require an SUP.
2. Existing short-term rentals which conflict with the standards of this Section, and which were in operation sixty (60) days prior to the date of adoption of the same, may be administratively approved by Town staff, provided that the applicant submit satisfactory evidence to the Town that their short-term rental was in operation at that time. If uncertainty arises between the applicant and the Administrator as to whether or not satisfactory evidence has been submitted to the Town, the Planning Commission shall determine the validity of the evidence.
3. If the operator is found to have violated any of the provisions of this section, the following penalties shall apply:
 - a. The revocation of the operator's business license.

- b. Any additional penalties as prescribed in this or any other Town Ordinance.

(Ord. of 2020-09-01)

AA. Public Buildings, New Construction

1. The purpose of establishing these provisions is to protect the aesthetic and visual character of the new construction of primary and accessory structures intended as public buildings, located on government owned parcels, as defined herein, and to provide for and promote their orderly development. All new construction proposed, meeting the definitions below, shall be subject to the procedures, standards, and guidelines specified in the following Sections, in addition to those standards pertaining to the particular base zoning district and overlays in which the development occurs.
 - a. New Construction:
 - i. For the purpose of this section, new construction includes the addition of additional square footage to an existing building, along with the construction of a new primary building and / or accessory building(s).
 - ii. For the purpose of this section, new construction does not include exterior modification and / or changes to existing structures, both primary and accessory.
 - b. Public Buildings:
 - i. For the purpose of this section, public buildings include any building constructed on a Town, County, State, and / or Federally owned parcel, for the intended purpose of providing a service to the public, as either a primary or accessory use.
2. No new construction of a primary building or accessory structure shall be authorized or constructed in the Town unless and until the general location, character, and extent thereof has been submitted to and approved by the Planning Commission, as being substantially in conformance with the Guidelines of the Entrance Corridor Overlay (ECO) District, and Entrance Corridor Guidelines. This provision applies to properties that meet the definition above but are located outside of the ECO.
3. All development plans shall be submitted and reviewed according to the following procedures:
 - a. A complete development plan shall be submitted to the Zoning Administrator.
 - b. Applicants shall be informed in writing of the outcome of their review including a list of required revisions, if necessary.
 - c. After the complete development plan and related materials have been submitted, it shall be reviewed and processed by the Planning Commission and other affected governmental agencies for conformity to this Article and other applicable Articles and regulations. The Planning Commission shall act upon a complete development plan and related materials as submitted by the applicant, or as modified by the development plan review process within thirty (30) days, unless extensive

modification to the development plan or extenuating circumstances requires additional time.

- d. Applicants shall be informed in writing of a final decision of the development plan.

4. **Waivers**

- a. An applicant or owner may request a waiver, variation or substitution pursuant to the requirements and application of this article. A written request for a waiver, variation or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the applicant or owner.
- b. Such request shall be submitted to the Planning and Zoning Administrator with the filing of a preliminary or final site plan.
- c. The Planning Commission, at its sole discretion, may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or substitution of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternatively, the Planning Commission may recommend a conditional modification to the request, or the Planning Commission may deny the request.
- d. Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this article, this ordinance, the subdivision ordinance, and the Comprehensive Plan.
- e. No such waiver, variation, or substitution shall be detrimental to the public health, safety, or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.

5. **Appeal to Town Council**

- a. Appeals of a decision of the Planning and Zoning Administrator in the administration of this article shall be to the Planning Commission as provided in Section 15.2-2311 (1997) of the Code of Virginia.
- b. Appeals of a decision of the Planning Commission by the applicant or a party in interest regarding a site plan, waiver, variation, or substitution shall be to the Town Council, provided that such appeal is filed with the Town Manager within ten (10) calendar days of the decision being appealed. The appeal shall be placed on the agenda of the Town Council at the next regular meeting. The Town Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission.

(Ord. 2023-02-07)

Article 3.A:

C-C, Community Conservation District

Article 3.A:
C-C, Community Conservation
(Agriculture, Forestry and Conservation District)

A. Purpose and Intent:

The C-C Community Conservation District is created to provide a vehicle by which agricultural, forestry, open space and other lands of rural character within the Town may be maintained in their current use on an interim basis until such point in time when development consistent with the adopted Future Land Use Plan may be pursued through a zoning amendment. It is the intent of this district to preserve existing natural features and vegetation, promote interim agricultural and forestry activities and production and encourage the conservation and maintenance of sensitive environmental areas.

The C-C District represents the base district to be applied to the land formerly zoned RAC in Isle of Wight County which was incorporated into the Town subject to the Town of Smithfield/Isle of Wight County annexation agreement. The C-C, Community Conservation District shall be applied to the tracts currently located within the Town which were subject to the annexation as well as other qualifying land which may be comprehensively rezoned by the Town Council to the C-C District pursuant to the Comprehensive Plan.

New residential subdivisions shall not be permitted in the C-C District, except by special permit for subdivisions with not more than five lots. All proposed subdivisions for residential purposes must be individually rezoned to a residential zoning district compatible with the Comprehensive Plan and pursuant to the provisions of the Zoning Ordinance. As minimum improvements, the C-C District shall require public water and sewer for all uses. No lots shall be permitted with private domestic well and septic utilities except by special permit for temporary service.

B. Permitted Uses:

1. General farming, agriculture, dairying and forestry.
2. Conservation areas.
3. Single family detached dwellings (with public water and sewer facilities).
4. Accessory uses to residential structures, limited to detached carport and garages, tool sheds, children's playhouses and play structures and doghouses.
5. Yard sale and/or garage sale.
6. Public parks and playgrounds.

7. Public schools and colleges.
8. Private swimming pools and tennis courts.
9. Noncommercial outdoor recreational activities, including hiking, hunting, boating, horseback riding, swimming, skeet and trap shooting, shooting preserves and fishing subject to other provisions of the Town Code relating to these activities.
10. Private horse stables.
11. Home occupations.
12. Irrigation wells, wells for ground source HVAC systems, and wells for agricultural purposes.
13. Group Homes

(Ord. of 2020-09-01; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Single family detached dwellings (with temporary, private water and sewer systems).
2. Residential subdivisions (not to exceed five residential lots).
3. Churches and places of worship.
4. Boating, country, and/or hunt clubs.
5. Public uses.
6. Libraries, museums, historic sites and shrines.
7. Plant nurseries, with no sale of products permitted on premises.
8. Child day care centers.
9. Adult day care centers.
10. Nursery schools.
11. Private schools and colleges.
12. Commercial swimming pools and tennis courts.
13. Bed and breakfast lodgings.
14. Public facilities, utilities and emergency services.
15. Temporary sawmills.
16. Dog kennels.
17. Guest houses.
18. Veterinary clinics and hospitals.
19. Cupolas, spires and steeples for public and semi-public uses.
20. Accessory apartments within a residential dwelling.
21. Nursing homes.
22. Commercial horse stables.
23. Antique shops.
24. Private boat docks serving a single residential dwelling.
25. Golf courses and golf driving ranges.

26. Public recreation and leisure establishments.
27. Drive-in movie and other open air theaters.
28. On-site commercial operations for agricultural and forestry product sales and services.
29. Borrow pits and resource extraction.
30. Sanitary and industrial landfills.
31. Transfer stations and recycling stations.
32. Livestock sales facilities.
33. Open air markets and stands for farm, horticulture, craft, and produce sales.
34. Cemeteries.
35. Temporary real estate marketing office for new subdivisions.
36. Waiver of Parking and Loading Requirements
37. Child Day Care as a Home Occupation (6-11 Children)
38. Event facilities (principal and accessory uses).
39. Civic, fraternal, and/or social organization halls.
40. Shipping Container (accessory use).

(Ord. of 10-3-2000, Ord. of 9-2-2008, Ord. of 11-4-2014, Ord. of 2019-09-03; Ord. of 2023-03-07; Ord. of 2025-08-05)

D. Maximum Density:

1. Conventional Subdivisions: One (1.0) unit per net developable acre
(by special permit only, for not more than five (5) residential lots.)
2. Cluster Subdivisions: Not permitted.

E. Lot Size Requirements:

1. Minimum district size: per Official Zoning Map,
otherwise 10 acres.
2. Minimum lot area: 40,000 square feet
3. Minimum lot width:
 - A. Interior lot: 150 feet
 - B. Corner lot: 200 feet
4. Minimum lot depth: 200 feet

F. Bulk Regulations:

1. Height

- A. Residential building height: 35 feet
- B. Public or semi-public building: 45 feet,
provided that required front, rear and side yards shall be increased by 1 foot for each foot of height over thirty-five feet.
- C. Cupolas, spires and steeples: 90 feet,
by special permit.
- D. Accessory buildings: 16 feet,
provided that accessory building heights may be increased to twenty-four feet in accordance with Article 2, Section P of the Zoning Ordinance.

2. Minimum yard requirements:

- A. Front yard: 60 feet
- B. Side yard: 25 feet
- C. Rear yard: 60 feet
15 feet (accessory structure and uses)
- D. In addition to the above regulations, the yard requirements for uses and structures other than residential dwellings and residential accessory uses shall be further regulated by floor area ratio and lot coverage ratios. A maximum floor area ratio equal to 0.25 shall apply to such uses and structures, with a maximum percentage of lot coverage equal to 20%. The location of all such uses shall be subject to site plan approval.
(Ord. of 5-4-2004)

G. Landscaping, Open Space and Recreation Areas:

1. All buffer areas, landscaping and open space in the C-C District shall be further regulated by Article 9.
2. In cases where common open space is to be provided within land zoned "C-C", such open space shall be preserved for its intended purpose as shown on the approved Plan of Development and shall be established by metes and bounds on the Final Subdivision Record Plat. Common open space and other common properties shall be owned, administered, and maintained by a not-for-profit, property owners association, provided, however, that a portion or all of such properties may be dedicated to the Town subject to and at the sole discretion of the Town for acceptance at time of plat recordation. The property owner's association by-laws, articles of incorporation and restrictive covenants shall be submitted with any application for subdivision plat approval. Prior to final approval of a subdivision plat which includes properties to be owned by a property owners' association, the Town Attorney shall review and approve the bylaws, articles of incorporation and restrictive covenants.
3. For common properties to be retained by the property owners' association, the developer/owner must establish the owners association as a bona fide legal entity prior to the recordation of the final plat. Membership in the association shall be mandatory for all subsequent owners. The property owners' association shall own all common open space and recreational facilities and shall provide for their maintenance, administration and operation.

H. Residential Subdivisions: Net Developable Area Calculation

1. Notwithstanding governing lot size and yard regulations, the maximum number of lots for any subdivision and the density for any other land use shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. *(Refer to illustrative example of net developable area calculation in the Appendix of the Zoning Ordinance.)*

<u>Physical Land Unit</u>	<u>Percent Credited Toward Net Acreage</u>
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for existing or planned public rights of way, private streets, travelways and combined travelways and parking bays. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No C-C District residential lot shall be designed in which an area more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or greater, (b) wetlands, (c) 100-year floodplains and (d) water features.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to Floodplain Overlay Zoning District, where applicable.

2. Refer to Chesapeake Bay Preservation Area Overlay District.

3. Refer to Landscaping and Screening, Article 9, for additional open space, screening and buffer yard provisions.

4. Refer to Parking and Loading Requirements, Article 8, for parking regulations.
5. Recreational vehicle parking shall not be permitted within front yard and the area of the side yard setbacks.
6. No private domestic well and septic systems shall be permitted. Irrigation wells, wells for ground source HVAC systems, and wells for agricultural purposes are permitted by right.
7. Refer to the Town's Design and Construction Manual for additional residential design standards and subdivision development criteria.
8. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
9. Refer to Sign Regulations, Article 10, for signage provisions.
10. Private stables for the keeping of horses, ponies or other livestock for personal enjoyment and not as a business are allowed by right, provided that the lot shall be three (3) acres or greater. Any building used for the keeping of such animals shall be located in the rear yard of the lot and shall conform to the side and rear minimum lot requirements established for non-accessory structures and uses in the C-C District. No more than one such animal shall be kept per each acre of land on the lot.

(Ord. of 9-5-2000; Ord. of 9-01-2020)

Article 3.B:

N-R, Neighborhood Residential District

Article 3.B
N-R, Neighborhood Residential
(Neighborhood Single Family Residential District)

A. Purpose and Intent:

The N-R, Neighborhood Residential District is created to encourage the continuation and revitalization of existing single family detached housing at subdivision densities which are compatible with the Comprehensive Plan's goals for residential developments. The application of the N-R District is intended to recognize previously developed subdivisions, and it is intended to be employed for the rezoning of new low-density residential development.

The N-R District shall be applied to existing and new areas within the Town which are recognized by the Comprehensive Plan for continued, low-density residential neighborhoods. The intent of the district shall be to preserve existing subdivisions, to conserve natural features and vegetation, to encourage infill and redevelopment housing of a compatible scale and architectural character to that of the existing community, and to promote new low-density residential development. No more than one single family dwelling shall be permitted per subdivision lot.

In locations where infill development opportunities are of adequate size, minimum subdivision improvements shall include public water and sewer service, public streets, storm drainage, stormwater management and sidewalks.

(Ord. of 8-03-2004)

B. Permitted Uses:

1. Single family detached dwellings, with public water and sewer service.
2. Accessory buildings and uses, limited to detached carports and garages, toolsheds, children's playhouses and play structures, doghouses, swimming pools and accessory off-street parking and loading spaces.
3. Home occupations.
4. Public parks and playgrounds.
5. Yard sale and/or garage sales (temporary).
6. Private swimming pools and tennis courts.
7. Irrigation wells and wells for ground source HVAC systems.
8. Group Homes

(Ord. of 2020-09-01; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Cemeteries.
2. Churches and places of worship.
3. Single family detached dwellings, with temporary private water and sewer service.
4. Community buildings, limited to use by residents of the subdivision.
5. Public uses.
6. Libraries.
7. Museums, historic sites and shrines.
8. Plant nurseries, with no sale of products permitted on premises.
9. Child day centers.
10. Adult day care centers.
11. Nursery schools.
12. Private schools and colleges.
13. Public schools and colleges.
14. Commercial swimming pools and tennis courts.
15. Bed and breakfast lodgings.
16. Public utilities.
17. Civic, fraternal, and/or social organization halls.
18. Golf course and golf driving ranges.
19. Cupolas, spires and steeples for public and semi-public uses.
20. Agriculture, forestry and horticultural uses (non-commercial).
21. Storage lots for recreational vehicles.
22. Guest houses.
23. Servants' and caretakers' quarters.
24. Accessory apartments.
25. Waiver of height limitation for accessory buildings.
26. Temporary real estate marketing offices for new subdivisions.
27. Waiver of Parking and Loading Requirements
28. Child Day Care as a Home Occupation (6-11 Children)
29. Event facilities (principal and accessory uses).
30. Boating, country, and/or hunt clubs.

(Ord. of 9-5-2000, Ord. of 9-2-2008, Ord. of 11-4-2014, Ord. of 2019-09-03)

D. Maximum Density:

1. Two (2.0) units per net developable acre.

E. Lot Size Requirements:

1. Minimum district size: Not regulated.
2. Minimum lot area:
 - A. Conventional lot: 15,000 square feet, with public water and sewer.
3. Minimum lot width:
 - A. Conventional lot:
 - (1) Interior lot: 100 feet
 - (2) Corner lot: 125 feet
4. Minimum lot depth:
 - A. Conventional lot: 125 feet

F. Bulk Regulations:

1. Height
 - A. Residential building height: 35 feet
 - B. Public or semi-public building: 45 feet, provided that required front, rear and side yards shall be increased by 1 foot for each foot of height over thirty-five feet.
 - C. Cupolas, spires and steeples: 90 feet, by special permit.
 - D. Accessory buildings: 16 feet,

provided that accessory building heights may be increased to twenty-four feet in accordance with Article 2, Section P of the Zoning Ordinance.

(Ord. of 5-4-2004)

2. Minimum yard requirements:

A. Conventional lot:

(1)	Front yard:	35 feet
(2)	Side yard:	15 feet
(3)	Rear yard:	35 feet
5 feet (accessory uses)		

B. In addition to the above regulations, the yard requirements for uses and structures other than residential dwellings and residential accessory uses shall be further regulated by floor area ratio and lot coverage ratios. A maximum floor area ratio equal to 0.25 shall apply to such non-residential uses and structures, with a maximum percentage of lot coverage equal to 20%. The location of all such uses shall be subject to site plan approval.

G. Landscaping, Open Space and Recreation Areas:

1. Open space and recreation area regulations for the N-R District, if and when required, shall be governed by those specified in the S-R District.

H. Conventional Subdivisions: Net Developable Area Calculation

1. Notwithstanding governing lot size and yard regulations, the maximum use intensity for any conventional subdivision or lot shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified in the table in the following section.

2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions.

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for existing or planned public rights of way, private streets, travelways and combined travelways and parking bays. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No N-R District residential lot shall be designed in which an area more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains, and (d) water features.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to the Floodplain Zoning Overlay District, where applicable.
2. Refer to the Chesapeake Bay Preservation Area Overlay District.
3. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.

4. Refer to Parking and Loading Requirements, Article 8, for parking regulations and specific requirements for common parking lots for recreation vehicle and boat storage.
5. Recreational vehicle parking shall not be permitted within front yard and the area of the side yard setbacks.
6. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.
7. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
8. Refer to Town's Design and Construction Manual for residential design standards and criteria.
9. All uses within the N-R District shall require a General Development Plan and/or site plan for zoning and/or special permit approval.
10. Refer to Sign Regulations, Article 10, for signage provisions.
(Ord. of 10-3-2000; Ord. of 2020-09-01)

Article 3.C:

S-R, Suburban Residential District

Article 3.C:
S-R, Suburban Residential
(Single Family Residential District)

A. Purpose and Intent:

The S-R, Suburban Residential District is created to provide for single family detached residences at subdivision densities which are compatible with the Comprehensive Plan's goals for low to medium density residential developments in Smithfield. The average density of three units per acre establishes the S-R District as the Town's low-to-medium density district for detached residences. The S-R district shall require public water and sewer service, public streets and sidewalks as minimum subdivision improvements. Recognizing prevailing storm drainage deficiencies in and around the Town, new subdivisions shall be constructed with curb and gutter or other storm drainage conveyance system equivalent in performance and function and shall include comprehensive Best Management Practices and stormwater management facilities.

Cluster residential development shall be encouraged in the S-R District (by special permit) in order to promulgate the Town's objectives for environmental preservation, architectural harmony and consistency, adequacy of open space and recreation areas, and enhanced quality neighborhood improvements in new residential subdivisions. Provisions are included herein to permit cluster subdivisions with densities up to fifty percent higher than conventional subdivisions.

The S-R District may be applied to both undeveloped tracts and existing stable neighborhoods in appropriate locations recognized by the Comprehensive Plan. The intent of the district shall be to preserve existing natural features and vegetation, promote excellence in site planning and landscape design, facilitate the efficient layout and orientation of public utilities and community infrastructure, and encourage housing with compatible scale and character of architecture. No more than one single family dwelling shall be permitted per subdivision lot. No lots shall be permitted with private domestic wells or septic systems.

The S-R District represents the residential district to be applied to the land formerly zoned NC-CR-2 and NC-CR-3 in Isle of Wight County which was incorporated into the Town via the Town of Smithfield/Isle of Wight County annexation agreement. In addition to those NC-CR-2 and NC-CR-3 zoned parcels which were subject to the annexation, this district may be applied to other qualifying land which may be comprehensively rezoned by the Town Council to the S-R District upon adoption of the 1998 Comprehensive Plan.

B. Permitted Uses:

1. Single family detached dwellings.
2. Accessory buildings and uses, limited to detached carport and garages, tool sheds, children's playhouses and play structures, doghouses, and accessory off-street parking and loading spaces.
3. Home occupations.
4. Public parks and playgrounds.
5. Yard sale and/or garage sale (temporary).
6. Private swimming pools and tennis courts.
7. Irrigation wells and wells for ground source HVAC systems.
8. Group Homes.

(Ord. of 2020-09-01; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Cemeteries.
2. Churches and places of worship.
3. Cluster residential subdivisions.
4. Community buildings, limited to use by residents of the subdivision.
5. Accessory apartments.
6. Libraries.
7. Museums, historic sites and shrines.
8. Plant nurseries, with no sale of products permitted on premises.
9. Child day centers.
10. Adult day care centers.
11. Nursery schools.
12. Private schools and colleges.
13. Public schools and colleges.
14. Commercial swimming pools and tennis courts (except as may be approved on a general development plan.)
15. Bed and breakfast lodgings and guest houses.
16. Public uses and utilities.
17. Civic, fraternal, and/or social organization halls.
18. Golf course and golf driving ranges.
19. Cupolas, spires and steeples for public and semi-public uses.
20. Agriculture, forestry and horticultural uses (non-commercial).
21. Storage lots for recreational vehicles.
22. Guest houses
23. Temporary real estate marketing offices for new subdivisions.

24. Waiver of contiguous open space parcel requirement.
25. Waiver of district size for cluster subdivisions.
26. Waiver of parking and Loading Requirements
27. Child Day Care as a Home Occupation (6-11 Children)
28. Event facilities (principal and accessory uses).
29. Boating, country, and/or hunt clubs.

(Ord. of 9-2-2008, Ord. of 11-4-2014, Ord. of 2019-09-03)

D. Maximum Density:

1. Conventional Subdivisions: Three (3.0) units per net developable acre.
2. Cluster Subdivisions: Four and One-half (4.5) units per net developable acre.

E. Lot Size Requirements:

1. Minimum district size for cluster subdivisions: Five (5) acres
2. Minimum lot area:
 - A. Conventional lot: 12,000 square feet
 - B. Cluster lot: 8000 square feet
3. Minimum lot width:
 - A. Conventional lot:
 - (1) Interior lot: 80 feet
 - (2) Corner lot: 120 feet
 - B. Cluster lot:
 - (1) Interior lot: 60 feet
 - (2) Corner lot: 90 feet
4. Minimum lot depth:
 - A. Conventional lot: 125 feet

B. Cluster lot: 90 feet

F. Bulk Regulations:

1. Height

A. Residential building height: 35 feet

B. Public or semi-public building: 45 feet,
provided that required front, rear, and side yards shall be
increased by 1 foot for each foot of height over thirty-five feet.

C. Cupolas, spires and steeples: 90 feet,
by special permit.

D. Accessory buildings: 16 feet,
provided that accessory building heights may be increased to
twenty-four (24) feet in accordance with Article 2, Section P of
the Zoning Ordinance.

(Ord. of 5-4-2004)

2. Minimum yard requirements:

A. Conventional lot:

(1) Front yard: 35 feet
(2) Side yard: 15 feet
(3) Rear yard: 35 feet
5 feet (accessory uses)

B. Cluster lot:

(1) Front yard: 25 feet
(2) Side yard: 10 feet
(3) Rear yard: 25 feet
5 feet (accessory uses)

C. In addition to the above regulations, the yard requirements for uses and structures other than residential dwellings and residential accessory uses shall be further regulated by floor area ratio and lot coverage ratios. A maximum floor

area ratio equal to 0.25 shall apply to such non-residential uses and structures, with a maximum percentage of lot coverage equal to 20%. The location of all such uses shall be subject to site plan approval.

(Ord. of 2025-08-05)

G. Landscaping, Open Space and Recreation Areas:

1. In subdivisions approved for cluster development, twenty percent (20%) of the gross site area shall be common open space dedicated to common usage and ownership. Twenty-five percent (25%) of the required open space area shall be developed as active recreational and active community open space, as defined.
2. In conventional subdivisions with 75 or more lots, ten percent (10%) of the gross site area shall be common open space dedicated to common usage and ownership. Fifty percent (50%) of the required common open space area shall be developed as active recreational and active community open space, as defined.
3. For cluster and conventional subdivisions, no more than 40% of the required common open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, slopes greater than 30%, and/or drainage easements.
4. Required open space shall be contiguous and shall occupy a single parcel within the subdivision unless otherwise approved by the Planning Commission.
5. In no instance shall open space credit be given for lands which are included in or reserved for public rights of way or private travelways, loading areas, required sidewalks or parking areas.
6. Open space shall be accessible to all residential lots within the subdivision via dedicated pedestrian access easements. Where bike and pedestrian trails intended for public use have been designated by the Town's adopted Comprehensive Plan or the Capital Improvements Plan, access easements shall be provided, where appropriate, within the subdivision to link these trails to common open space areas.
7. All open space shall be further regulated by landscaping requirements.
8. All common open space, recreational areas and other common properties shall be preserved for their intended purpose as shown on the approved Plan of Development and shall be established by metes and bounds on the Final Subdivision Record Plat.

9. Common open space, recreational areas and other common properties shall be owned, administered and maintained by a not-for-profit, property owners' association, provided, however, that a portion or all of such properties may be dedicated to the Town subject to and at the sole discretion of the Town for acceptance at time of plat recordation. Property owners' association by-laws, articles of incorporation and restrictive covenants shall be submitted with any application for subdivision plat approval. Prior to final approval of a subdivision plat including properties to be owned by a property owners' association, the Town Attorney shall review and approve the bylaws, articles of incorporation and restrictive covenants.
10. For open space, recreational areas and other common properties to be retained by the property owners' association of a subdivision, the initial developer/owner of the subdivision must establish the owners' association as a legal entity prior to the recordation of the final plat. Membership in the association shall be mandatory for all lot owners within the subdivision. The owners' association shall own all common open space and recreational facilities and shall provide for their perpetual administration, maintenance and operation.
11. The open space and recreation area requirements for residential developments which incorporate a public or private golf course shall be subject to both Special Permit and General Development Plan approval, provided that any golf course under construction prior to the date of this ordinance is not subject to Special Permit regulations.

Notwithstanding the above provisions, open space credit shall be given to the area which circumscribes the golf course irrespective of the actual ownership of the real property which constitutes the golf course.

In addition to the golf course, community recreational amenities (such as swimming pools, tennis courts, pedestrian trails, etc.) shall be provided and made available to the residents of the subdivision pursuant to the approved General Development Plan.

H. Conventional and Cluster Subdivisions: Net Developable Area Calculation

1. Notwithstanding governing lot size and yard regulations, the maximum number of lots for any conventional or cluster subdivision shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.

2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer to *illustrative example of net developable area calculation in Appendix 1 of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No S-R District residential lot shall be designed in such a way that an area of more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or greater, (b) wetlands, (c) 100-year floodplains, and (d) water features.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to the Floodplain Zoning Overlay District, where applicable.
2. Refer to the Chesapeake Bay Preservation Area Overlay District.

3. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
4. Refer to Parking and Loading Requirements, Article 8, for parking regulations and specific requirements for common parking lots for recreation vehicle and boat storage.
5. Recreational vehicle parking shall not be permitted within front yard and the area of the side yard setbacks.
6. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.
7. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
8. All uses within the S-R District shall require a General Development Plan and/or site plan for zoning and/or special permit approval.
9. Refer to General Regulations, Article 2, for additional lot and yard requirements.
10. Refer to Sign Regulations, Article 10, for signage provisions.
(Ord. of 10-3-2000; Ord. of 2020-09-01)

Article 3.D:

DN-R, Downtown Neighborhood Residential District

Article 3.D:
DN-R Residential
(Downtown Neighborhood Residential District)

A. Purpose and Intent:

The DN-R, Downtown Neighborhood Residential District provides for single family detached residences at slightly higher densities than the S-R, Suburban Residential District. All development within the DN-R District shall be consistent with the Comprehensive Plan's goals for harmonious new development as well as the revitalization of existing stable residential neighborhoods in and around downtown Smithfield. The principal objective of this district is to recognize, maintain and reinforce the existing "sense of neighborhood" in and around the downtown historic areas and to promote residential development of compatible scale, historic character and architectural massing.

While the application of the DN-R District is primarily intended to overlay the existing, substantially developed, residential areas close to the downtown, it also can be applied to new rezonings of undeveloped tracts and infill lots situated within close proximity to the downtown residential areas and waterfront areas. It is the intent of this district to preserve existing historic and natural features, to protect existing landscapes and vegetation, to promote excellence in landscape design and to encourage housing with appropriate scale and architecture.

The average density of five units per acre establishes the DN-R District as one which accepts a higher density and relatively small lot size for single family detached residences. All new and redevelopment activities shall be served by public water and sewer, public streets with curb and gutter, sidewalks, drainage and stormwater management.

B. Permitted Uses:

1. Single family detached dwellings.
2. Accessory buildings and uses, limited to detached carport and garages, tool sheds, children's playhouses and play structures, off-street parking, and doghouses.
3. Home occupations.
4. Public parks and playgrounds.
5. Yard sale and/or garage sale (per ordinance definition).
6. Private swimming pools
7. Boat docks, boat storage and waterfront access facilities, as an accessory use to a private single family dwelling.
8. Irrigation wells and wells for ground source HVAC systems.

9. Group Homes.
(Ord. of 2020-09-01; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Cemeteries.
2. Churches and places of worship.
3. Duplex residential dwellings
4. Community buildings, limited to use by residents of the subdivision.
5. Public uses.
6. Libraries.
7. Museums, historic sites and shrines.
8. Plant nurseries, with no sale of products permitted on premises.
9. Child day care centers.
10. Adult day care centers.
11. Nursery schools.
12. Private schools and colleges.
13. Public schools and colleges.
14. Commercial swimming pools and tennis courts.
15. Bed and breakfast lodgings.
16. Public utilities.
17. Civic, fraternal, and/or social organization halls.
18. Tennis courts, public and private.
19. Gymnasiums, public and private.
20. Boat docks, boat storage and waterfront access facilities, as an accessory use to uses other than private single family residential dwellings.
21. Cupolas, spires and steeples for public and semi-public uses.
22. Agriculture, forestry and horticultural uses (non-commercial).
23. Outdoor storage lots for recreational vehicles.
24. Zero lot line residential units (only permitted for new construction.)
25. Accessory apartments.
26. Temporary real estate marketing offices for new subdivisions.
27. Waiver of Parking and Loading Requirements.
28. Child Day Care as a Home Occupation (6-11 Children)
29. Event facilities (principal and accessory uses).
30. Boating, country, and/or hunt clubs.

(Ord. of 9-5-2000, Ord. of 9-2-2008, Ord. of 11-4-2014, Ord. of 2019-09-03; Ord. of 2025-08-05)

D. Maximum Density:

1. Five (5.0) dwelling units per net developable acre.

E. Lot Size Requirements:

1. Minimum district size: Not regulated

2. Minimum lot area:

A. Conventional single family lot: 6000 square feet

B. Duplex lot (1 attached unit/lot):

(1) Interior lot: 4000 square feet

(2) Corner lot: 5000 square feet

C. Duplex lot (1 duplex per lot):

(1) Interior lot: 8000 square feet

(2) Corner lot: 10000 square feet

3. Minimum lot width:

A. Conventional single family lot:

(1) Interior lot: 50 feet

(2) Corner lot: 75 feet

B. Duplex lot (1 attached unit per lot):

(1) Interior lot: 40 feet

(2) Corner lot: 60 feet

C. Duplex lot (1 duplex per lot):

(1) Interior lot: 80 feet

(2) Corner lot: 120 feet

(Ord. of 2025-08-05)

F. Bulk Regulations:

1. Height

A. Residential building height: 35 feet
(principal and accessory uses)

B. Public or semi-public building: 45 feet,
provided that required front, rear, and side yards shall be
increased by 1 foot for each foot of height over thirty-five feet.

C. Cupolas, spires and steeples: 50 feet

2. Minimum yard requirements:

A. Conventional single family lot:

(1) Front yard: 25 feet,
Except where forty percent (40%) or more of the
frontage on one side of the street within the same block
is improved with buildings, no building on that side of the
street within the same block shall be required to have a
front yard greater than the average front yard of the
existing buildings. However, when there are buildings
on the adjacent lots on both sides, the front yard shall
not be required to be greater than the average of the
front yards of the buildings on the adjacent lots. The
side line of a building on a corner lot shall not be a factor
in these calculations.

(2) Side yard (interior lot): 10 feet,
Except that the minimum side yard for any lot of record
prior to the date of the adoption of this ordinance shall
be 5 feet.

Side yard (corner lot): 20 feet,
Except that the minimum side yard for any corner lot of
record prior to the date of the adoption of this ordinance
shall be 10 feet.

(3) Rear yard: 25 feet (residences)
5 feet (accessory uses),

B. Duplex attached residential lot:

(1) Front yard: 25 feet,

Except where forty percent (40%) or more of the frontage on one side of the street within the same block is improved with buildings, no building on that side of the street within the same block shall be required to have a front yard greater than the average front yard of the existing buildings. However, when there are buildings on the adjacent lots on both sides, the front yard shall not be required to be greater than the average of the front yards of the buildings on the adjacent lots. The side line of a building on a corner lot shall not be a factor in these calculations.

(2) Side yard (interior lot): 10 feet

Side yard (corner lot): 15 feet

Except that the minimum side yard for accessory uses for any lot of record prior to the date of the adoption of this ordinance shall be 5 feet.

(3) Rear yard: 25 feet (residences)

5 feet (accessory uses),

D. A maximum floor area ratio equal to 0.25 shall apply to uses other than residential.

G. Open Space:

1. In conventional subdivisions with 50 or more lots, 10% of the gross site area shall be open space dedicated to common usage and ownership, 50% of such area shall be developed as recreational and active community open space, as defined.

2. No more than 40% of the dedicated open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, slopes greater than 30% and/or drainage easements.
3. All dedicated open space is regulated by landscaping requirements.
4. In no instance shall open space credit be given for lands which are included in or reserved for public rights of way, private travelways, loading areas, required sidewalks or parking areas.

H. Net Developable Area Calculation for DN-R District:

1. Notwithstanding governing lot size and yard regulations, the maximum number of units for attached residential development or subdivision shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (*Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be

demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No DN-R District residential lot shall be configured such that more than 10% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains, and (d) water features.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to the Floodplain Zoning Overlay District, where applicable.
2. Refer to the Chesapeake Bay Preservation Area Overlay District.
3. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
4. Refer to Parking and Loading Requirements, Article 8, for parking regulations and specific requirements for common parking lots for recreation vehicle and boat storage.
5. Recreational vehicle parking shall not be permitted within front yard and the area of the side yard setbacks.
6. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.
7. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

8. Refer to the Smithfield Design and Construction Standards Manual for additional residential design standards and criteria, where applicable.
9. Refer to the Smithfield Historic District Design Guidelines and the HP-O District for additional residential design standards and criteria for properties located within the historic preservation areas.
10. All uses within the DN-R District shall require a General Development Plan and/or site plan for zoning and/or special permit approval.
11. Refer to General Regulations, Article 2, for additional lot and yard requirements.
12. Refer to Sign Regulations, Article 10, for signage provisions.

(Ord. of 10-3-2000; Ord. of 2020-09-01)

Article 3.E:
A-R, Attached Residential District

Article 3.E:
A-R, Attached Residential
(Townhouse and Attached Residential District)

A. Purpose and Intent:

The A-R, Attached Residential District is created to provide for attached residential dwellings such as conventional townhouses, row houses, multiplex dwellings, duplexes and other similar forms of attached residential units. Single family detached residential dwellings may be permitted under the special use provisions of the district. Garden apartments, "over and under" attached residences, housing for the elderly, and other forms of multi-family housing are not permitted in this district. The A-R District is intended for use in locations compatible with the Comprehensive Plan's goals for medium density, attached residential development in Smithfield. The average density of six (6) to eight (8) units per net developable acre establishes this district as one recognizing townhouse-styled units as the dominant land use.

The A-R District shall be applied to undeveloped tracts lying within Smithfield, as well as to infill parcels at selected locations with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, creating self-sustaining neighborhoods and recreational areas and encouraging attached housing with compatible scale, materials and character of architecture. Development in the A-R, Attached Residential District shall be sensitive to land physiography, provision of adequate public infrastructure and development of quality transportation improvements in achieving optimal siting of dwellings, recreation areas, community facilities and open space.

B. Permitted Uses:

1. Attached residential (townhouse) dwellings.
2. Duplex residential dwellings.
3. Private community facilities, recreation areas and other common area improvements normally associated with attached residential developments (other than those requiring special use permits) shall be permitted subject to general development plan and final site plan approval.
4. Accessory uses, to include tool sheds, detached garages and carports, children's playhouses, doghouses and accessory off-street parking and loading spaces.
5. Irrigation wells and wells for ground source HVAC systems.
6. Group Homes.

(Ord. of 2020-09-01; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Single family detached residences, subject to S-R District regulations, provided that such residences do not comprise more than 25% of the total planned residential units depicted on the general development plan.
2. Parking lots for recreational vehicles and boats.
3. Commercial swimming pools and tennis courts.
4. Churches and places of worship.
5. Public uses and facilities.
6. Recycling centers, for use by the A-R District residents only.
7. Child day centers.
8. Adult day care centers.
9. Nursery schools.
10. Private schools.
11. Public schools.
12. Cemeteries.
13. Home occupations.
14. Repealed 2025-08-05
15. Institutional housing and general care for indigents and orphans.
16. Boating, country, and/or hunt clubs.
17. Public utilities.
18. Temporary real estate marketing offices for new subdivisions.
19. Multi-family housing for the elderly and assisted living residences requiring medical and/or food support structures, subject to MF-R regulations.
20. Waiver of Parking and Loading Requirements.

(Ord. of 9-2-2008, Ord. of 2019-09-03; Ord. of 2025-08-05; Ord. of 2025-10-08)

D. Maximum Density:

1. Eight (8.0) dwelling units per net developable acre.

E. Lot Size Requirements:

1. Minimum district size: Five (5) acres
2. Minimum lot area for attached (townhouse) dwellings:
 - A. Interior lot: 1600 square feet

B. Corner lot: 2400 square feet

C. Condominium: See Additional Regulations for A-R District

3. Minimum lot area for duplex dwellings:

A. Duplex lot (1 attached unit/lot):

(1) Interior lot: 4000 square feet
(2) Corner lot: 5000 square feet

B. Duplex lot (1 duplex per lot):

(1) Interior lot: 8000 square feet
(2) Corner lot: 10,000 square feet

C. Condominium: See Additional Regulations for A-R District

4. Minimum lot width for attached (townhouse) dwellings:

A. Interior lot: 18 feet

B. Corner lot: 35 feet,
subject to additional side yard regulations.

C. Condominiums: See Additional Regulations for A-R District

5. Minimum lot width for duplex dwellings:

A. Duplex lot (1 attached unit per lot):

(1) Interior lot: 35 feet
(2) Corner lot: 50 feet

B. Duplex lot (1 duplex per lot):

(1) Interior lot: 70 feet
(2) Corner lot: 100 feet

C. Condominiums: See Additional Regulations for A-R District

(Ord. of 2025-08-05)

6. Other: Where a lot is to be subdivided into individual lots for the sale of single family attached dwelling units:

- A. Lot lines shall conform with party wall centerlines, and
- B. Each lot shall be required to include a rear privacy yard with a minimum area of 200 square feet. The design of the privacy yard shall be detailed on the final site plan and shall include provisions for screening, fencing, paving, exterior lighting and/or special landscaping treatment.

F. Bulk Regulations:

1. Height

- A. Residential building height: 35 feet
by Commission waiver: 45 feet, but not to exceed 3 stories.
- B. Public or semi-public building: 45 feet,
provided that required front, rear and side yards shall be increased by 1 foot for each foot of height over thirty-five feet.
- C. Cupolas, spires and steeples: 90 feet,
by special use permit approved by the Planning Commission.
- D. Accessory structures: 16 feet
provided that accessory building heights may be increased to twenty-four feet in accordance with Article 2, Section P of the Zoning Ordinance.

2. Minimum yard requirements for attached, duplex and two-family dwellings:

- A. Front yard: 25 feet,
for any yard fronting a public right of way.
- 12 feet,
for any yard fronting a private travelway and/or parking bay,
provided that the minimum yard depth be measured from the face of building to either (1) the back of vehicular pavement curbing or (2) the back of sidewalk if located between building

and vehicular pavement curbing, whichever dimension is closer to the building front.

20 feet,
for any yard fronting a private travelway and/or parking bay serving a residential dwelling with a garage.

B. Side yard: 25 feet,
for any side yard fronting a public right of way.

16 feet,
for any side yard abutting a private travelway and/or parking bay.
12 feet,
for any side yard abutting an adjacent lot line.

C. Rear yard: 25 feet

3. In addition to the above regulations, the yard requirements for uses and structures other than residential dwellings and residential accessory uses shall be further regulated by floor area ratio and lot coverage ratios. A maximum floor area ratio equal to 0.30 shall apply to such non-residential uses and structures, with a maximum percentage of building coverage on the lot equal to 20%. The location of all such uses shall be subject to site plan approval.

(Ord. of 5-4-2004)

G. Open Space and Recreation Areas:

1. Twenty-five percent (25%) of the gross site area shall be common open space dedicated to common usage and ownership.
2. Fifty percent (50%) of the required common open space area shall be developed as active recreational areas and facilities.
3. Active recreational areas may include playgrounds with recreational structures, tot lots, tennis courts, swimming pools, wading pools, spas and saunas, clubhouse facilities, community meeting rooms and other similar facilities intended for the exclusive use and participation of residents within the development. The applicant shall establish that the type and quality of the planned improvements for the active recreation space shall satisfy the needs of the residents of the project. The location, mix, type, quality and phasing of active recreation facilities and open spaces shall be delineated on the General

Development Plan and are subject to Planning Commission approval. A bond may be required for such improvements and facilities subject to the discretion of the Planning Commission.

4. No more than 40% of the required common open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management facilities, slopes greater than 30% and/or drainage easements.
5. Required common open space shall be contiguous and shall occupy a single parcel within the A-R development unless otherwise approved by the Planning Commission.
6. In no instance shall open space credit be given for lands which are included in or reserved for public rights of way or private travelways, loading areas, required sidewalks or parking areas.
7. Open space and active recreational areas shall be accessible to all attached residential lots within the development via dedicated pedestrian access easements. Walkways and other forms of pedestrian access shall form an interconnected system within the A-R District, serving as access to open space, recreational areas and other pedestrian destinations. Pedestrian systems shall be delineated on the General Development Plan.
8. Where community bike and pedestrian trails intended for public use have been designated by the Town's adopted Comprehensive Plan or the Capital Improvements Plan, the applicant shall connect interior pedestrian trails and sidewalks within the project, where appropriate, to these community trails.
9. All open space shall be further regulated by landscaping requirements.
10. All common open space, recreational areas and other common properties shall be preserved for their intended purpose as shown on the approved Plan of Development and shall be established by metes and bounds on the Final Subdivision Record Plat.
11. Common open space, recreational areas and other common properties shall be owned, administered and maintained by a not-for-profit, property owners' association, provided, however, that a portion or all of such properties may be dedicated to the Town subject to and at the sole discretion of the Town for acceptance at time of plat recordation. Property owners' association by-laws, articles of incorporation, restrictive covenants and a schedule of maintenance shall be submitted with any application for subdivision plat or site plan approval.

12. For open space, recreational areas and other common properties to be retained by the property owners' association of a subdivision, the initial developer/owner of the subdivision must establish the owners' association as a legal entity prior to the recordation of the final plat. Membership in the association shall be mandatory for all lot owners within the subdivision. The owners' association shall own all common open space and recreational facilities and shall provide for their perpetual administration, maintenance and operation.

(Ord. of 2021-07-06)

H. Net Developable Area Calculation for Attached Residential

1. Notwithstanding governing lot size and yard regulations, the maximum number of units for attached residential development or subdivision shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. *(Refer to illustrative example of net developable area calculation in the Appendix of the Zoning Ordinance.)*

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be

demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No A-R District residential lot shall be configured such that more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features. Stormwater management and BMP facilities shall not be constructed within the boundaries of a residential lot.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Waiver of Minimum District Size: The Planning Commission may approve a special permit waiving the five acre minimum district size requirement for the A-R, Attached Residential District provided that the owner shall successfully demonstrate that consolidation with contiguous parcels or lots necessary to meet minimum district size represents an undue economic hardship or physical impossibility. Further, the owner shall establish that such proposed A-R development will have no deleterious effect on contiguous properties while satisfying the purpose and intent of the district.
2. Refer to Parking and Loading Requirements, Article 8, for parking regulations.
 - A. Parking spaces for each dwelling unit shall be assigned and located within close proximity to the individual dwelling unit served.
 - B. Repealed Ord. of 2025-10-08.
 - C. ADA (American Disabilities Act) parking requirements and dimensions shall be incorporated as a required improvement into all plats and site plans.
 - D. Recreational vehicle parking shall not be permitted on residential lots within the A-R District. Refer to Parking and Loading Requirements for parking regulations and specific requirements for common parking lots for recreation vehicle and boat storage.

(Ord. of 2025-10-08)

3. Travelways, Combined Travelways with Parking Bays and General Access:
 - A. All dwellings shall have access to a travelway providing for two-way traffic on twelve (12) foot travel lanes with a combined minimum width of 24 feet (curb to curb), within a minimum 30 foot private vehicular access easement to be recorded with the subdivision plat.
 - B. Travelways combined with single-loaded perpendicular parking bays shall be a minimum width of 42 feet (curb to curb), 18 feet of which shall be allocated to and striped for parking. Travelways combined with double loaded perpendicular parking bays shall maintain a minimum width of 60 feet (curb to curb), with 18 feet allocated to the depth of each parking bay space.
 - C. Travelways and combined travelways with parking bays shall be constructed to geometric and pavement design standards as specified by the Town's Design and Construction Standards manual, as revised.
 - D. All travelways and parking bays shall be constructed with VDOT CG-6 or approved equivalent curb and gutter.

(Ord. of 2025-10-08)

4. Refuse and Solid Waste Buffering and Screening
 - A. All refuse facilities shall be completely enclosed and screened.
5. Additional Setback and Lot Requirements
 - A. Where adjacent properties are zoned to a district other than the A-R District, all Attached Residential buildings shall be set back at least 25 feet from the common district property line(s) or as otherwise provided by screening and buffer requirements.
 - B. Front lot lines shall be common with private vehicular access easement lines, provided that where a perpendicular parking stall, recreational feature and/or a sidewalk intended for common usage are located outside of the private vehicular access easement, a minimum landscaped front yard of 12 feet shall be provided.

6. Separation and Grouping of Units

- A. Building structures for single-family attached dwelling units shall be separated from one another by a minimum of 24 feet.
- B. No more than eight (8) and no fewer than three (3) single-family attached units (townhouses) shall be included in any one physically contiguous grouping.
- C. Townhouse grouping shall be designed to minimize "flat," row-house architectural facades. Architectural projections, off-sets, window bays, porches, mixed materials and colors and other design elements shall be provided to achieve this result.
- D. Architectural treatment of attached dwellings shall vary so that no more than two abutting units are substantially the same and so that no more than four units in any group are substantially the same.

7. Required Improvements and Maintenance of Improvements

- A. For any development in the A-R District, all common area improvements (including open space, recreational facilities, private travelways, walkways, parking areas and other community facilities) shall be maintained by and at the sole responsibility of the developer-owner of the A-R District development until such time as the developer-owner conveys such common area to a non-profit property owners' association entity consisting of the individual owners of the dwelling units in the development.
- B. On-site lighting, signing and mailboxes (as approved by the U.S. Postal Service) shall be provided by the owner-developer of the A-R, Attached Residential District development. These improvements shall be of compatible scale, materials and colors, the designs for which shall be provided with the final site plan.

8. Property Owners' Association and Covenants

- A. Prior to final approval of a subdivision plat or site plan which includes common properties or common property improvements to be owned by a property owners' association, the Town Attorney shall review and approve the applicant's property owners' association bylaws, articles of incorporation, restrictive covenants and a schedule of common property maintenance.

- B. Deed restrictions and covenants shall be included with the conveyance of common property and common property improvements to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts.
- C. Restrictive covenants shall specify the detailed means by which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal travelways and other common elements of the development.

9. Additional Land Development and Site Plan Requirements

- A. All uses within the A-R District shall require a General Development Plan for zoning and/or special permit approval. The General Development Plan shall serve as the master land use plan for the specific development proposal.
- B. The development of any and all sections within the A-R District shall require site plan approval in conformance with the General Development Plan.
- C. A Traffic Impact Assessment may be required for any A-R District application by the Planning and Zoning Administrator. The study shall be prepared in accord with the guidelines and standards provided by the Town.
- D. Refer to Landscaping Regulations for additional screening buffer yard and open space landscaping provisions.
- E. Refer to the Town's Design and Construction Standards Manual for additional residential design standards and criteria.

10. Condominiums

- A. Any proposed condominium development established under the Condominium Laws of Virginia shall be subject to the following provisions:
 - (1) All AR district provisions shall be met, as if lot lines existed, unless approved by special use permit.

(2) Repealed 2024-02-06

(3) A site plan shall be required and shall govern the location of all site structures and improvements on final plans.

11. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.
12. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
13. Refer to the Floodplain Zoning Overlay District, where applicable.
14. Refer to the Chesapeake Bay Preservation Area Overlay District.
15. Refer to the Smithfield Historic District Design Guidelines and the HP-O district for additional design standards and criteria, where applicable.
16. Refer to Sign Regulations, Article 10 for signage provisions.

(Ord. of 2022-02-06)

Article 3.F:

MF-R, Multifamily Residential District

Article 3.F:
MF-R Residential
(Multifamily Residential District)

A. Purpose and Intent:

The MF-R, Multifamily Residential District is intended to provide for multifamily residences at locations compatible with the Comprehensive Plan's goals for housing for the elderly and other limited high density residential development and redevelopment in Smithfield. No more than three (3) unrelated occupants may reside in any one multifamily or attached dwelling in the MF-R District. The average density of twelve (12) units per acre establishes this district as one recognizing garden-styled and mid-rise apartment and/or condominium units as the dominant land use. Buildings shall not exceed three stories in height.

While no new garden apartment projects are recommended by the Comprehensive Plan, the MF-R District is intended to promote housing for the elderly and well planned higher density residential developments. Retirement residential projects, independent living communities and nursing homes and housing for persons requiring assisted living care are encouraged under this district.

Elderly housing proposals may be granted higher densities (up to 20 or more units per acre) subject to superior design proposals as well as the results of the supporting transportation/parking studies which quantify a reduction in parking demand and overall traffic impacts attributable to elderly and assisted living projects. The development of townhouses are permitted in the MF-R District and shall be subject to the requirements of the A-R, Attached Residential District.

This designation may be applied to existing multi-family development within stable areas of the Town. Also, it is intended for application to certain undeveloped tracts and infill locations as recognized by the Comprehensive Plan, where housing for the elderly would be appropriate. In all instances, it is the intent of this district to promote development which is sensitive to existing natural features and vegetation, promotes excellence in site planning and landscape design and incorporates appropriate scale, materials and character of architecture. Development in the MF-R District must be sensitive to land forms, environmental characteristics, adequate public infrastructure and quality transportation improvements.

B. Permitted Uses:

1. Multiple family residential dwellings (with no more than three (3) unrelated occupants per dwelling unit).
2. Single family attached dwellings, subject to A-R District regulations.
3. Duplex residential dwellings, subject to A-R District regulations.
4. A mix of residential dwelling types as set forth above.
5. Private community facilities, recreation areas, parking lots for recreational vehicles and other common area improvements normally associated with multi family residential developments (other than those requiring special use permits).
6. Accessory uses, to include tool sheds, detached garages and carports, children's playhouses and doghouses.
7. Irrigation wells and wells for ground source HVAC systems.

(Ord. of 2020-09-01)

C. Uses Permitted by Special Use Permit:

1. Cemeteries.
2. Community buildings, limited to residential use.
3. Churches and places of worship.
4. Public uses and facilities.
5. Libraries.
6. Child day care centers.
7. Adult day care centers.
8. Nursery schools, for use by MF-R District residents only.
9. Private schools and related uses.
10. Public schools and related uses.
11. Commercial swimming pools and tennis courts, except as may be approved in a planned unit development.
12. Housing for the elderly and assisted living residences requiring medical and/or food support structures.
13. Institutional housing and general care for indigents and orphans.
14. Hospitals and medical offices.
15. Public utilities.
16. Nursing homes (licensed) with medical offices.
17. Recycling centers, for use by the MF-R District residents only.
18. Home occupations.
19. Waiver of district size.
20. Waiver of maximum density.
21. Waiver of maximum building height.
22. Temporary real estate marketing offices for new subdivisions.

23. Waiver of Parking and Loading Requirements.
24. Parking lots for recreational vehicles and boats.

(Ord. of 9-5-2000, Ord. of 9-2-2008; Ord. of 2025-10-08)

D. Maximum Density:

1. Multifamily dwellings (conventional):

Twelve (12.0) dwelling units per net developable acre.

2. Multifamily dwellings (subject to conditional zoning agreements and proffered for elderly and assisted living orientations only):

Twenty (20.0) dwelling units per net developable acre (by special permit via waiver of maximum density).

3. Repealed (2025-08-05).

(Ord. of 2025-08-05)

E. Lot Size Requirements:

1. Minimum district size:

Five (5) acres

2. Minimum lot area for multifamily dwellings:

Not regulated,

provided that dwellings must be appropriately sited to respect physiographic, air, solar, landscape, screening and environmental characteristics of lot and their relationship to adjoining properties, as well as other criteria provided in the Additional Regulations of this district.

3. Non-residential uses:

In addition to the above regulations, the yard requirements for uses and structures other than residential dwellings and residential accessory uses shall be further regulated by floor area ratio and lot coverage ratios. A maximum floor area ratio equal to 0.30 shall apply to such non-residential uses and structures, with a maximum percentage of building coverage on the lot equal to 20%. The location of all such uses shall be subject to site plan approval.

(Ord. of 2025-08-05)

F. Bulk Regulations:

1. Maximum Height

- A. Residential building height: 40 feet
- B. Public or semi-public building: 45 feet,
provided that required front, rear and side yards shall be increased by 1 foot for each foot of height over thirty-five feet.
- C. Cupolas, spires and steeples: 90 feet,
by special permit.

2. Minimum yard requirements for multifamily dwellings:

- A. Front yard: 30 feet,
for any yard fronting a public right of way.

15 feet,
for any yard fronting a private travelway and/or parking bay,
provided that the minimum yard depth be measured from the building to either (1) the back of vehicular pavement curbing or (2) the back of sidewalk if located between building and vehicular pavement curbing, whichever is closer.
- B. Side yard: 15 feet,
provided that where a side yard fronts a public right of way, the side yard shall be 30 feet.
- C. Rear yard: 30 feet

(Ord. of 2025-08-05)

G. Open Space and Recreation Areas:

1. Thirty percent (30%) of the gross site area shall be common open space dedicated to common usage and ownership.
2. Fifty percent (50%) of the required common open space area shall be developed as active recreational areas and facilities.
3. Active recreational areas may include playgrounds with recreational structures, tot lots, tennis courts, swimming pools, wading pools, spas and saunas, clubhouse facilities, community meeting rooms and other similar facilities intended for the exclusive use and participation of residents within the MF-R development. The applicant shall establish that the type and quality of the planned improvements for the active recreation space shall satisfy the needs of the residents of the project. The location, mix, type, quality and phasing of active recreation facilities and open spaces shall be delineated on the General Development Plan and is subject to Planning Commission approval. A bond may be required for such improvements and facilities subject to the discretion of the Planning Commission.
4. No more than 40% of the required common open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management facilities, slopes greater than 30% and/or drainage easements.
5. Required open space shall be contiguous and shall occupy a single parcel within the MF-R development unless otherwise approved by the Planning Commission.
6. In no instance shall open space credit be given for lands which are included in or reserved for public rights of way or private travelways, loading areas, required sidewalks or parking areas.
7. Common open space and active recreational areas shall be accessible to all attached residential lots within the development via dedicated pedestrian access easements. Walkways and other forms of pedestrian access shall form an interconnected system within the MF-R District, serving as access to open space, recreational areas and other pedestrian destinations. Pedestrian systems shall be delineated on the required General Development Plan.

8. Where community bike and pedestrian trails intended for public use have been designated by the Town's adopted Comprehensive Plan or the Capital Improvements Plan, the applicant shall connect interior pedestrian trails and sidewalks within the project to these community trails.
9. All open space shall be further regulated by landscaping and buffer yard requirements.
10. All common open space, recreational areas and other common properties shall be preserved for their intended purpose as shown on the approved Plan of Development and shall be established by metes and bounds on the Final Subdivision Record Plat.
11. Common open space, recreational areas and other common properties shall be owned, administered and maintained by a not-for-profit, property owners' association, provided that a portion or all of such properties may be dedicated to the Town at the sole discretion of the Town Council for acceptance at the time of plat recordation. Property owners' association by-laws, articles of incorporation, restrictive covenants and a schedule of maintenance shall be submitted with any application for a subdivision plat or site plan approval.
12. For common open space, recreational areas and other common properties to be retained by the property owners' association, the initial developer/owner of the project must establish the owners' association as a legal entity prior to the recordation of the final plat. Membership in the association shall be mandatory for all property owners within the development. The owners' association shall own all common open space and recreational facilities and shall provide for their perpetual administration, maintenance and operation.

H. Net Developable Area Calculation for the MF-R District:

1. Notwithstanding governing lot size and yard regulations, the maximum number of units for multifamily and attached residential development or subdivision shall be calculated based on existing land conditions. The yield of a multifamily development project shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (*Refer to illustrative example of net developable area calculation in Appendix 1 of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes of less than 10%:</i>	100%
<i>Slopes greater than 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes of 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No MF-R District residential lot shall be configured such that more than 10% of the prescribed minimum lot area for a subdivided attached residential or duplex residential lot is comprised of one or more of the following physical land units: (a) slopes of 30% or more, (b) wetlands, (c) 100-year floodplains or (d) water features. Stormwater management and BMP facilities shall not be constructed within the boundaries of a residential lot.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Waiver of Minimum District Size: The Planning Commission may approve a special permit waiving the five acre minimum district size requirement for the MF-R District provided that the owner shall successfully demonstrate that the consolidation of contiguous parcels or lots necessary to meet the minimum district size represents an undue economic hardship or physical impossibility. Further, the owner shall establish that such proposed MF-R development will have no deleterious effect on contiguous properties while satisfying the purpose and intent of the district.

2. Refer to Parking and Loading Requirements for parking regulations.
 - A. Parking spaces for each dwelling unit shall be assigned and located within reasonable walking distance to the individual dwelling unit served.
 - B. Repealed Ord. of 2025-10-08.
 - C. ADA (American Disabilities Act) parking requirements and dimensions shall be incorporated as a required improvement into all plats and site plans.
 - D. Recreational vehicle parking shall not be permitted on residential lots within the MF-R District. Refer to Parking and Loading Requirements for commercial parking lots and specific requirements for recreation vehicle and boat storage.
3. Travelways, Combined Travelways with Parking Bays and General Access:
 - A. All dwellings shall have access to a travelway providing for two-way traffic on twelve (12) foot travel lanes with a minimum width of 24 feet (curb to curb), within a minimum 30-foot private vehicular access easement which shall be recorded with the subdivision plat.
 - B. Travelways combined with single loaded perpendicular parking bays (90 degree parking stalls) shall be a minimum width of 42 feet (curb to curb), 18 feet of which shall be allocated to and striped for parking. Travelways combined with double loaded perpendicular parking bays shall be a minimum width of 60 feet (curb to curb), with 18 feet allocated to the depth of each parking bay space.
 - C. Travelways and combined travelways with parking bays shall be constructed to geometric and pavement design standards as specified by the Town's *Design and Construction Standards Manual*, as revised.
 - D. All travelways and parking bays shall be constructed with VDOT CG-6 or approved equivalent curb and gutter.

(Ord. of 2025-10-08.)

4. Refuse and Solid Waste Buffering and Screening
 - A. All refuse facilities shall be completely enclosed and screened according to the provisions established in the Landscaping and Screening Regulations.
5. Additional Setback and Lot Requirements
 - A. Where adjacent properties are zoned to a district other than the MF-R District, all buildings shall be set back at least 30 feet from the common district property line(s) or as otherwise provided by screening and buffer requirements.
 - B. Front lot lines shall be common with private vehicular access easement lines, provided that where a perpendicular parking stall, recreational feature and/or a sidewalk intended for common usage are located outside of the private vehicular access easement, a minimum landscaped front yard of 12 feet shall be provided.
6. Separation and Grouping of Units
 - A. Building structures for multifamily residential units shall be separated from one another by a minimum of 30 feet.
 - B. No more than twenty-four (24) multifamily units shall be included in any one building structure, provided that greater than 24 units per building may be permitted for housing for the elderly by special permit.
 - C. Multifamily groupings shall be designed to minimize "flat," row- house architectural facades. Architectural projections, off-sets, window bays, porches, mixed materials and colors and other design elements shall be employed to achieve this result.

(Ord. of 2025-08-05)

7. Required Improvements and Maintenance of Improvements
 - A. For any development in the MF-R District, all common area improvements (including open space, recreational facilities, private travelways, walkways, parking areas and other community facilities) shall be maintained by the developer/owner of the MF-R District development until such time as the developer/owner conveys said common area to a non-profit property owners association.

B. On-site lighting, signage and mailboxes (as approved by U.S. Postal Service) shall be provided by the owner/developer of the MF-R District development. These improvements shall be of compatible scale, materials and colors with the proposed development and adjacent uses. The designs for these improvements shall be provided with the final site plan.

J. Property Owners' Association and Covenants

A. Prior to final approval of a subdivision plat or site plan which includes common properties or common property improvements to be owned by a property owners association, the Town Attorney shall review and approve the applicant's property owners' association bylaws, articles of incorporation, restrictive covenants and a schedule of common property maintenance.

B. Deed restrictions and covenants shall be included with the conveyance of common property and common property improvements to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien being inferior only to taxes and recorded trusts.

C. Restrictive covenants shall specify the detailed means by which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal travelways and other common elements of the development.

K. Additional Land Development and Site Plan Requirements

A. All uses within the MF-R District shall require a General Development Plan for zoning and/or special permit approval. The General Development Plan shall serve as the master land use plan for the specific development proposal.

B. The development of any and all sections within the MF-R District shall require site plan approval in conformance with the General Development Plan.

C. A Traffic Impact Assessment may be required for any MF-R District application by the Planning and Zoning Administrator. See Appendix, Article 14.B.

D. Refer to Article 9, Landscape and Screening Regulations for additional screening buffer yard and open space landscaping provisions.

E. Refer to the Town's Design and Construction Standards Manual for additional residential design standards and criteria.

L. Condominiums

A. Any proposed condominium development established under the Condominium Laws of Virginia shall be subject to the following provisions:

- (1) All setbacks, density and other MF-R District provisions shall be met.
- (2) Minimum lot and yard requirements shall be met as if lot lines existed.

M. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.

N. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

O. Refer to the Floodplain Zoning Overlay District, where applicable.

P. Refer to the Chesapeake Bay Preservation Area Overlay District.

Q. Refer to Article 10, Signage Regulations for signage provisions.

(Ord. of 2020-09-01; Ord. of 2025-08-05)

Article 3.G:
R-O, Residential Office District

Article 3.G:
R-O, Residential Office
(Transitional Residential/Office District)

A. Purpose and Intent:

The R-O, Residential Office District is established to provide for the location of office, studio, and conditional retail uses in low intensity development patterns. The district is intended to provide opportunities for commercial offices, studio, and limited retail within areas of the Town which are in transition from stable residential neighborhoods to more intensive, non-residential uses. The district is established for the purposes of selectively providing for well-planned non-residential land uses to be located between older residential neighborhoods and existing higher intensity non-residential areas, such as corridor commercial, shopping center commercial, downtown commercial and industrial areas.

The R-O District is to be applied where offices or financial institutions are the principal uses on a lot. This would include locations in both newly developing areas and redeveloping older areas of the Town which are subject to the pressures of adaptive reuse of existing structures but where lot sizes are questionable for non-residential uses with on-site parking. As specifically related to new development patterns in the Town, the district is to be used to implement planned professional and health care-related office parks and integrated development complexes.

Minimum site improvements shall include adequate on-site parking, public water and sewer service, public streets, storm drainage, stormwater management facilities and sidewalks.

(Ord. of 2-7-2017)

B. Permitted Uses:

1. Medical and dental offices, inclusive of outpatient facilities.
2. Banks and financial institutions without drive-thru facilities, excluding payday lending and check-cashing establishments.
3. General and professional offices.
4. (Repealed 2019)
5. Child day care and adult day care facilities.
6. Single family residential dwellings, provided that (a) said residential dwellings shall conform in all respects to the S-R District and (b) there shall be no more than one single-family dwelling per lot.
7. Studios for an artist, designer, writer, photographer, sculptor or musician.

8. Accessory uses, to include tool sheds, detached garages and carports, children's playhouses, doghouses and accessory off-street parking and loading spaces.
9. Irrigation wells and wells for ground source HVAC systems.
10. Group Homes.

(Ord. of 2019-09-03; Ord. of 2020-09-01; Ord. of 205-08-05)

C. Uses Permitted by Special Use Permit:

1. Retail sales provided that there shall be no exterior or store-front displays (exclusive of Recreational Substance Establishments).
2. Drive-in banks.
3. Residential apartments, as an ancillary use within a commercial structure and limited to one dwelling unit per structure.
4. Bed and breakfast lodgings.
5. Medical care facilities, inclusive of inpatient facilities.
6. Funeral homes.
7. Parking lots (private or public, off-street as a principal use).
8. Public schools, colleges and universities.
9. Private schools, colleges and universities.
10. Any use incorporating a drive-thru facility.
11. Permitted and special permit uses on private water and sewer systems.
12. Foster homes and family care residences
13. Accessory apartments.
14. Personal service establishments.
15. Home occupations.
16. Repealed (2023-12-05)
17. Waiver of maximum building height.
18. Waiver of lot size requirements.
19. Temporary real estate marketing offices for new subdivisions.
20. Waiver of Parking and Loading Requirements

(Ord. of 2000-09-05; 2008-09-02; 2011-04-05; Ord. of 2017-02-07; Ord. of 2023-12-05; Ord. of 2025-08-05)

D. Maximum Density:

1. Non-residential uses and accessory residential uses shall be regulated by floor area ratio. A maximum floor area ratio equal to 0.25 shall apply to non-residential uses and structures.
2. Residential dwellings: Subject to S-R District regulations.

E. Lot Size Requirements:

1. Minimum district size: Not regulated.
2. Minimum lot area:
 - A. Conventional lot: 15,000 square feet
3. Minimum lot width:
 - A. Conventional lot, with public water and sewer:
 - (1) Interior lot: 100 feet
 - (2) Corner lot: 125 feet
4. Minimum lot depth:
 - A. Conventional lot, with public water and sewer: 125 feet

F. Bulk Regulations:

1. Height:
 - A. Building height: 35 feet
 - B. Public or semi-public building: 45 feet, provided that required front, rear and side yards shall be increased by 1 foot for each foot of height over thirty-five feet.
 - C. Cupolas, spires and steeples: 90 feet, by special permit.
 - D. Accessory buildings: 16 feet, provided that accessory building heights may be increased to twenty-four (24) feet in accordance with Article 2, Section P of the Zoning Ordinance.
2. Minimum yard requirements:

A. Conventional lot, with public water and sewer:

- (1) Front yard: 35 feet,
- (2) Side yard: 15 feet
except where the lot adjoins an existing residential district,
and then the side yard must then be at least 20 feet
- (3) Rear yard: 35 feet
5 feet (accessory uses)

B. Maximum lot coverage for non-residential uses:

The maximum percentage of lot coverage for a non-residential use shall not exceed twenty (20) percent. The location of all such uses shall be subject to site plan approval.

(Ord. of 5-4-2004)

G. **Landscaping, Open Space and Recreation Areas:**

1. Twenty percent (20%) of the gross lot area shall be landscaped open space.
2. Open space and recreation area regulations for residential uses in the R-O District, if and when required, shall be governed by those specified in the S-R District.

H. **Net Developable Area Calculation:**

1. Notwithstanding governing lot size and yard regulations, the maximum use intensity for any subdivision lot or non-residential lot shall be calculated based on existing land conditions. The development yield (in terms of allowable lots or floor area) shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer to *illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No R-O District lot shall be designed or employed for use in which an area more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains, and (d) water features.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to the Floodplain Zoning Overlay District, where applicable.

2. Refer to the Chesapeake Bay Preservation Area Overlay District.

3. All business services and storage shall be conducted within the principal structure which is to be completely enclosed.

4. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.

5. Refer to Parking and Loading Requirements, Article 8, for parking regulations:

- a. Parking for non-residential uses shall be governed by the parking and loading requirements for that use.
- b. Parking for a non-residential use shall not be permitted within the front yards of any lot.
- c. No parking shall be permitted within a yard setback line.
- d. Recreational vehicle parking shall not be permitted within front yard and the area of the side yard setbacks.

6. Refer to Sign Regulations, Article 10, for signage provisions.

7. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

8. Refer to the Town's Design and Construction Standards Manual for additional regulations.

9. All uses within the R-O District shall require a General Development Plan and/or site plan for zoning and/or special permit approval.

10. All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of fences, wall or landscaping.

11. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.

(Ord. of 10-3-2000; Ord. of 2020-09-01)

Article 3.H:
D, Downtown District

Article 3.H:
D, Downtown
(Downtown Mixed Use District)

A. Purpose and Intent:

The D, Downtown District is established to promote harmonious development, redevelopment and rehabilitation of uses in and around the historic downtown residential and commercial areas of Smithfield. The regulations of the D, Downtown District are intended to promulgate the goals of the Comprehensive Plan for thoughtful revitalization and historic preservation while emphasizing residential stability and encouraging a balanced mix of uses in the downtown business area.

Urban design priorities within the D District are to be placed on: (1) encouraging continued use and revitalization of single family residences within the district, (2) providing opportunities for selected businesses consistent with downtown market objectives, (3) enhancing pedestrian circulation patterns, (4) minimizing vehicular/pedestrian access conflicts among downtown land uses, (5) respecting the geometry of the downtown streetscape, (6) maintaining strong continuity with the architectural precedents of the Town's historic area, and (7) providing flexibility in the application of harmonious geometric standards for site development.

No off-street parking is required for downtown business uses within the D District which do not exceed 10,000 square feet in lot coverage or a floor area ratio (FAR) of 2.0. Centralized and coordinated public parking within the downtown area is encouraged to serve local business and tourism uses, while off-street parking is recommended on individual residential properties and large commercial properties. Higher density residential development and mixed-used development is permitted by special permit to encourage the location of residences convenient to places of shopping and work. Signage and outdoor storage are restricted to promote an attractive and stable urban environment.

B. Permitted Uses:

Permitted uses shall be those in the following categories which do not exceed 10,000 square feet in lot coverage or a floor area ratio (FAR) of 2.0.

1. Single family residential dwellings, as a principal use, subject to the residential district regulations governing the proposed residential dwelling type and other additional regulations subject to this district.

2. Retail sales establishments (exclusive of automobile dealerships and sales establishments, lumber and millwork retail sales and storage yards, other uses which require outdoor storage of retail goods, and Recreational Substance Establishments).
3. Offices, general and professional.
4. Personal service establishments.
5. Banks and financial institutions, excluding payday lending and check-cashing establishments.
6. Eating establishments (exclusive of fast food restaurants).
7. Business service and office supply establishments.
8. Repair service establishments, provided that any given repair service does not employ more than three (3) persons on the premises during a single shift and that all repair services are performed indoors. No outdoor use, storage or display is permitted.
9. Parking lots (private or public, as a principal use).
10. Home occupations (in detached residential dwellings).
11. Residential dwellings, as an ancillary use in mixed use commercial structures, subject to other additional regulations pertaining to this district.
12. Taxicab Service.
13. Event facilities (accessory uses).
14. Irrigation wells and wells for ground source HVAC systems.
15. Group Homes

(Ord. of 10-7-2003, 4-5-2011, Ord. of 2019-09-03; Ord. of 2020-09-01; Ord. of 2023-12-05; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

The conversion of any residential structure for a non-residential use as the principal use of the building shall be subject to special use permit approval, even if the converted use in question is one of the permitted uses listed above.

1. Any individual use otherwise permitted hereinabove by-right in the D District, but which exceed 10,000 square feet in lot coverage or a floor area ratio (FAR) of 2.0 (and thus, must provide off-street parking), or any of the following uses:
2. Multifamily and attached residential dwellings, as a principal use.
3. Bed and breakfast lodgings.
4. Private post office and delivery services.
5. Funeral homes.
6. Public uses and utilities.
7. Any by-right use for which business, storage or display is conducted outside of an enclosed building.

8. Any use incorporating drive-thru facilities.
9. Hotels and motels.
10. Convenience or quick-service food stores (with or without automotive services).
11. Theaters.
12. Parking garages and structures.
13. Public and private schools.
14. Laundromats.
15. Commercial recreation establishments (limited to indoor uses).
16. Civic, fraternal, and/or social organization halls.
17. Repair service establishments, for any given repair service which employs more than three (3) persons on the premises in a single shift and that all repair services are performed indoors.
18. Waterfront retail business activities associated with the uses in this article, including boat docks and piers, yacht clubs, marinas and boat service facilities, storage and shipment of waterborne commerce, fish and shellfish receiving, seafood packing and shipping and recreational activities. Waterfront retail business uses shall require on-site parking in accord with Article 8, Parking and Loading Regulations.
20. Child day care facilities.
21. Farmers' markets and temporary stands for sale of produce and seasonal merchandise.
22. Visitor centers and public restroom facilities.
23. Churches and places of worship.
24. Repealed (2023-12-05)
25. Waiver of landscape and open space requirements.
26. Waiver for increase in building height over 35 feet.
27. Waiver of floor area ratio regulation.
28. Waiver of yard requirements.
29. Waiver of density for elderly housing.
30. Waiver of Maximum density for residential uses.
31. Waiver of Parking and Loading Requirements
32. Event facilities (principal uses).
33. Boating, country, and/or hunt clubs.
34. Recreational Substance Establishments.

(Ord. of 9-2-2008, 4-5-2011, Ord. of 2019-09-03; Ord. of 2023-12-05)

D. Lot Size Requirements:

1. Minimum district size: The district shall conform with the official Zoning Map.
2. Minimum lot area: Not regulated

3. Minimum lot width: Not regulated

E. Bulk Regulations:

1. Maximum building height:

a. Residential and business uses: 35 feet

b. Public and semi-public buildings: 45 feet

c. Church spires: 90 feet

2. Minimum yard requirements

a. Front yard: Not regulated; provided

Front yard dimensions shall conform to within twenty percent (20%) of the setback of the average of the existing adjacent structures on the same side of the street as the primary structure.

b. Side yard: 5 feet; except

(1) Side yard shall be at least 10 feet or as otherwise required by buffer yard criteria where adjacent to any residential district, and

(2) Side yard shall be at least 10 feet where adjacent to a public right-of-way, an alley and which is recorded as an ingress/egress easement.

c. Rear yard: Not regulated; except rear yard shall be at least 10 feet where adjacent to any residential district.

3. Maximum floor area ratio: 2.0

4. Maximum residential density:

a. 12 dwelling units per net developable acre for mixed use structures.

- b. 12 dwelling units per net developable acre for multifamily dwellings and housing for the elderly.
- c. 8 dwellings units per net developable acre for single family attached dwellings.
- d. 4 dwelling units per net developable acre for single family detached dwellings.
(Ord. of 5-4-2004)

F. Open Space:

1. Not regulated for existing structures and uses.
2. Ten percent (10%) of the gross lot area shall be landscaped open space.

G. Net Developable Area Calculation:

1. Notwithstanding governing lot size and yard regulations, the maximum use intensity for any lot shall be calculated based on existing land conditions. The development yield (in terms of allowable lots or floor area) shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required with all subdivision and site plans. *(Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.)*

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than or greater than 20% percent of the calculated net acreage.
4. No D District lot shall be designed or employed for use in which an area more than twenty-five percent (25%) of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains, and (d) water features.

(Ord. of 8-1-2001)

H. Additional Regulations

1. The conversion of any residential structure or any portion thereof for a non-residential use of the building is subject to special use permit approval.
2. Uses other than single family residential uses shall be subject to site plan approval.
3. All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of fences, wall, or landscaping.
4. For any use adjacent to uses which in the opinion of the Planning and Zoning Administrator may be adversely affected by the creation of an additional curb cut, such use will require a special use permit.
5. Off-street parking:
 - a. Not notwithstanding the provisions of Article 8, Parking and Loading Requirements, there are no minimum off-street parking space requirements for downtown retail and non-residential uses in the D District when the lot does not exceed 10,000 square feet, a building(s) does not exceed a floor area ratio (FAR) of 2.0, or if the floor area does not exceed 10,000 square feet.

- b. Off-street parking space requirements in accord with Article 8 shall be provided for downtown retail and non-residential uses in the D District when the lot exceeds 10,000 square feet, a building(s) exceeds a floor area ratio (FAR) of 2.0, or if the floor area exceeds 10,000 square feet.
- c. When on-site parking is to be provided on a lot in the D District, such off-street parking shall comply with the Parking and Loading requirements per Article 8.
- d. On-site parking in accord with Article 8 shall be required for waterfront retail and waterfront business uses (as granted by special permit) in the D District.

6. Establishments offering outdoor dining shall be subject to the provisions regulating such uses in the Town Ordinance.

7. Refer to the Floodplain Zoning Overlay District, where applicable.

8. Refer to the Chesapeake Bay Preservation Area Overlay District.

9. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.

10. Refer to the Smithfield Historic District Design Guidelines and the HP-O District for additional design standards and criteria, where applicable. For properties located within the HP-O District, no site plan shall be approved by the Planning Commission prior to the issuance of a Certificate of Appropriateness.

11. Refer to the Signage regulations in Article 10, where applicable.

12. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

13. Subject to special use permit approval, the outdoor area devoted to storage, loading and display of goods shall be limited to a maximum of 15% of the total lot area and as

otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 15% may be approved under special circumstances when the applicant can demonstrate need and provide expanded and enhanced screening, buffers and landscaping.

14. No private domestic well and septic systems shall be permitted. Irrigation wells and wells for ground source HVAC systems are permitted by right.

(Ord. of 7-5-2005; Ord. of 2020-09-01)

Article 3.I:
HR-C, Highway Retail Commercial District

Article 3.I:
HR-C, Highway Retail Commercial
(Highway Retail Commercial District)

A. Purpose and Intent:

The HR-C District is established to provide suitable locations in Smithfield's heavily traveled collector streets and arterial highways for those commercial and business uses which are oriented to the automobile and which require access characteristics independent of adjoining uses or pedestrian trade. The application of the HR-C District should be to those areas of the Town where individual uses can be grouped into planned concentrations which limit the "strip" development effect on newly developing areas as well as on redevelopment areas where retail and business uses currently exist. Adequate transportation and site planning of district uses should have the goal of minimizing conflicts with through-traffic movements along the entrance Town's corridors. It is not intended for this district to be applied to shopping centers.

B. Permitted Uses:

An individual use or structure intended for a single use with 40,000 square feet gross floor area or less, incorporating the following uses:

1. Business services and supply establishments.
2. Gasoline sales establishments (with no vehicular repair services or storage).
3. Eating establishments, without drive-thru facilities.
4. Fast-food restaurants, without drive-thru facilities.
5. Banks and financial Institutions, excluding payday lending and check-cashing establishments.
6. Funeral homes.
7. Hotels and motels.
8. Offices, general and professional.
9. Personal service establishments.
10. Plant nurseries.
11. Convenience or quick-service food stores, with or without gasoline sales but no vehicle repair.
12. Repair service establishments (exclusive of automobile and light vehicle service and repair), with no outdoor storage.
13. Retail sales establishments, with screened outdoor sales or display of products limited to no greater than 15% of the net developable lot area (exclusive of Recreational Substance Establishments). (See Additional Regulations.)

14. Automobile and light vehicle dealerships and retail sales establishments (with service and repair facilities as an ancillary use, with completely enclosed service facilities and screened outdoor storage of repair vehicles).
15. Theaters.
16. Light intensity wholesale trade establishments (with no outdoor sales or display of products).
17. Kennels, commercial.
18. (Repealed)
19. Private post office and delivery services.
20. Public uses.
21. Event facilities (accessory uses).
22. Medical offices and outpatient care facilities.
23. Parking lots (private and public with off-street parking as the principal use).
24. Private schools.
25. Veterinary clinics (with no outdoor kennel facilities).
26. Car washes.
27. Laundromats.
28. Dry cleaners.
29. Taxicab Service.

(Ord. of 2003-10-07; Ord. of 2005-11-01; Ord. of 2011-04-05; Ord. of 2019-09-03; Ord. 2023-12-05)

C. Uses Permitted by Special Use Permit:

An individual use otherwise permitted hereinabove by-right in the HR-C District, but having greater than 40,000 square feet gross floor area, or any of the following uses:

1. Repair service establishments, with screened outdoor storage.
2. Retail sales establishments, with screened outdoor sales or display of products which exceed 15% of the net developable lot area. (See Additional Regulations.)
3. Churches and places of worship.
4. Hospitals.
5. Parking garages and structures.
6. Commercial recreation facilities (indoor and outdoor).
7. Child day centers.
8. Adult day care centers.
9. Bus stations.
10. Public utilities.
11. Drive-in and movie theaters.
12. Auction establishments.

13. Automobile and light vehicle repair establishments (within completely enclosed structures with screened outdoor storage).
14. Vehicle sale, rental and ancillary service establishments, including boats and watercraft.
15. Service stations.
16. Light warehousing uses related to an adjunct retail use permitted either by-right or special permit.
17. Frozen food lockers.
18. Greenhouses (retail and wholesale).
19. Waterfront retail business activities associated with the uses in this article, including boat docks and piers, yacht clubs, marinas and boat service facilities, storage and shipment of waterborne commerce, fish and shellfish receiving, seafood packing and shipping and recreational activities.
21. Taxidermists.
22. Bed and breakfast establishments.
23. Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district and which involve no more than 15% of the gross floor area in the assembling or processing of products. All assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
24. Any use incorporating a drive-thru facility.
25. Schools, colleges and universities.
26. Mini-storage warehouses, with no exterior storage.
27. Payday lending establishments, check-cashing establishments, pawn shops, and dealers.
28. Waiver of yard requirements, subject to the prohibition of parking in front yards.
29. Waiver for increase in building height over 35 feet.
30. Waiver of Parking and Loading Requirements.
31. Event facilities (principal uses).
32. Shipping Container (accessory use).
33. Recreational Substance Establishments.

(Ord. of 2005-11-01; Ord. of 2008-09-02; Ord. of 2011-04-05; Ord. of 2019-09-03; Ord. 2023-03-07' Ord. of 2023-12-05)

D. Lot Size Requirements:

1. Minimum district size: Not regulated, provided that districts should be located, sized and spaced to limit potential "strip" development impacts.
2. Minimum lot areas: 30,000 square feet

3. Minimum lot width: 150 feet

E. Bulk Regulations:

1. Maximum building height: 35 feet,

2. Minimum yard requirements:

a. Front yard: 40 feet,

provided that a 20 foot setback is required for the outdoor display of items within the front yard.

b. Side yard: 20 feet,

provided, where side yard abuts a public right-of-way or a residential district, the side yard shall be 40 feet.

c. Rear yard: 20 feet,

provided, where rear yard abuts a public right-of-way or a residential district, the rear yard shall be 40 feet.

d. In addition to the above regulations, buffer yard provisions shall apply in accordance with landscape and screening regulations.

3. Maximum floor area ratio: 0.50

(Ord. of 11-1-2005)

F. Open Space and Landscaping:

Fifteen (15%) percent of the gross site area shall be landscaped open space.

G. Net Developable Area Calculation:

1. Notwithstanding governing lot size and yard regulations, the maximum use intensity for any lot shall be calculated based on existing land conditions. The development yield (in terms of allowable lots or floor area) shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.

2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer

(to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No HR-C District lot shall be designed or employed for use in which an area more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.

(Ord. of 8-1-2001)

H. Additional Regulations:

1. All uses shall be subject to site plan approval.

2. All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of fences, wall or landscaping.

3. On a corner lot, no curb cut shall be located closer than 75 feet to the right of way line extended from the intersecting street.

4. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
5. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
6. In addition to landscaping and screening requirements, there shall be a minimum landscaped buffer strip of 20 feet in depth along all HR-C District property frontage. No parking is permitted within the buffer strip.
7. The outdoor area devoted to storage, loading and display of retail goods shall be limited to a maximum 15% of the net developable lot area and shall provide screening as indicated on an approved site plan. Subject to special use permit approval, outdoor storage, loading and display areas of retail goods in excess of 15% of net developable lot area may be approved under special circumstances when the applicant can provide expanded and enhanced screening, buffers and landscaping. Screening of outdoor display and product sales areas only may be waived by administrative action of the Planning and Zoning Administrator, provided that loading and storage areas not related to displays shall be screened.
8. Where a lot is contiguous to property located in a residential district, all buildings shall have a minimum setback of 40 feet from common property lines. A landscaped buffer strip shall be provided in accord with the transitional buffer yard requirements for commercial/residential properties (see Appendix), with landscape materials and placement subject to site plan approval. However, no buffer yard shall be established with a horizontal width less than the height of the structure adjacent to the buffer yard. Fencing may be required in addition to landscape buffers in such cases deemed necessary by the Planning Commission with fence material and heights subject to final plan approval.
9. Gasoline pump islands, canopies and structural elements shall be governed by the same regulations as applied to a principal structure.
10. Refer to the Floodplain Zoning Overlay District, where applicable.
11. Refer to the Chesapeake Bay Preservation Area Overlay District.
12. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.

13. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
14. Refer to Article 10, Signs for signage regulations.
15. Off-street parking facilities should be located within the side or rear yards whenever possible.

Article 3.J:
PS-C, Planned Shopping Center District

Article 3.J:
PS-C, Planned Shopping Center Commercial
(Planned Shopping Center District)

A. Purpose and Intent:

The PS-C District is established to provide locations in Smithfield for community and neighborhood retail commercial and business service uses within planned shopping districts under unified site design. Application of the PS-C District is intended to promote orderly commercial facility development, minimize vehicular traffic within the shopping complex, permit "one-stop" and comparison shopping "under one roof" and facilitate safe pedestrian movement among individual uses within the district. Typical uses found in the PS-C District include supermarkets, drug stores, department stores, specialty stores, movie theaters, personal service establishments and professional offices (in limited number).

In general, the maximum size of the PS-C District shopping center, as permitted by-right, should not exceed a total gross floor area of 200,000 square feet (inclusive of all planned buildings) or a total site size of fifteen (15) acres, provided that free-standing retail buildings may be permitted within the district. Individual commercial or business uses which exceed 40,000 square feet of floor area shall require a special use permit. Under comprehensive planning and special permit considerations, the ultimate district size may be increased at appropriate locations to accommodate larger shopping centers serving a regional market base.

B. Permitted Uses:

1. Planned shopping centers with an aggregate gross floor area of less than or equal to 200,000 square feet (inclusive of all planned buildings) or an aggregate size of less than 15 acres, incorporating the uses outlined in 2. below.
2. An individual use or structure intended for a single use with 40,000 square feet gross floor area or less, incorporating the following uses, provided that such uses are secondary to and supportive of a shopping center as a principal use.
 - a. Retail sales establishments (exclusive of automobile dealerships, lumber and millwork retail sales and storage yards, other retail uses requiring outdoor storage or display of goods which do not exceed 15% of net developable lot area, and Recreational Substance Establishments).
 - b. Eating establishments (sit-down, without drive-thru facilities).
 - c. Banks and financial Institutions without drive-thru facilities, excluding payday lending and check-cashing establishments.
 - d. Offices, general and professional.

- e. Personal service establishments.
- f. Public uses.
- g. Event facilities (accessory uses).
- h. Laundromats (self-service).
- i. Convenience and quick service food stores (without automotive services).
- j. Business service and supply establishments.
- k. Medical offices, inclusive of outpatient medical care facilities.
- l. Fast food restaurants (subject to Additional Regulations of this district).
- m. Taxicab Service.

(Ord. of 2003-10-07; 2011-04-05; 2019-09-03; Ord. of 2023-12-05)

C. Uses Permitted by Special Use Permit:

The following uses may be permitted as special permit uses in the PS-C District provided that such uses are secondary to and supportive of a shopping center as a principal use and which otherwise comply with the special permit use provisions of this ordinance:

- 1. Shopping centers with aggregate gross floor area in excess of 200,000 square feet gross floor area, or an aggregate size in excess of 15 acres, or containing an individual use or structure intended for a single use with greater than 40,000 square feet gross floor area.
- 2. Theaters.
- 3. Private schools.
- 4. Churches and places of worship.
- 5. Parking garages and structures.
- 6. Boating, country, and/or hunt clubs.
- 7. Hospitals and medical care facilities.
- 8. Funeral homes.
- 9. Event facilities (principal uses).
- 10. Parking lots (private or public, off-street as a principal use).
- 11. Veterinary clinics.
- 12. Private post office and delivery service establishments which exceed 40,000 square feet.
- 13. Hotels and motels
- 14. Fast-food restaurants.
- 15. Automobile and light vehicle repair establishments (within completely enclosed structures with screened outdoor storage).
- 16. Car washes.
- 17. Service stations.
- 18. Schools, colleges, and universities.
- 19. Plant nurseries.
- 20. Commercial recreation facilities (including outdoor uses).
- 21. Greenhouses (commercial and wholesale).

22. Waterfront retail businesses and activities associated with a shopping center use, including boat docks and piers, yacht clubs, marinas, boat service facilities and recreation uses.
23. Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district and which involve no more than 15% of the gross floor area in the assembling or processing of products. All assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
24. Any use incorporating a drive-thru facility.
25. Repair service establishments, provided that any given repair service does not have more than ten (10) persons on the premises during a single shift and that all repair services and storage related thereto are performed indoors.
26. Uses requiring outdoor storage, display and merchandising of retail goods when such areas exceed 15% of net developable lot area.
27. Payday lending establishments, check-cashing establishments, pawn shops, and dealers.
28. Waiver of yard requirements.
29. Waiver of landscape and screening requirements.
30. Waiver of Parking and Loading Requirements.
31. Recreational Substance Establishments.

(Ord. of 2008-09-02; Ord. of 2011-04-05; Ord. of 2019-09-03; Ord. of 2023-12-05)

D. Lot Size Requirements:

1. Minimum PS-C district size: 4 acres
2. Minimum lot area: 40,000 sq. ft.
3. Minimum lot width: 200 ft.

E. Bulk Regulations:

1. Maximum building height: 35 feet, provided that building heights may be increased by special permit up to a maximum height of 50 feet if one (1) additional foot of yard setback is provided for each one (1) foot in building height over 35 feet.
2. Minimum yard requirements:
 - a. Front yard: 40 feet

- b. Side yard: 40 feet,
provided that if side yard is adjacent to a residential district or right of way contiguous thereto, the side yard shall be 60 feet.
- c. Rear yard: 40 feet

3. Maximum floor area ratio: 0.35

F. Open Space and Landscaping:

Fifteen percent (15%) of the site shall be landscaped open space. Refer to Article 9, Landscaping and Screening for additional regulations and requirements.

G. Net Developable Area Calculation:

- 1. Notwithstanding governing lot size and yard regulations, the maximum use intensity for any lot shall be calculated based on existing land conditions. The development yield (in terms of allowable lots or floor area) shall be based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
- 2. The subdivision plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer to *illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or

property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No PS-C District lot shall be designed or employed for use in which an area more than 25% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.
(Ord. of 8-1-2001)

H. Additional Regulations:

1. All uses shall be subject to site plan approval.
2. All refuse shall be contained in completely enclosed facilities. Refuse containers and refuse storage shall be located in a paved area and screened from public view by means of fences, wall, or landscaping.
3. All business services and storage shall be conducted within the principal structure which is to be completely enclosed.
4. On a corner lot, no curb cut shall be located closer than 75 feet to the right of way line extended from the intersecting street.
5. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
6. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
7. Fast food restaurants shall be permitted by right when such fast food uses are located under the roof of a shopping center, are accessed from within the shopping center, have no drive-thru facility, are within a shopping center which contains a minimum of five (5) retail uses in addition to the fast food restaurant and where it can be demonstrated that such fast food uses do not interfere with the purpose and intent of the district. Otherwise said uses may be permitted only by special use permit.

8. The outdoor area devoted to storage, loading, and display of retail goods shall be limited to a maximum 15% of the net developable lot area and shall provide screening as indicated on an approved site plan. Subject to special use permit approval, outdoor storage, loading and display areas of retail goods in excess of 15% of net developable lot area may be approved under special circumstances when the applicant can provide expanded and enhanced screening, buffers and landscaping. Screening of outdoor display and product sales areas only may be waived by administrative action of the Planning and Zoning Administrator, provided that loading and storage areas not related to displays shall be screened.
9. Where a lot in the PS-C District is contiguous to property located in a residential district, all buildings shall have a minimum setback of 40 feet from common property lines. A landscaped buffer strip shall be provided in accord with the transitional buffer yard requirements for commercial/residential properties (see Appendix), with landscape materials and placement subject to site plan approval. However, no buffer yard shall be established with a horizontal width less than the height of the structure adjacent to the buffer yard. Fencing may be required in addition to landscape buffers in such cases deemed necessary by the Planning Commission with fence material and heights subject to final plan approval.
10. There shall be a minimum landscaped green strip of 25 feet in depth along all PS-C District property frontage. No parking is permitted within the buffer strip. The landscape buffer strip shall be exclusive of the area required for utility easements, sidewalks and other infrastructure which would interrupt the nature and intent of the buffer area.
11. Refer to the Floodplain Zoning Overlay District, where applicable.
12. Refer to the Chesapeake Bay Preservation Area Overlay District.
13. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
14. Refer to Article 10, Signs for signage provisions.
15. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a*

building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."

Article 3.J2:

PMUD, Planned Mixed-Use Development District

Article 3.J2:
PMUD, Planned Mixed-Use Development District
(Planned Mixed-Use District)

A. Purpose and Intent:

The Planned Mixed-Use Development (PMUD) District is established to provide locations within the Town for the development of a mixture of compatible residential, commercial and light industrial uses in a unified fashion to create vibrant communities and neighborhoods. Flexibility and innovative design is encouraged in the planning and implementation stages of such PMUD's. Because of the flexibility, such developments are encouraged to proffer a maximum degree of detail as to the location, type, size and compatibility of the various activities and uses. A commercial component is required for all PMUD Developments.

With the vision of creating highly attractive and well landscaped mixed use settings, at key gateway locations within the Town, this district is intended to promote development with an emphasis on coordinated infrastructure and architecture. Development of lots within the district shall be architecturally and environmentally compatible with adjoining existing land uses and buildings, including residential neighborhoods, and which afford protection to surrounding properties.

Public streets, signage, lighting, pedestrian improvements, site parking and access, landscaping, screened service areas, refuse collection, and other urban design features shall be coordinated by and between the individual uses within the PMUD District, and shall be controlled by design guidelines and standards to be developed with any application under this district. No use will be permitted which might be harmful to the adjoining land uses and the ambience of the adjacent neighborhoods and businesses.

(Ord. of 2022-07-05)

B. Permitted Uses:

1. Single family attached and detached dwellings.
2. Duplex residential dwellings.
3. A mix of residential dwelling types as set forth above.
4. Community buildings, swimming pools, and tennis and basketball courts.
5. Golf course and golf driving range.
6. Quasi-public park, playground, athletic field, and related facility.
7. Child Care Centers and Nursery schools.

8. Adult Care Centers and Assisted living facilities.
9. Libraries, museums, historic sites and shrines.
10. Pharmacies.
11. Bed and breakfast lodging and guest houses.
12. Entertainment centers, excluding adult entertainment centers.
13. Retail Sales.
14. Brewery, Distillery, and Winery establishments with tasting rooms.
15. Event facilities (primary & accessory use).
16. By-right uses permitted in the HRC and I1 Districts, except when a Special Use Permit is required by Section C of this Article.
17. Group Homes (excluding multi-family dwellings).

(Ord. of 2022-07-05; Ord. of 2025-08-05)

C. Uses Permitted by Special Use Permit:

1. Multi-family residential dwellings.
2. Irrigation wells and wells for ground source HVAC systems.
3. Churches and places of worship.
4. Private school and colleges.
5. Private training facilities and vocational schools.
6. Public schools and colleges.
7. Any use incorporating drive-thru facilities.
8. Civic, fraternal and/or social organization halls.
9. Outdoor and Commercial Kennels.
10. Boating, country, and/or hunt clubs.
11. Commercial swimming pools and tennis and basketball courts
12. Accessory apartments within a residential dwelling
13. Cupolas, spires and steeples for public and semi-public uses.
14. Storage lots for recreational vehicles.
15. Agriculture, forestry and horticultural uses (non-commercial).
16. Payday lending establishments, check-cashing establishments, pawn shops, and dealers.
17. Automobile and Light vehicle dealerships and retail sales establishments (with service and repair facilities as an ancillary use, with completely enclosed service facilities and screened outdoor storage of repair vehicles).
18. Waiver of Parking and Loading Requirements.
19. Waiver of floor area ratio regulation.
20. Waiver of yard requirements.
21. Waiver of landscape, open space, contiguous open space, and recreational space requirements.

22. Waiver of district size.
23. Waiver of maximum density.
24. Waiver of maximum building height.
25. Recreational Substance Establishments.

(Ord. of 2022-07-05; Ord. of 2023-12-05)

D. Maximum Density:

Business / Commercial: Regulated by floor area ratio, not to exceed 2.0
Residential: 12 dwelling units per net developable acre for mixed use structures & multifamily dwellings.
8 dwelling units per net developable acre for single family attached dwellings.
5 dwelling units per net developable acre for single family detached dwellings.

(Ord. of 2022-07-05)

E. Lot Size Requirements:

1. Minimum district size:	10 acres
2. Minimum lot area:	Not regulated
3. Minimum lot width:	Not regulated

(Ord. of 2022-07-05)

F. Bulk Regulations:

1. Maximum building height:	35 feet,
2. Minimum yard requirements:	
A. Residential:	
1. Front yard:	35 feet
2. Side yard:	15 feet
3. Rear yard:	35 feet
B. Business / Commercial:	
1. Front yard:	40 feet
2. Side yard:	20 feet
3. Rear yard:	20 feet

(Ord. of 2022-07-05)

G. Open Space:

1. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
2. Walkability and connectivity is highly encouraged throughout the plan.
3. Fifteen (15) percent of the gross acreage of the PMUD District shall be landscaped open space, provided that no more than fifty (50) percent of the dedicated open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, slopes greater than thirty (30) percent and/or drainage easements.

(Ord. of 2022-07-05)

H. Net Developable Area Calculation for PMUD District:

1. Notwithstanding governing lot size, yard regulations, and the density, PMUD uses on any lot shall be calculated based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions.

(Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be

demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No PMUD District lot shall be configured such that more than 10% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.

(Ord. of 2022-07-05)

I. Additional Regulations:

1. All uses in the PMUD District shall be subject to site plan approval.
2. An environmental impact statement shall be required by the Planning Commission or Town Council for any permitted or special permit use.
3. Refer to Sign Regulations, Article 10 for signage provisions.
4. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
5. Refer to the Floodplain Zoning Overlay District, where applicable.
6. Refer to the Chesapeake Bay Preservation Area Overlay District, where applicable.
7. Refer to Article 8, Parking and Loading Requirements, where applicable.
8. All refuse shall be contained in completely enclosed facilities, screened from public view by means of fences, wall, or landscaping.
9. Public streets must meet current VDOT standards.
10. Subject to special use permit approval, the outdoor areas of an PMUD use devoted to storage, loading, and display of goods shall be limited to a maximum 10% of the lot area and as otherwise designated on an approved site plan. Such outdoor areas shall not be counted in the calculation of required open space. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
11. Where a lot is contiguous to property located in a residential district, all buildings shall have a minimum setback of 50 feet from common property lines. A landscaped buffer

yard shall be provided, with landscape materials and placement subject to final plan approval. Fencing may be required in such cases with fence material and heights subject to final plan approval. The minimum setbacks from common property lines may be reduced on a case by case basis by a waiver of the Planning Commission during the site plan and / or subdivision approval process.

12. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
13. Condominiums: Any proposed condominium development established under the Condominium Laws of Virginia shall be subject to the following provisions:
 - (1) All setbacks, density and other PMUD District provisions shall be met.
 - (2) Minimum lot and yard requirements shall be met as if lot lines existed.
14. Required Improvements and Maintenance of Improvements
 - A. For any development in the PMUD District, all common area improvements (including signage, lighting, parks and open space, recreational facilities, private travelways, walkways, landscaping, parking areas and other urban design elements and facilities) shall be maintained by the developer/owner of the PMUD District development until such time as the developer/owner conveys said common area to a non-profit property owners association.
 - B. On-site lighting, signage and mailboxes (as approved by U.S. Postal Service) shall be provided by the owner/developer of the PMUD District development. These improvements shall be of compatible scale, materials and colors with the proposed development and adjacent uses. The designs for these improvements shall be provided with the general development plan and final site plans.
15. Property Owners' Association and Covenants

- A. Prior to final approval of a subdivision plat or site plan within the PMUD District which includes common properties or common property improvements to be owned by a property owners association, the Town Attorney shall review and approve the applicant's property owners' association bylaws, articles of incorporation, restrictive covenants and a schedule of common property maintenance.
- B. Deed restrictions and covenants shall be included with the conveyance of common property and common property improvements to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien being inferior only to taxes and recorded trusts.
- C. Restrictive covenants shall specify the detailed means by which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, pedestrian trails, parking areas, snow removal travelways and other common elements of the development.

16. Additional PMUD District Land Development and Site Plan Requirements

- A. A Pre-Application Conference is required. An application for a PMUD District shall not be deemed "complete" unless and until the Pre-Application Conference has been conducted.
- B. All uses within the PMUD District shall require a General Development Plan for zoning and/or special permit approval. The General Development Plan shall serve as the master land use plan for the specific development proposal. The General Development Plan shall include standards and criteria for streetscape infrastructure, landscaping, signage, private facilities and site elements, and other urban design features to ensure compatibility of lot development activities.
- C. The development of any and all sections or phases within the PMUD District shall require site plan approval in conformance with the General Development Plan.
- D. A Traffic Impact Assessment may be required for any PMUD District application by the Planning and Zoning Administrator. See Appendix, Article 14.B.
- E. Refer to the Town's Design and Construction Standards Manual for additional design standards and criteria.

(Ord. of 2022-07-05)

Article 3.K:
I-1, Light Industrial District

Article 3.K
I-1 District
(Light Intensity Industrial District)

A. Purpose and Intent:

The I-1, Light Intensity Industrial District is established to provide locations within the Town of Smithfield for industries related to research technology, development and training, corporate employment offices and light manufacturing and warehousing operating under high environmental performance standards. The district is further established to encourage innovative design of office and employment related development.

From a design standpoint, this district is intended to promote the development of light intensity land uses in planned business park settings, with an emphasis on low density, well landscaped and screened development which would be compatible with all types of adjoining urban land uses, including residential, and afford maximum protection to surrounding properties. No use should be permitted which might be harmful to the adjoining land uses and the residential ambience of the adjacent neighborhoods. Outdoor storage and outdoor industrial uses are to be discouraged but may be permitted (by special permit and environmental performance review) under unique circumstances.

B. Permitted Uses:

1. Establishments for scientific research (except biological and chemical), development and training.
2. Corporate offices and other offices which support permitted and special permit uses.
3. Light manufacturing, fabrication, testing or repair establishments which are incidental to the primary use of research, development and training or corporate offices (with no outdoor storage, loading, or displays).
4. Banks and financial institutions without drive-thru facilities, excluding payday lending and check-cashing establishments.
5. Private training facilities and vocational schools.
6. Light warehousing establishments, without outdoor storage.
7. Light wholesale trade establishments, without outdoor storage.
8. Private post offices and delivery service establishments.
9. Veterinary hospitals with no outdoor kennel facilities.
10. Service stations with pump islands only and no outdoor storage or automobile repair facilities.

11. Public utilities and facilities (to be constructed by developer for public acceptance).
(Ord. of 4-5-2011)

C. Uses Permitted by Special Use Permit:

1. Establishments for production, processing, assembly, manufacturing, compounding, cleaning, servicing, storage, testing and repair of materials, goods or products which conform to federal, state and local environmental performance standards as related to (a) air pollution, (b) fire and explosion hazards, (c) radiation hazards, (d) electromagnetic radiation and interference hazards, (e) liquid and solid wastes hazards, (f) noise standards and (g) vibration standards.
2. Light manufacturing, fabrication, testing or repair establishments (with screened outdoor storage limited to 50% of the area of building coverage).
3. Child day care centers.
4. Light warehousing establishments, with screened outdoor storage limited to 50% of the area of building coverage.
5. Light wholesale trade and sales establishments, with screened outdoor storage limited to 50% of the area of building coverage.
6. Heliports and helipads, ancillary to a district use.
7. Service stations.
8. Auto and light vehicle service establishments (with screening for servicing and storage areas).
9. Uses permitted by right and by special use permit in the HR-C District.
10. Eating establishments, ancillary to I-1 District uses.
11. Heavy equipment sales and servicing (with screening for servicing and storage areas).
12. Retail sales in a warehouse or wholesale establishment, wherein at least 60% of the gross floor area is devoted to warehouse use.
13. Establishments for biological and chemical scientific research, development and training.
14. Contractor's office, shops and storage yards.
15. Any use incorporating a drive-thru facility.
16. Any use requiring outdoor storage, loading, or display
17. Payday lending establishments, check-cashing establishments, pawn shops, and dealers.
18. Waiver of building height.
19. Waiver of lot size to a minimum 20,000 square feet per lot.
20. Waiver of district size when in conformance with the Comprehensive Plan.
21. Waiver of floor area ratio and building coverage.
22. Communication Towers.
23. Waiver of Parking and Loading Requirements.
24. Shipping Container (accessory use).

(Ord. of 9-5-2000, Ord. of 9-2-2008, 4-5-2011; Ord. of 2023-03-07; Ord. of 2023-12-05)

D. Prohibited Uses:

The specific uses which follow shall not be permitted in the I-1 District.

1. Animal slaughterhouse.
2. Ammonia and chlorine manufacturing.
3. Asphalt mixing plant.
4. Blast furnace.
5. Boiler works.
6. Bulk storage of flammable materials.
7. Concrete mixing and batching products.
8. Coal, wood or wood distillation.
9. Extraction and mining of rocks and minerals.
10. Fertilizer, lime or cement manufacturing.
11. Fireworks or explosives manufacturing.
12. Private garbage incineration.
13. Rendering plants.
14. Automated salvage and other salvage yards.
15. Metal foundries, smelting, processing, fabrication and storage.
16. Soap manufacture.
17. Stockyards.
18. Acid manufacture.
19. Tanning and curing of skins.
20. Petroleum, asphalt or related product refining.
21. Private landfills.
22. Pesticide manufacturing.
23. Herbicide manufacturing.
24. Insecticide manufacturing.
25. (Repealed by Ord. 9-5-2000)
26. Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause.
27. All residential uses.
28. All nonconforming uses shall not be allowed to expand facilities.

(Ord. of 9-5-2000)

E. Maximum Density:

Regulated by floor area ratio.

F. Lot Size Requirements:

1. Minimum district size: 5 acres
2. Minimum lot area: 40,000 square feet
3. Minimum lot width: 150 feet

G. Bulk Regulations:

1. Maximum building height: 50 feet,
except where use abuts a residential district, the maximum
building height shall be 35 feet.
2. Minimum yard requirements:
 - A. Front yard: 50 feet,
provided that a 30 foot setback is required for the outdoor
display of items within the front yard.
 - B. Side yard: 25 feet,
except where side yard abuts a public right of way or a
residential district, the side yard shall be 50 feet.
 - C. Rear yard: 50 feet
 - D. Side and rear yard requirements may be waived where a side or
rear yard abuts a railroad right of way.
3. Maximum floor area ratio: 0.50
4. Maximum building area coverage: 0.30

H. Open Space:

1. An open space plan and landscape design program shall be submitted with applications

for any land use governed by this district.

2. Twenty (20) percent of the site shall be landscaped open space, provided that no more than fifty (50) percent of the dedicated open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, slopes greater than thirty (30) percent and/or drainage easements.

I. Net Developable Area Calculation for I-1 District:

1. Notwithstanding governing lot size and yard regulations, the density and building coverage for I-1 uses on any lot shall be calculated based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. *(Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.)*

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No I-1 District lot shall be configured such that more than 10% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.
(Ord. of 8-1-2001)

J. Additional Regulations:

1. An environmental impact statement may be required by the Planning Commission or Town Council for any permitted or special permit use.
2. Refer to Sign Regulations, Article 10 for signage provisions.
3. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
4. All refuse shall be contained in completely enclosed facilities.
5. On a corner lot, no curb cut shall be located closer than 60 feet to the curb line extended from the intersecting public street.
6. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
7. A freestanding use shall have no more than two curb cuts on any single right-of-way, and such curb cuts shall have a minimum distance of 100 feet between them.
8. The outdoor area devoted to storage, loading and display of goods shall not exceed 25% of the total lot coverage, provided that the combined building and outdoor storage, loading and display areas shall not exceed 50% of the total lot coverage. Such outdoor areas shall not be counted in the calculation of required open space. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
9. Where a lot is contiguous to property located in a residential district, all buildings shall have a minimum setback of 50 feet from common property lines. A landscaped buffer yard shall be provided, with landscape materials and placement subject to final plan approval. Fencing may be required in such cases with fence material and heights subject to final plan approval.

10. All uses in the I-1 District shall be subject to site plan approval.
11. There shall be a minimum landscaped buffer strip of 20 feet in depth along all I-1 District property frontage. No parking is permitted within the buffer strip. The landscape green strip shall be exclusive of the area required for utility easements, sidewalks and other infrastructure which would interrupt the nature and intent of the buffer area.
12. Refer to the Floodplain Zoning Overlay District, where applicable.
13. Refer to the Chesapeake Bay Preservation Area Overlay District.
14. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
15. Subject to special use permit approval, the outdoor areas of an I-1 use devoted to storage, loading, and display of goods shall be limited to a maximum 50% of the lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 50% of the area of building coverage may be approved under special circumstances when the applicant can provide expanded and enhanced screening, buffers and landscaping.

Article 3.K:2

C-I, Commercial / Industrial District

Article 3.K:2
C-I District
(Commercial / Industrial District)

A. Purpose and Intent:

The C-I, Commercial / Industrial District is established to provide locations within the Town of Smithfield for businesses and industries related to research technology, development and training, corporate employment offices, service and supply businesses and light manufacturing and warehousing operating under high environmental performance standards. The district is further established to encourage innovative design of office and employment related development.

From a design standpoint, this district is intended to promote the development of light intensity land uses in planned business park settings, with an emphasis on medium density, landscaped and screened development which would be compatible with all types of adjoining urban land uses, including residential, and afford maximum protection to surrounding properties. No use should be permitted which might be harmful to the adjoining land uses and the residential ambience of the adjacent neighborhoods. Outdoor storage and outdoor industrial uses are to be discouraged but may be permitted (by special permit and environmental performance review) under unique circumstances.

B. Permitted Uses:

1. Establishments for scientific research (except biological and chemical), development and training.
2. Corporate offices and other offices which support permitted and special permit uses.
3. Light manufacturing, fabrication, testing or repair establishments which are incidental to the primary use of research, development and training or corporate offices (with no outdoor storage, loading, or displays).
4. Light warehousing establishments (without outdoor storage).
5. Light wholesale trade establishments (without outdoor storage).
6. Delivery service establishments.
7. Veterinary hospitals (with no outdoor kennel facilities).
8. Public utilities and facilities (to be constructed by developer for public acceptance).
9. Contractor's offices and shops (without outdoor storage).
10. Mini-storage warehouses (without outdoor storage).
11. Business services and supply establishments.
12. Offices, general and professional.

13. Repair service establishments (exclusive of automobile and light vehicle service and repair) (without outdoor storage).
14. Public uses.
15. Taxicab Service

C. Uses Permitted by Special Use Permit:

1. Establishments for production, processing, assembly, manufacturing, compounding, cleaning, servicing, storage, testing and repair of materials, goods or products which conform to federal, state and local environmental performance standards as related to (a) air pollution, (b) fire and explosion hazards, (c) radiation hazards, (d) electromagnetic radiation and interference hazards, (e) liquid and solid wastes hazards, (f) noise standards and (g) vibration standards.
2. Light manufacturing, fabrication, testing or repair establishments (with screened outdoor storage limited to 50% of the area of building coverage).
3. Light warehousing establishments.
4. Light wholesale trade and sales establishments (with screened outdoor storage limited to 50% of the area of building coverage).
5. Auto and light vehicle service establishments (with screening for servicing and storage areas).
6. Heavy equipment sales and servicing (with screening for servicing and storage areas).
7. Retail sales in a warehouse or wholesale establishment, wherein at least 60% of the gross floor area is devoted to warehouse use.
8. Establishments for biological and chemical scientific research, development and training.
9. Contractor's offices and shops (with screened outdoor storage).
10. Any use requiring outdoor storage, loading, or display.
11. Churches and places of worship.
12. Communication towers.
13. Kennels, commercial.
14. Repair service establishments (with screened outdoor storage).
15. Retail sales establishments.
16. Public utilities.
17. Auction establishments.
18. Frozen food lockers.
19. Waterfront retail business activities associated with the uses in this article, including boat docks and piers, yacht clubs, marinas and boat service facilities, storage and shipment of waterborne commerce, fish and shellfish receiving, seafood packing and shipping and recreational activities.
20. Taxidermists.

21. Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district and which involve no more than 15% of the gross floor area in the assembling or processing of products. All assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
22. Mini-storage warehouses (with screened exterior storage).
23. Waiver of yard requirements (subject to the prohibition of parking in front yards).
24. Waiver for increase in building height over 35 feet (not to exceed 50 feet).
25. Waiver of Parking and Loading Requirements.
26. Waiver of district size when in conformance with the Comprehensive Plan.
27. Waiver of floor area ratio and building coverage.
28. Recreational Substance Establishments.

(Ord. of 2019-09-03; Ord. of 2023-12-05)

D. Prohibited Uses:

The specific uses which follow shall not be permitted in the C-I District.

1. Animal slaughterhouse.
2. Ammonia and chlorine manufacturing.
3. Asphalt mixing plant.
4. Blast furnace.
5. Boiler works.
6. Bulk storage of flammable materials.
7. Concrete mixing and batching products.
8. Coal, wood or wood distillation.
9. Extraction and mining of rocks and minerals.
10. Fertilizer, lime or cement manufacturing.
11. Fireworks or explosives manufacturing.
12. Private garbage incineration.
13. Rendering plants.
14. Automated salvage and other salvage yards.
15. Metal foundries, smelting, processing, fabrication and storage.
16. Soap manufacture.
17. Stockyards.
18. Acid manufacture.
19. Tanning and curing of skins.
20. Petroleum, asphalt or related product refining.
21. Private landfills.

22. Pesticide manufacturing.
23. Herbicide manufacturing.
24. Insecticide manufacturing.
25. Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause.
26. All residential uses.
27. All nonconforming uses shall not be allowed to expand facilities.

E. Maximum Density:

Regulated by floor area ratio.

F. Lot Size Requirements:

1. Minimum district size: 5 acres
Other commercial or industrial zoning districts can be counted toward the minimum district size for rezoning
2. Minimum lot area: 20,000 square feet
3. Minimum lot width: 100 feet

G. Bulk Regulations:

1. Maximum building height: 35 feet,
2. Minimum yard requirements:
 - A. Front yard: 25 feet,
 - B. Side yard: 15 feet,
except where side yard abuts a public right of way, the side yard shall be 25 feet.
 - C. Rear yard: 25 feet
3. Maximum floor area ratio: 0.50

H. Open Space:

1. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
2. Ten (10) percent of the site shall be landscaped open space, provided that no more than fifty (50) percent of the dedicated open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, slopes greater than thirty (30) percent and/or drainage easements.

I. Net Developable Area Calculation for C-I District:

1. Notwithstanding governing lot size and yard regulations, the density and building coverage for C-I uses on any lot shall be calculated based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (*Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways, parking spaces and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning

Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.

4. No C-I District lot shall be configured such that more than 10% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.

J. Additional Regulations:

1. An environmental impact statement may be required by the Planning Commission or Town Council for any permitted or special permit use.
2. Refer to Sign Regulations, Article 10 for signage provisions.
3. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.
4. All refuse shall be screened from public view by means of fences, walls or landscaping.
5. On a corner lot, no curb cut shall be located closer than 50 feet to the curb line extended from the intersecting public street.
6. No curb cut shall be located closer than 10 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 30 feet.
7. A freestanding use shall have no more than two curb cuts on any single right-of-way, and such curb cuts shall have a minimum distance of 50 feet between them.
8. The outdoor area devoted to storage, loading and display of goods shall not exceed 25% of the total lot coverage, provided that the combined building and outdoor storage, loading and display areas shall not exceed 50% of the total lot coverage. Such outdoor areas shall not be counted in the calculation of required open space. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.
9. Where a lot is contiguous to property located in a residential district, all buildings shall have a minimum setback of 50 feet from common property lines. A landscaped buffer yard shall be provided, with landscape materials and placement subject to final plan

approval. Fencing may be required in such cases with fence material and heights subject to final plan approval.

10. All uses in the C-I District shall be subject to site plan approval.
11. There shall be a minimum landscaped buffer strip of 10 feet in depth along all C-I District property frontage. No parking is permitted within the buffer strip. The landscape green strip shall be exclusive of the area required for utility easements, sidewalks and other infrastructure which would interrupt the nature and intent of the buffer area.
12. Refer to the Floodplain Zoning Overlay District, where applicable.
13. Refer to the Chesapeake Bay Preservation Area Overlay District.
14. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*
15. Subject to special use permit approval, the outdoor areas of a C-I use devoted to storage, loading, and display of goods shall be limited to a maximum 50% of the lot area and as otherwise designated on an approved site plan. Outdoor storage, loading and display areas in excess of 50% of the area of building coverage may be approved under special circumstances when the applicant can provide expanded and enhanced screening, buffers and landscaping.

(Ord. of 6-1-2010; Ord. 1-6-2015)

Article 3.L:
I-2, Heavy Industrial District

Article 3.L:
I-2 District
(Heavy Intensity Industrial District)

A. Purpose and Intent:

The I-2, Heavy Intensity Industrial District is established to provide locations within Smithfield for existing and future medium to heavy intensity industries. The I-2 District is intended for use by large manufacturing operations, heavy equipment facilities, construction and maintenance yards, fuel businesses and other basic intensive industrial activities normally found in an urban environment. All waterfront uses and lots shall be regulated by special permit. Potentially hazardous uses shall require environmental impact analyses and public review.

B. Permitted Uses:

1. Contractor's offices, shops and storage yards.
2. Establishments for scientific research (except biological and chemical), development and training or corporate offices.
3. Establishments for production, processing, assembly, manufacturing, compounding, cleaning, servicing, storage, testing and repair of materials, goods or products which conform to federal, state and local environmental performance standards as related to (a) air pollution, (b) fire and explosion hazards, (c) radiation hazards, (d) electromagnetic radiation and interference hazards, (e) liquid and solid wastes hazards, (f) noise, (g) vibration and (h) water quality.
4. Heavy equipment sale, rental and service establishments.
5. Lumber yards and building material yards, to include rock sand and gravel storage.
6. Motor freight terminals.
7. Motor vehicle storage and impoundment yards.
8. Storage yards (with coverage subject to Additional Regulations).
9. Recycling centers.
10. Vehicle service establishments.
11. Private training facilities and vocational schools.
12. Warehousing and associated retail establishments.
13. Light wholesale trade establishments, with outdoor storage.
14. Uses permitted by right in the I-1 District.
15. Uses permitted by right in the HR-C District.
16. Service stations.
17. Shipping Container (accessory use)

(Ord. of 9-5-2000; Ord. of 2023-03-07)

C. Uses Permitted by Special Use Permit:

1. Heavy public utility uses, to include:
 - a. electrical generating plants.
 - b. sewerage treatment plants.
2. Animal slaughterhouses.
3. Bus and railroad terminals.
4. Concrete mixing and batching production.
5. Coal, wood or wood distillation facilities.
6. Private garbage incineration.
7. Metal foundries, smelting, processing, fabrication and storage.
8. Stockyards.
9. Establishments for biological and chemical scientific research, development and training.
10. Tanning and curing of skins.
11. Extraction of mineral resources.
12. A residential dwelling appurtenant to and contained within a commercial or industrial building for the specific use of a watchman or caretaker.
13. Drive-in theaters.
14. Automobile auction facility.
15. Heliports and helipads.
16. Veterinary hospitals, inclusive of boarding kennels.
17. Private landfills.
18. Hotels and motels, with or without eating establishments.
19. Airports.
20. Asphalt mixing plant.
21. Bulk storage of flammable materials.
22. Fertilizer, lime or cement manufacturing.
23. All uses permitted by special permit in the HR-C and I-1 Districts.
24. Public utilities and facilities (to be constructed by developer for public acceptance).
25. Adult entertainment establishments.
26. Waterfront business activities (including wholesale and retail uses), including marine enterprises such as boat docks and piers, boat service facilities, storage and shipment of waterborne commerce, packing and shipping plants, and recreational activities related to the waterfront.
27. Yacht clubs and marinas.
28. Communication towers.
29. Payday lending establishments, check-cashing establishments, pawn shops, and dealers.
30. Waiver of district size when in conformance with the Comprehensive Plan.
31. Waiver of floor area ratio.

32. Waiver of building height.
33. Waiver of Parking and Loading Requirements.
(Ord. of 9-2-2008, 4-5-2011; Ord. of 2023-12-05)

D. Prohibited Uses:

The specific uses which follow shall not be permitted in the I-2 District.

1. Ammonia and chlorine manufacturing.
2. Blast furnace.
3. Boiler works.
4. Fireworks or explosives manufacturing.
5. Automobile salvage yard and other salvage yards.
6. Soap manufacture.
7. Acid manufacture.
8. Petroleum, asphalt or related product refining.
9. Pesticide manufacturing.
10. Herbicide manufacturing.
11. Insecticide manufacturing.
12. Any other similar use which in the opinion of the Town Council might be injurious or noxious by reason of odor, fumes, dust, smoke, vibration, noise or other cause which may be deemed as hazardous to the health, welfare and safety of the Town.
13. New residential uses.
14. All nonconforming uses shall not be allowed to expand facilities.

E. Maximum Density:

Regulated by floor area ratio.

F. Lot Size Requirements:

1. Minimum district size:	5 acres
2. Minimum lot area:	40,000 square feet
3. Minimum lot width:	150 feet

G. Bulk Regulations:

1. Maximum building height: 60 feet
2. Minimum yard requirements:
 - A. Front yard: 50 feet,
except where the use abuts a residential district, the front yard shall be 60 feet.
 - B. Side yard: 25 feet,
provided, where side yard abuts a public right of way or residential district, the side yard shall be 50 feet; and
 - C. Rear yard: 50 feet,
provided, where rear yard abuts a public right of way or residential district, the rear yard shall be 60 feet.
 - D. Side and rear yard requirements may be reduced by special permit where a side or rear yard abuts a railroad right of way.
3. Maximum floor area ratio: 0.60
4. Maximum building area coverage: 0.30

H. Open Space:

1. An open space plan and landscape design program shall be submitted with applications for any land use governed by this district.
2. Ten (10) percent of the lot shall be landscaped open space; provided that no more than fifty (50) percent of the landscaped open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, steep slopes and/or drainage easements.

I. Net Developable Area Calculation for I-2 District:

1. Notwithstanding governing lot size and yard regulations, the density and building coverage for I-2 uses on any lot shall be calculated based on its net developable area, with adjustment factors for physical land units as specified in the chart in the following section.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (Refer to *illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%
<i>Private streets, travelways and combined travelways and parking bays</i>	0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.
4. No I-2 District lot shall be configured such that more than 10% of the prescribed minimum lot area is comprised of one or more of the following physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features.
(Ord. of 8-1-2001)

J. Additional Regulations:

1. Refer to Landscaping and Screening, Article 9, for screening and buffer yard provisions.

2. An environmental impact statement may be required for any permitted or special permit use. All uses shall conform to federal, state and local environmental performance standards and design criteria as related to:
 - (a) air pollution,
 - (b) fire and explosion hazards,
 - (c) radiation hazards,
 - (d) electromagnetic radiation and interference hazards,
 - (e) liquid, gas and solid wastes hazards,
 - (f) noise standards,
 - (g) vibration standards,
 - (h) water quality and
 - (i) others as may be requested by the Planning and Zoning Administrator.

In the evaluation of performance standards for any permitted or special permit use in the I-2 District, the City Council, at its sole discretion, may impose other conditions and additional restrictions to that use for the purposes of ensuring the mitigation of impacts and promulgating the health, safety and general welfare of the citizens of Smithfield.

3. All uses shall be subject to site plan approval.
4. All refuse shall be contained in completely enclosed facilities.
5. On a corner lot, no curb cut shall be located closer than 60 feet to the curb line extended from the intersecting public street.
6. No curb cut shall be located closer than 20 feet to a side or rear lot line, unless a common curb cut serves adjacent uses, and in no instance shall the distance between separate curb cuts serving adjacent uses be less than 60 feet.
7. A freestanding use shall have no more than two curb cuts on any single right of way, and such curb cuts shall have a minimum distance of 100 feet between them.
8. The outdoor area devoted to storage, loading and display of goods shall not exceed 30% of the total lot coverage, provided that the combined building and outdoor storage, loading and display areas shall not exceed 60% of the total lot coverage. Such outdoor areas shall not be counted in the calculation of required open space. The location and use of outdoor storage, loading and display areas shall be limited to the designated area(s) on the approved site plan.

9. Where a lot is contiguous to property located in a residential district, all buildings shall have a minimum setback of 50 feet from common property lines. A landscaped buffer yard shall be provided, with landscape materials and placement subject to final plan approval. Fencing may be required in such cases with fence material and heights subject to final plan approval.
10. Adult entertainment establishments, as permitted by special use permit, include the following: (a) adult book stores, (b) adult motion picture or video theaters, (c) cabarets, (d) massage parlors, (e) drug paraphernalia stores, (f) tattoo parlors and (g) establishments for palm readers and mystics, and as defined in the Definitions article of this ordinance. The following additional regulations shall apply to adult entertainment establishments:
 - (a) No adult entertainment establishment shall be located within (1) one mile of any other adult entertainment establishment, (2) one mile of any residential district, (3) one mile of any church or place of worship, (4) one mile of any religious apparel or book store, (5) one mile of any school or education facility, including playgrounds, (6) one mile of any public playground, park, swimming pool or library. Distance between uses shall be measured from the nearest property line of any adult entertainment establishment and the nearest property line of any use cited in the paragraph hereinabove.
 - (b) (Repealed by Ord. of 2020-08-04).
 - (c) (Repealed by Ord. of 2020-08-04).
 - (d) Should any adult entertainment establishment listed above cease or discontinue operation for a period of ninety or more consecutive days, it may not resume, nor be replaced by any other adult entertainment establishment unless it complies with all the requirements set forth hereinabove.
11. Refer to the Floodplain Zoning Overlay District, where applicable.
12. Refer to the Chesapeake Bay Preservation Area Overlay District.
13. Refer to Parking and Loading Requirements, Article 8, where applicable.
14. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the

feasibility of development on the subject soils. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

(Ord. of 2020-08-04)

Article 3.M:

HP-O, Historic Preservation Overlay District

Article 3.M
HP-O, Historic Preservation Area Overlay District

A. Purpose and Intent:

1. The HP-O, Historic Preservation Areas Overlay District fulfills the Comprehensive Plan's goal of recognizing Smithfield's unique character and promoting the conservation and preservation of the Town's historic resources and properties. The preservation and growth management of the Town's downtown business district, waterfront areas and historic residential neighborhoods are fundamental to implementing Smithfield's future land use plan.
2. The HP-O District is established in accord with Section 15.2-2306 of the Code of Virginia, as amended, to maintain, preserve, protect and enhance the architectural excellence, cultural significance, economic vitality, visual quality and historic importance of the Town. The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments or other features or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic or architectural heritage of the Town of Smithfield and the Commonwealth of Virginia.
3. The district is designed to protect designated landmarks and other historic or architectural features and their surroundings within a reasonable distance from destruction, damage, defacement and obviously incongruous development or uses of land. It is also designed to ensure that buildings, structures or signs shall be erected, reconstructed, altered or restored so as to be architecturally compatible with the historic landmark buildings or structures within the district.

B. District Boundaries:

1. To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the HP-O District has been created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by either a special symbol for its boundaries on the Zoning District Map or a separate historic areas overlay map.
2. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum heights and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the HP-O District is superimposed,

except as these other district regulations may be modified by application of the regulations in the HP-O district.

3. The general boundaries of the HP-O District have been drawn and adopted by the Town Council so as to include all lands closely related to and bearing upon the character of the historic district, thus composing a landscape unit and affording transitional regulations needed to control potentially adverse and conflicting environmental influences.
4. The HP-O District boundaries shall be delineated as an overlay district on the Official Zoning Map for the Town or a separate historic areas map incorporated by reference into the Official Zoning Map, and shall be otherwise described as the Local Historic District in the Smithfield Historic District Design Guidelines, with amendments as may be adopted from time to time.

C. Permitted Uses and Limitations:

A building or land shall be used only for the following purposes, and except as provided herein, in each case shall be subject to approval by the Board of Historic and Architectural Review (hereinafter "Review Board") or Planning and Zoning Administrator, as the case may require, in accordance with the standards set forth in this article:

1. All uses shall be governed pursuant to the underlying district regulations of the zoning district in which the HP-O District is applicable.
2. Nothing in this article shall be construed to prevent the application of the building code or other laws and ordinances of the Town of Smithfield which are applicable thereto.
3. Parking and loading provisions shall be in accordance with the provision of the zoning ordinance unless otherwise restricted by the conditions of Review Board approval.
4. The charging of admission fees for visitors, or visitor tours, visitor centers or services within the HP-O District, shall not be considered as commercial uses, but shall require a special use permit.
5. Any special use permitted in the zoning district in which the premises are located is subject to the procedures and standards of this ordinance for approval of said special use permits and shall be subject in all cases to a report by the Review Board in accordance with the purposes and standards of the HP-O District.

(Ord. of 2000-09-05; Ord. of 2004-05-04)

D. Inventory of Landmarks and the Contributing Properties Established

1. A map entitled "Town of Smithfield, Virginia Historic Preservation Overlay," hereinafter called "the Inventory Map," has been adopted and shall be as much a part of this ordinance as if fully described herein and shall be filed as a part of the ordinance by the Clerk of the Town of Smithfield.
2. All structures designated on said map as structures from the 18th century to pre-Civil War or structures with architectural significance from the period after the Civil War shall be considered as landmarks or landmark structures.
3. Properties designated as properties which contribute to the historic character of the Town but which do not contain landmark structures shall be known as contributing properties for the purpose of the ordinance.
4. Properties designated as non-contributing are vacant lots, or those which feature a primary building with one (1) or more of the following features:
 - (a) Less than fifty (50) years of age.
 - (b) Alterations to such an extent that it is no longer representative of the period in which it was constructed.
 - (c) Degradation to such a poor condition that its preservation is difficult.
 - (d) It is unexemplary of any particular architectural style.
 - (e) It has no architectural merit.
5. To remove any ambiguity as to the boundaries of the HP-O District, and to align interpretations of the Inventory Map, attached thereto shall be a list of all tax parcel identification numbers, addresses, and designations for all properties located within the HP-O District.
6. To reflect changes in the HP-O District which occur in real time, the Administrator shall update or amend the Inventory Map and property inventory from time to time with the Review Board's approval. In the event that an amendment to the Inventory Map and property inventory results in a change in the classification of any property in the HP-O District, the Administrator shall refer this change to the Review Board for their review and recommendation, with final review and decision rendered by the Town Council.

(Ord. of 2020-12-01)

E. HP-O District Administration: Board of Historic and Architectural Review

1. Membership: The Review Board shall consist of seven (7) citizens, at least three (3) of whom shall be residents of the historic district and five of whom shall be residents of the Town of Smithfield, appointed by the Town Council. One of the members shall be a licensed architect or building contractor, one shall be a member of the Town Planning Commission and one shall be a citizen who has demonstrated outstanding interest and knowledge in historical or architectural development within the Town. The Review Board shall elect its chairman and the term of office shall be for five years, except that original appointments shall be made for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be made only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The Review Board shall adopt rules of procedure and keep written minutes of its meetings.
2. General Considerations for Review: In general it is the purpose of this Ordinance to establish review procedures for actions affecting properties in the HP-O Historic Preservation Overlay District which will be relatively simple, with minimum delay for those actions which will have little if any permanent effect on the character of the historic district or on a significant structure but also to require a more thorough review for actions which may have a substantial effect on the character of the district or on a significant structure.

Certain actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Planning and Zoning Administrator acting alone, by the Planning and Zoning Administrator acting after informal consultation with the Review Board, by the Review Board acting with original jurisdiction, or in the most serious cases, action by the Town Council following action by the Review Board. The decisions of the Planning and Zoning Administrator may be appealed to the Review Board, the decisions of the Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Isle of Wight County.

The Review Board shall consider, among other things, the following in determining the appropriateness of any erection, reconstruction, exterior alteration, or restoration:

- A. The compatibility with the design, development standards, and criteria as included in the Town's adopted Historic District Architectural Design Guidelines

(adopted December, 1990) with additions and amendments as may be adopted from time to time.

- B. The appropriateness of the general design geometry and proportions, structural arrangement, building materials, texture and color of the proposed building, structure or appurtenant element in relation to such factors as the compatibility with similar features of buildings or structures within the area circumscribed by the subject overlay district(s).
- C. The historical or architectural value and significance of the building, structure or appurtenant element and its relationship to the historic or architectural value of the area in which it is proposed to be located.
- D. The extent to which the building, structure or appurtenant element will be harmonious with or architecturally incompatible with the historic buildings within the subject overlay district(s).
- E. The compatibility of planned improvements and renovations with the architectural and historic quality, character and scale of the historic buildings in the Town of Smithfield.
- F. The effect of the building, structure or appurtenant element on the Comprehensive Plan's goals for tourism, economic development and residential land uses in and around the historic areas in the Town of Smithfield.
- G. The compatibility of the proposed building, structure or appurtenant element with the Comprehensive Plan's goals for historic preservation and architectural design review.
- H. The ability of the owner to put one's property to reasonable and beneficial use.

3. Certain Minor Actions Exempted from Review: Certain minor actions which are deemed not to permanently affect the character of the historic district are exempted from review for architectural compatibility. Such actions shall include the following and any similar actions which, in the opinion of the Planning and Zoning Administrator, will have no more effect on the character of the district than those listed:
 - A. Repainting resulting in the same or like color. (Original painting of masonry surfaces is not exempted from review.)

- B. Addition or deletion of windows, storm windows and doors, that match existing windows, storm windows, and doors. Addition or deletion of window air conditioners.
- C. Addition or deletion of television or radio antennas, skylights, solar collectors, or satellite dishes, in locations not visible from a public street.
- D. Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a landmark site.
- E. Permitted outside storage in any residential, office, business or industrial district which is not visible from a public street.
- F. Any changes within a structure which are not visible from a public street.

Notwithstanding the above, the Planning and Zoning Administrator shall have the authority to order that work be stopped and that an appropriate application be filed for review in any case where the action may produce arresting effects, violent contrasts of materials or colors and intense and lurid colors or patterns, or incongruous details inconsistent with the character of the present structures or with the prevailing character of the surroundings and the historic district.

- 4. Additional Considerations for Demolition and Razing: In reviewing an application to raze or demolish a site, object building or structure in the HP-O District, the Review Board shall consider the following:
 - A. Except as provided by law, no designated landmark building or landmark structure within an HP-O District shall be razed, demolished or moved until razing, demolition or moving is approved by the Review Board or, on appeal, by the Town Council as herein provided.
 - B. Buildings and structures within the HP-O Overlay District, but not designated on the inventory map either as landmarks or as contributing properties, may be razed, demolished or moved with approval of the Planning and Zoning Administrator.
 - C. No building or structure designated as a contributing property shall be razed, demolished or moved until razing, demolition or moving is approved by the Review Board.

D. An appeal to the Town Council shall be automatic from any decision of the Review Board, whether favorable or unfavorable, on an application for razing, demolition or moving of a designated landmark.

5. Approval of Certain Minor Actions by the Planning and Zoning Administrator:

A. Certain actions which are deemed to result in only minor effects on the character of the historic district may be approved by the Planning and Zoning Administrator for any structure, including designated landmarks and contributing properties, upon submittal of an appropriate application as described hereinabove.

B. Such action shall include the following and any similar actions which in the opinion of the Planning and Zoning Administrator will have no more effect on the character of the district than those listed:

- (1) Addition or deletion of outside doors, window frames, shutters, permanent canopies and similar appurtenances.
- (2) Application or use of exterior materials of a similar kind, type, color or texture of those already in use which will substantially cover one or more sides of the structure but which will not result in destruction or replacement of original exterior material. This provision applies to roofing as well as siding.
- (3) Minor additions or deletions to the structure which will not substantially change the architectural character of the structure or which are generally hidden from public view.
- (4) Construction of accessory buildings and structures which are generally in keeping with the character of the existing structure and its surroundings except on a site adjacent to a designated landmark site.
- (5) Construction of piers, docks and bulkheads.
- (6) Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small fountains, ponds and the like, which will not substantially affect the character of the property and its surroundings.

- (7) Any sign permitted in a residence district and any permitted non-illuminated flat sign not exceeding 32 square feet in area in a business or industrial district.
- (8) Off-street loading areas and off-street parking areas containing ten spaces or less in a business or industrial district.
- (9) Outside storage which does not require structural changes or major grading in a business or industrial district and is not visible from a public street.

C. The Planning and Zoning Administrator shall be guided in his decisions by the standards and guidelines established for the Review Board and shall have authority to request modifications of a specific proposal in order that the proposal may comply with said standards and guidelines.

D. In any case where the Planning and Zoning Administrator is uncertain of his authority to act on a particular application under this section or in any case where the Planning and Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the Review Board for action by said Review Board.

E. In case of disapproval by the Planning and Zoning Administrator, the applicant may appeal the Planning and Zoning Administrator's decision within thirty days thereof, to the Review Board.

F. The Planning and Zoning Administrator shall keep a record of his decisions under this section and shall report such decisions to the Review Board at its next regular meeting.

6. Approval of Certain Major Actions by the Planning and Zoning Administrator-Properties Other Than Designated Landmarks or Contributing Properties:

A. In addition to its granted authority hereinabove for all properties in the HP-O District, the Planning and Zoning Administrator shall, for properties not designated as landmark or contributing properties on the inventory map, have authority to approve any of the major actions as listed hereinbelow except construction of a new main building or accessory building on a site adjacent to a designated landmark site. This is provided that the Planning and Zoning

Administrator determines that such action will not substantially and permanently affect the character of the HP-O District in an adverse way, and further provided that he consults with the members of the Review Board and receives approval of his action by a majority of the membership thereof.

- B. The Planning and Zoning Administrator shall be guided in his decisions under this section by the same standards and guidelines established for the Review Board hereinbelow and shall have authority to request modification of proposed changes in order to comply with those standards and guidelines.
- C. In any case where the Planning and Zoning Administrator is uncertain of his Authority to approve an application under this section or in any case where the Planning and Zoning Administrator and the applicant cannot agree on changes in the proposal, the application shall be referred to the Review Board for action by the said Review Board.
- D. In case of disapproval by the Planning and Zoning Administrator the Applicant may appeal said decision within 30 days thereof to the Review Board.
- E. The Planning and Zoning Administrator shall have no authority to grant special exceptions or variances as these are provided for elsewhere in the Zoning Ordinance.

7. Approval of Major Action by the Review Board:

- A. The following major actions and any other actions not specifically exempted by the terms of this Ordinance or which, in the opinion of the Planning and Zoning Administrator, may constitute a major permanent and detrimental change to the character of the HP-O District, shall be approved only after a public meeting and favorable action by a majority of the Review Board:
 - (1) Razing, demolishing or moving of a designated landmark or contributing building or accessory.
 - (2) Construction of a new main building at any location or a new accessory building on a site adjacent to a designated landmark site.
 - (3) Any addition to, or substantial alteration of, a designated landmark or structure on a contributing property which increases the square footage

of the structure or otherwise alters substantially its size, height, contour or outline.

- (4) Any change or alteration of the exterior architectural style of a designated landmark or contributing property, including removal or rebuilding of porches, dormers, cupolas, stairways, terraces and the like.
- (5) Addition to or removal of one or more stories pertaining to a designated landmark or contributing property.
- (6) Alteration of the roof line of a designated landmark or contributing property.
- (7) Landscaping which involves major changes in grade or walls and fences more than three-and-one-half feet in height.
- (8) Illuminated signs or any sign over 32 square feet in area.
- (9) Any other major actions not specifically covered by the terms of this section but which would have a substantial effect on the character of the historic district.

B. The Review Board shall be guided in its decisions by the standards and guidelines established in this article and in the Historic District Design Guidelines. The Review Board shall have authority to request modification of proposed actions in order to comply with said standards and guidelines.

C. The Review Board shall not disapprove an application except with respect to the standards and guidelines in this article. The Review Board shall give reasons for its decisions, shall act promptly on applications before it and shall coordinate its procedures with those of other agencies and individuals charged with the administration of this ordinance. The Review Board shall not be strict in its judgment of plans for structures of little historic or architectural value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding structures or of the surrounding area.

D. The Review Board is not required to limit new construction, alterations or repairs to the architectural style of any one period and may seek advisory assistance from experts in such fields as the Review Board's work requires.

- E. Meetings of the Review Board are open to the public. Adequate notice shall be given to applicants but meetings need not be advertised in advance except in the case of a proposal to demolish or move a designated landmark.
8. Application Process: All applications for Review Board approval under the provision of this article shall be made to the Planning and Zoning Administrator at least twenty-one (21) calendar days before the next regularly scheduled meeting of the Review Board. Upon receipt of a complete application, the Planning and Zoning Administrator shall forward the application to the designated Secretary of the Review Board.
9. Application Submission Requirements: In consideration of a complete application, the Planning and Zoning Administrator or the Review Board may require any or all of the following information and any other materials as may be deemed necessary for its review:
 - A. Statement of proposed use and user.
 - B. Statement of estimated construction time.
 - C. Photographs and maps relating proposed use to the surrounding property and/or the corridor on which it is located.
 - D. Site plan drawings, showing the location of the existing and proposed building and site improvements, including:
 - (1) Existing property boundaries, building placement and site configuration,
 - (2) Existing topography and proposed grading,
 - (3) Location of parking, pedestrian access, signage, exterior lighting, fencing and other site improvements,
 - (4) Relationship to adjacent land uses,
 - (5) Proposed site improvements, including location of parking, pedestrian access, signage, exterior lighting, fencing, buildings and structures and other appurtenant elements and

(6) Proposed building color and materials

E. Architectural drawings showing plan view and elevations of new planned construction or renovations, including drawings of original building.

F. A landscaping and buffer plan.

G. Designs for exterior signing, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs.

10. Incomplete Applications: Applications deemed incomplete by either the Planning and Zoning Administrator or the Review Board shall be returned to the applicant within fourteen (14) calendar days of initial application submission. The returned application shall include a letter prepared by the Planning and Zoning Administrator with adequate instructions to inform the applicant of additional information required to complete the submission. The Review Board will not act upon an incomplete application.

11. Certificate of Appropriateness Evidence of the approval required under the terms of the HP-O District shall be a Certificate of Appropriateness issued by the Review Board, or the Planning and Zoning Administrator as the case may require, stating that the demolition, moving or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration or restoration for which application has been made, are approved by the Review Board or the Planning and Zoning Administrator, as the case may require. The Review Board, or the Planning and Zoning Administrator in a case within his authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit requiring certificate of appropriateness shall be in accord with the application and material approved.

12. File of Actions to be Maintained: In order to provide guidance for application of standards and guidelines, for the improvement of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Planning and Zoning Administrator and the Review Board shall maintain a file containing a record of all applications brought before them, including drawings and photographs pertaining thereto and the decision of the Planning and Zoning Administrator or the Review Board in each case. The file documents shall remain the property of the Town but shall be held available for public review.

13. Inspection by the Planning and Zoning Administrator After Approval: When a Certificate of Appropriateness has been issued, the Planning and Zoning Administrator shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violation any ordinances of the Town. The Planning and Zoning Administrator may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

Every application approved by the Board of Historic and Architectural Review (BHAR) shall be subject to the following conditions:

- A. The applicant(s) shall begin construction, installation, etc. of their approved BHAR project within one (1) year from the date of approval; and
- B. The applicant(s) shall complete the project within two (2) years from the date of BHAR approval.

If these two conditions are not met, then the application becomes null and void, and the applicant(s) shall reapply to the BHAR.

14. Delay of Approval:

- A. In the case of a proposal other than for demolition or moving but involving a designated landmark where the Review Board or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner, and where the Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use.
- B. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Review Board or, on appeal, by the Town Council.

15. Conditions Imposed by the Review Board:

- A. In approval of any proposal under this section, the Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the

case may require, including, but not limited to, the specifications enumerated in the "Conditional Zoning and Proffers" and "Board of Zoning Appeals" articles of this ordinance.

- B. An appeal from a decision by the Review Board may be taken to the Town Council by the owner of the property in question. Such appeal shall be enacted within 30 days after the decision appealed from by filing with the Planning and Zoning Administrator a notice of appeal specifying the grounds thereof. The Planning and Zoning Administrator shall forthwith transfer to the Secretary of the Town Council all the papers constituting the record upon which the action appealed from was taken.
- C. The Town Council shall fix a reasonable time for the hearing on the appeal and give public notice thereof as required by the Zoning Ordinance and decide the same within 60 days.
- D. Any party may appear in person or be represented by an agent or by an attorney at the hearing.
- E. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Review Board.

16. Appeal of Review Board Decision:

- A. Any person aggrieved by any decision of the Review Board may appeal such decision to the Town Council, provided that such appeal is filed within fourteen (14) calendar days from the date of notification of the Review Board decision.
- B. The Town Council shall consult with the Review Board in relation to any appeal and may require documentation of any Review Board decision prior to hearing the appeal. The Town Council may affirm, reverse or modify the Review Board decision and shall notify the Planning and Zoning Administrator of its action.

17. Appeal of City Council Decision: Any person aggrieved by any decision of the Town Council may appeal such decision to the local circuit court provided that such appeal is filed within thirty (30) days after the final decision is rendered by the Town Council. The

filings of the said petition shall stay the decision of the Town Council pending the outcome of the appeal to the circuit court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a historic landmark, building or structure.

18. Appeal to the Circuit Court from a Decision of the Town Council: An appeal from a final decision of the Town Council may be filed with the Circuit Court of Isle of Wight County within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the Review Board. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion. It may affirm the decision of the Town Council.
19. Alternate Procedure - Offer to Sell:
 - A. In addition to the right of appeal hereinabove set forth, the owner of a designated landmark, building or structure, the razing or demolition of which is subject to the provisions of this article, shall as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:
 - (1) The owner or applicant has applied to the Town Council for such right;
 - (2) The applicant has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building, or structure and the land pertaining thereto, to the Town or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto; and
 - (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

- B. Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.
- C. No offer to sell shall be made more than one year after a final decision by the Town Council, but thereafter the owner may renew his request to the Town Council to approve the razing or demolition of the designated building, landmark or structure.
- D. The time schedule for offers to sell shall be as follows:
 - (1) Three (3) months when the offering price is less than twenty-five thousand dollars,
 - (2) Four (4) months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars,
 - (3) Five (5) months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars or more but less than seventy-five thousand dollars,
 - (4) Six (6) months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars,
 - (5) Seven (7) months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars and
 - (6) Twelve (12) months when the offering price is ninety thousand dollars or more.

20. Provisions for Demolition and Razing: In addition to the right of appeal herein set forth, the owner of a site, object, building or structure, the razing of which is subject to the provisions of this district shall, as a matter of right, be entitled to raze or demolish such site, object, building or structure provided that:

- A. The owner has applied to the Town Council for such right.

- B. The owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such site, object, building or structure and the land pertaining thereto to whomever gives reasonable assurance that it is willing to preserve and restore the landmark, building, or structure and the land pertaining thereto.
- C. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.
- D. Any appeal which may be taken to court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provision heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.
- E. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure.

The time schedule for offers to sell shall be as follows:

- (1) Three (3) months when the offering price is less than twenty-five thousand dollars,
- (2) Four (4) months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars,
- (3) Five (5) months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars or more but less than seventy-five thousand dollars,
- (4) Six (6) months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars,

(5) Seven (7) months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars and

(6) Twelve (12) months when the offering price is ninety thousand dollars or more.

E. During the timeframe for the offer to sell, the Review Board may take steps as deemed necessary to preserve, acquire or relocate the buildings, structures or appurtenant elements in accord with the purposes of this article, including, but not limited to, coordination with public agencies, civic groups and citizens.

(Ord. of 2004-05-04)

F. Standards for Review:

1. Historic District Design Guidelines: In order to achieve the purposes of the HP-O District, the Planning and Zoning Administrator and the Review Board shall be guided in their decisions by the stated purposes of the HP-O District, by the architectural standards and general guidelines set forth below and by specific guidelines for rehabilitation and new construction, removing buildings and streetscape as set forth in the Smithfield, Virginia Historic District Design Guidelines as adopted in December 1990. These guidelines may be supplemented from time to time by additional standards and guidelines adopted and published by the Review Board.

2. Application of Guidelines for Review: In application of the standards and guidelines it should be recognized that the HP-O District in Smithfield presently has, and to an extent always has had, considerable diversity in its architecture. Therefore, a variety of architectural detail can be tolerated where such a variety would not be acceptable in the case of a community where consistency in architectural detail is the key to the preservation of the charm of the historic district.

A. General Guidelines for All Decisions

(1) The public necessity of the proposed construction, demolition or use.

(2) The public purpose or interest in land or buildings to be protected.

(3) The historic or architectural value and significance of a particular structure and its relationship to the historic value of the surrounding area.

- (4) The age and character of a historic structure, its condition and its probable life expectancy and the appropriateness of the proposed changes to the period or periods during which the structure was built.
- (5) The general compatibility of the site plan and the exterior design arrangement, texture and materials proposed to be used.
- (6) The view of the structure or area from a public street or road; present and future.
- (7) The present character of the setting of the structure or area and its surroundings.

B. Architectural Guidelines for New Construction

- (1) Where new construction is proposed the design should take into account those special visual and special qualities that the HP-O District is established to protect, including building heights; scale of buildings; orientation, spacing and site coverage of buildings; facade proportions and window patterns; size, shape and proportions of entrance and porch projections; materials, textures, color; architectural details; roof forms; horizontal or vertical emphasis and landscaping, walls and fences.
- (2) Since architectural styles and details vary from one section of the HP-O District to another, application of architectural guidelines for new construction should recognize relationships among buildings in their immediate setting rather than specific styles or details.

C. Architectural Guidelines for Rehabilitation, Repair or Alteration of Existing Structures

- (1) Every reasonable effort should be made to provide a compatible use for a property which requires minimal alteration of the building structure or sight and its environment, or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a building structure or site and its environment should not be destroyed. The removal or

alteration of any historic material or distinctive architectural features should be avoided when possible.

- (3) All buildings, structures and sites should be recognized as properties of their own time. Alterations that have no historical basis and which seek to create an earlier appearance should be discouraged.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship, especially hardware, woodworking and masonry details which characterize a building structure or site should be treated with special care.
- (6) Deteriorated architectural features should be repaired rather than replaced whenever possible. In the event replacement is necessary the new material should match the material being replaced in size, shape, design, color, texture, and other visual quality. Repair or replacement of missing architectural features should be based on actual duplications of features substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic buildings should not be undertaken.
- (8) Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- (9) Contemporary design for alterations and additions to existing properties should not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property and its surroundings.

(10) Whenever possible, new additions or alterations to structures should be undertaken in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

D. Guidelines for Signs: Refer to Article 10, *Sign Regulations*, and the "Smithfield, Virginia Historic District Design Guidelines Manual".

E. Guidelines for Parking Areas: All parking areas should be suitably landscaped and generally screened from public view by fences, walls or screen planting. Paved parking areas other than driveways should generally be located to the side or rear of buildings and not located between a building and the street.

F. Landscaping and Accessory Structures: Plants, trees, fencing, walls, walkways, gazebos and other outbuildings should be retained or designed to reflect the property's history and development. Underground utilities should be encouraged at all locations. Mechanical equipment should be placed in inconspicuous locations. Municipal utility appurtenances should be selected to harmonize with the character of the historic district or placed in inconspicuous locations.

G. Maintenance and Repair Required: All buildings and structures in the HP-O District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration or defects may, in the opinion of the Review Board, result in the irreparable deterioration of any exterior appurtenance or architectural feature, or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

- (1). The deterioration of exterior walls or other vertical supports;
- (2). The deterioration of roofs or other horizontal members;
- (3). The deterioration of exterior chimneys;
- (4). The deterioration or crumbling of exterior plaster or mortar;
- (5). The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;

- (6). The peeling of paint, rotting, holes, and other forms of decay;
- (7). The lack of maintenance of surrounding environment e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping and
- (8). The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

After notice by the Review Board by certified or registered mail of specific instances of failure to maintain or repair and of the opportunity to appear before the Review Board, the owner or person in charge of said structure shall have 90 days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in the Zoning Ordinance. In the alternative, if the owner fails to act, the Review Board may order the Planning and Zoning Administrator, after due notice to the owner, to enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure. The reasonable costs thereof shall be placed as a lien against the property or, in a proper hardship case, paid by the Town from a fund established for such purposes.

(Ord. of 2000-09-05)

G. Additions to the HP-O District

The Town Council may adopt an ordinance setting forth the historic landmarks within the Town as established by the Virginia Historic Landmarks Commission, and any other property, buildings or structures within the Town having an important historic, architectural or cultural interest, and any historic areas within the Town as defined by Section 15.2-2306 of the Code of Virginia. The Council may also amend the existing zoning ordinance by delineating one or more of the historic districts adjacent to such landmarks, buildings and structures or encompassing such historic areas, provided that such amendment of this ordinance and the establishment of such district or districts shall be in accordance with the provisions of the Code of Virginia and the provisions of the Town Code, relative to amendments to this ordinance.

(Ord. of 2020-12-01)

H. (Repealed by Ord. of 2020-12-01)

Article 3.N:
E-C, Environmental Conservation District

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E-C, Environmental Conservation District

A. Purpose and Intent

The Town of Smithfield is characterized by abundant water areas, tidal flats, wetlands and marshes that are irreplaceable natural resources. These are deemed essential to remain in their natural state to both to the ecological systems of local tidal rivers and to the unusual natural and aesthetic environment of the Town. The purpose of the E-C, Environmental Conservation District is to preserve and maintain the undeveloped character of these areas, to protect the waters from inappropriate obstruction to water-borne commerce and recreation, to guard against hazard and damage resulting from periodic flooding, to promote and enhance environmental conservation activities and, in general, to provide for reasonable and harmonious use of these special land and water areas included within the district. In addition to the regulations herein, the district incorporates lands and waters which are governed by the FP-O District and the CB-O District.

B. Permitted Uses

1. Governmental activity on wetlands owned or leased by the Commonwealth of Virginia or a political subdivision thereof.
2. Noncommercial catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks and shelters and other similar structures provided that such structures are constructed on pilings so as to permit the reasonably unobstructed flow of the tide and to preserve the natural contour of the marsh.
3. Cultivation and harvesting of shellfish and worms for bait.
4. Commercial fishing and trapping, noncommercial outdoor recreational activities, including hiking, boating, hunting, horseback riding, swimming, skeet and trap shooting, shooting preserves, commercial or noncommercial trapping, fishing and shell fishing.
5. Cultivation and harvesting of agricultural or horticultural products.
6. Grazing and hay operations.
7. Conservation, repletion and research activities of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, Commission of Game and Inland

Fisheries and other related conservation agencies or private conservation areas or wildlife preserves.

8. Construction or maintenance of aids to navigation which are authorized by governmental authority.
9. Normal maintenance, repair or addition to presently existing roads, highways or the facilities of any person, firm corporation, utility, Federal, State, County, or Town abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered.

C. Uses Permitted by Special Use Permit

1. Commercial boat docks, fishing piers and marinas.
2. Excavation or filling, dumping, dredging, ditching or grading or any such activity for any purpose which may destroy or tend to damage or alter a wetlands area.
3. Public utility buildings, treatment plants, water towers, pumping or regulator stations, storage yards, substations and power transmission lines.
4. Accessory buildings and uses.
5. Facilities and structures necessary for rendering public utility service, including poles, wires, transformers and the like for normal electrical power distribution or communication services and pipelines or conduits for electrical, gas, sewer or water service.

D. General Development Requirements

1. There are no minimum lot size, yard and setback standards or maximum height standards in the E-C District except as may be required in a particular case by the Health Official or by other boards or agencies under applicable laws and ordinances.
2. Off-street parking and loading are to be discouraged and design standards and space requirements for particular uses that do not apply in the E-C District.
3. All uses in the E-C District shall require a site plan.

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)]

Va. **Code** § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this ordinance is specifically 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, health, or 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 floodproofed 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 effective as of January 9, 2026 include the following: 51093C0088F, 51093C0135F, 51093C0151F, 51093C0152F, 51093C0153F, 51093C0154F.

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 or any authorized employee of the Town of Smithfield shall be guilty of the appropriate violation and subject to the penalties thereof.

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 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 in riverine SFHAs, or below the 1% storm surge elevation in coastal SFHAs, 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 labelled 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 Article III, 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, the governing body shall 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 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 floodplain 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 January 9th, 2026, 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 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's 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, 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, AE, or AH on the Town of Smithfield's 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's 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:

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

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 lots or five 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 floodproofed 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 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 non-supporting 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 given 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 be less than 299 square feet.
- 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 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 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 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 permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. For structures to be elevated, the elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
3. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
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 Article III, 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 Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V 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 Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V zones.
2. Non-residential buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus 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. Accessory Structures

1. Accessory structures of any size shall be prohibited within the SFHA and no variance shall be granted for accessory structures.

E. Standards for Manufactured Homes and Recreational Vehicles

1. In zones A, AE, VE, V, AH, and AO, 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 Article III, Section 3.1.A.6 and Article IV, Sections 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 IV, Section 4.3.E.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 lots or five 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:
 - 1. Change is not a substantial repair or substantial improvement AND
 - 2. No new square footage is being built in the floodplain that is not complaint AND
 - 3. No new square footage is being built in the floodway AND
 - 4. The change complies with this ordinance and the VA USBC AND
 - 5. 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]

Variances 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 variances 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. Variances 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.

Variances 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 variances, 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. Variances will not be issued for any accessory structure within the SFHA. (Note: See Article IV, Section 4.3.D.1).
- N. 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 - GLOSSARY [44 CFR 59.1]

- A. Appurtenant or accessory structure - A non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.
- B. Base flood - The flood having a one percent chance of being equalled or exceeded in any given year.
- C. 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.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Coastal A Zone - Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, mining, dredging, filling, grading, paving, excavation, drilling or other land-disturbing activities or permanent or temporary storage of equipment or materials.
- H. 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).
- I. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- J. Existing construction - For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."
- K. Flood or flooding -
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or,

- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

L. 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).

M. 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.

N. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

O. Floodproofing - 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.

P. 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.

Q. 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.

R. Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

- S. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- T. 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;
 - 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;
 - 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. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or,
 - b. Directly by the Secretary of the Interior in states without approved programs.
- U. 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.
- V. 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.

- W. Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.
- X. 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.
- Y. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. 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.
- Z. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- AA. Mean Sea Level – for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community's FIRM are referenced.
- BB. New construction - Structures for which the "start of construction" commenced on or after the effective date of this floodplain management ordinance, and includes any subsequent improvements to such structures. Any construction started after effective date of community's first floodplain management ordinance adopted by the community and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- CC. Post-FIRM structures – For floodplain management purposes, a structure for which construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map.
- DD. Pre-FIRM structures - For floodplain management purposes, a structure for which construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map.
- EE. Primary frontal dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.

FF. 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.

GG. 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, equalled 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.

HH. 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.

II. Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

JJ. 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 in Article 3, Section 3.1 of this ordinance.

KK. 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.

LL. Structure - 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.

MM. 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. It also means flood-related damages sustained by a structure on two occasions in a 10-year period, in which the cost of the repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each such flood event.

NN. 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.

OO. Violation - 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.

PP. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

SECTION VIII – ENACTMENT

Enacted and ordained this 2nd day of September, 2025. This ordinance, Article 3.O of the Zoning Ordinance of the Town of Smithfield, Virginia, shall become effective upon passage.

Signature

Title

Attested

Article 3.P:

CB-O, Chesapeake Bay Preservation Overlay District

Article 3.P:
CB-O, Chesapeake Bay Preservation Overlay District

Sec. 100. Title.

This ordinance shall be known as the Chesapeake Bay Preservation Area Ordinance (Ordinance) of the Town of Smithfield, Virginia.

Sec. 101. Findings of fact.

The Chesapeake Bay and its tributaries constitute one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the Town of Smithfield and the Commonwealth of Virginia. The health of the Bay and its tributaries is vital to maintaining the Town of Smithfield's economy, natural resources, and the welfare of its citizens.

The waters of the Chesapeake Bay watershed have been degraded significantly by numerous sources of pollution, including nonpoint source pollution from land development. These waters are worthy of protection from further degradation. Certain lands adjacent to shorelines, and river and stream banks have an intrinsic water quality value due to the ecological and biological processes they perform. With proper management, they offer significant ecological benefits by providing water quality maintenance, wildlife habitat, and pollution control, as well as flood and shoreline erosion control. These lands, designated by the Town of Smithfield as Chesapeake Bay Preservation Areas (CBPA), shall be developed in such manner as to protect the quality of water in the Bay.

Sec. 102. Purpose and intent.

(A) This Ordinance is adopted to implement the requirements and stated purposes of The Chesapeake Bay Preservation Act (Bay Act) (Va. Code §§ 62.1-44.15:67 -62.1-44.15:79) and the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations) (9 VAC 25-830-10 et seq.) promulgated thereunder.

The intent of the Town Council and the purpose of this Ordinance are to:

- 1) protect existing high quality state waters;
- 2) prevent any further increase in water pollution; and
- 3) restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them.

The performance standards established by this Ordinance provide the means to minimize the potential for erosion and sedimentation, reduce land application of nutrients and toxins, and maximize rainwater infiltration. Indigenous ground cover, especially woody vegetation, is effective in holding soil in place and preventing site erosion. Existing riparian buffers and other vegetation filter stormwater runoff. By minimizing impervious cover, rainwater infiltration is enhanced, and stormwater runoff is reduced.

(B) The designation of any area as a Chesapeake Bay Preservation Area shall be in addition to, and not in lieu of, the zoning district classification of these areas, and shall be subject to all applicable provisions of this Ordinance, the Town of Smithfield Zoning Ordinance, Subdivision Ordinance, and other applicable ordinances.

Sec. 103. Definitions.

The following words and terms used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise.

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.

Adaptation measure. A project, practice, or approach to mitigate or address an impact of climate change including sea-level rise, storm surge, and flooding including increased or recurrent flooding.

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.

Applicant. Any person submitting any application required or permitted pursuant to any of the provisions of this Ordinance, and any person on whose behalf such an application is submitted.

Best management practice. A practice, or a combination of practices, determined by a state or designated area-wide planning agency to be the most effective practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Best management practice, structural. A best management practice that requires the design and certification of a licensed design professional.

Buffer area. An area of natural or established vegetation managed to protect other components of the Resource Protection Area listed under subsection 104(B)(1)-(3) of this Ordinance from significant degradation due to land disturbance.

Caliper. The diameter of a tree measured six (6) inches above existing grade.

Canopy tree. A tree that typically reaches 35 feet in height or taller when mature.

Channelward: in the direction of the channel or waterway.

Chesapeake Bay Preservation Area (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.

Town of Smithfield Administrator. The Community Development and Planning Director, administrator or such other person or persons as they may designate (zoning administrator, Bay Act coordinator, etc.) to perform the duties, or to exercise the authority, of the Town of Smithfield Administrator pursuant to the provisions of this Ordinance.

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.

Critical root zone. The area encompassing all of the roots extending to the dripline of a tree.

Daylighted stream. A stream that had been previously diverted into an underground drainage system, has been redirected into an above ground channel using natural channel design concepts as defined in Va. Code§ 62.1-44.15:51, and where the adjacent lands would meet the criteria for being designated as a Resource Protection Area (RPA) as defined within 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.

Diameter at breast height (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.

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

Fill. Material such as sand, soil, gravel, or crushed stone which is placed in an area, often to adjust elevation or create land contouring.

Freeboard. An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

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

Highly erodible soils. Those soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The erodibility index for any 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 potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement 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 Natural Resources Conservation Service.

Impervious cover. A surface composed of any material which significantly impedes or prevents natural infiltration of water into the soil, including, but not limited to, roofs, buildings, streets, parking areas, and other structures and the components thereof, concrete, asphalt, or compacted gravel surface.

Infill. Utilization of vacant land in previously developed areas.

Intensely Developed Areas (IDA). 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.

Land disturbance or land disturbing activity. 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.

Limit of Moderate Wave Action (LiMWA). The LiMWA is an informational line that can be found on flood maps for some coastal areas. On a flood map, it is shown as a black line with black arrows that point to areas where wave heights are between one and one-half (1.5) and three (3) feet. It also marks the inland limit of the Coastal Zone A.

Living Shoreline. A shoreline management practice that: provides erosion control and water quality benefits; protects, restores, or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials. When practicable, a living shoreline may enhance coastal resilience and attenuation of wave energy and storm surge. Pursuant to Va. Code §28.2-104.1, living shorelines are recognized as the preferred alternative for stabilizing shorelines in the Commonwealth. Only living shorelines shall be permitted for shoreline management unless the best available science shows that such approaches are not suitable.

Mature tree. A canopy tree with a diameter at breast height (DBH) of 12 inches or greater or an understory tree with a DBH of four (4) inches or greater.

Nature-based solution. An approach that reduces the impacts of sea-level rise, flooding, and storm events through the use of environmental processes and natural systems.

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 CFR 328.3b.

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.

Other structural and organic materials. Materials or features that provide added protection or stability for the natural shoreline habitat components of a living shoreline that attenuate wave energy and do not interfere with natural coastal processes or the natural continuity of the land-water interface. They may be composed of a variety of natural or man-made materials, including rock, concrete, or vegetation-based fiber such as coir logs, oyster shells, and geotextiles; however, structural features shall be free from contaminants, including structural metal such as rebar, and shall be adequately secured to prevent full or partial dislodging or detachment due to wave action or other natural forces as per Va. Code § 28.2-104.1. This term is referenced in the definition for Living Shoreline.

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

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.

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 (VDOT), including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Va. Code § 10.1-560 et seq.), and (ii) the Virginia Stormwater Management Act (Va. Code § 10.1-603.1 et seq.). This definition includes those roads where VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the Town of Smithfield in accordance with the Town of Smithfield Design Standards, the Zoning Ordinance, and Subdivision Ordinance.

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

Resilience. The capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

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). That 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 impacts which may result in significant degradation to the quality of state waters.

Silvicultural activities. Forest management activities, 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 Va. Code § 10.1-1105 and are located on property defined as real estate devoted to forest use under Va. Code § 58.1-3230.

Special flood hazard area (SFHA). The land in the flood plain subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map. Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V after detailed ratemaking has been completed or publication of the flood insurance rate map.

Storm surge. The resulting temporary rise in sea level due to the action of wind stress on the water surface and low atmospheric pressure created during storms which can cause coastal flooding. Surge is the difference from expected tide level. Storm tide is the total water level.

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.

Substantial alteration. The expansion or modification of a building or development that would result in a disturbance of land exceeding an area of two thousand five hundred (2,500) square feet in the Resource Management Protection Area only.

Tidal shore. Land contiguous to a tidal body of water between the mean low water and mean high water levels.

Tidal wetlands. Vegetated and nonvegetated wetlands as defined in Va. Code § 28.2-1300.

Understory tree. A tree that typically reaches 12 to 35 feet in height when mature.

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

Water-dependent facility. A development of land which cannot exist outside of a Resource Protection Area, and which must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, storm sewers, marinas and other boat docking structures, beaches and other public water-oriented recreation areas, fisheries, or other marine resources facilities.

Sec. 104. Areas of applicability.

- (A) The Chesapeake Bay Preservation Area Ordinance shall apply to all lands which are designated as Chesapeake Bay Preservation Areas within the Town of Smithfield. Such lands are designated as Chesapeake Bay Preservation Areas and are depicted on the Chesapeake Bay Preservation Area Map adopted September 1990 and amended thereafter.
- (B) Resource Protection Areas shall include the following components:
 - (1) Tidal wetlands.
 - (2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
 - (3) Tidal shores.
 - (4) Other sensitive lands at or near the shoreline that provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances in runoff.
 - (5) A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions one (1) through four (4) above of this subsection, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with Section 106, general performance standards and 107 RPA development criteria, through compliance with Section 113 waivers and exceptions of this Ordinance.

- (C) Resource Management Areas shall consist of all lands within Chesapeake Bay Preservation Areas which are not designated as Resource Protection Areas. These lands, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.
- (D) Intensely Developed Areas are an overlay to the Resource Protection Area that serve as redevelopment areas in which development was concentrated and where little of the natural environment remained at the time of initial adoption of the CBPA. Development within IDAs shall comply with the requirements of the redevelopment performance standards of this Ordinance.
- (E) Designation of the Chesapeake Bay Preservation Area boundaries shall not be subject to modification unless based upon reliable, site-specific information as provided for in Section 105 of this Ordinance.

Sec. 105. Interpretation of Chesapeake Bay Preservation Area boundaries.

- (A) The Chesapeake Bay Preservation Area Map adopted by the Town Council shall be used for planning purposes as a guide to the general location of Chesapeake Bay Preservation Areas.
- (B) The Town of Smithfield Administrator shall, on all properties located within a designated Chesapeake Bay Preservation Area where land disturbance, development, or redevelopment is proposed and as part of the plan of development review process pursuant to Section 110 of this Ordinance or during the review of a water quality impact assessment pursuant to Section 108 of this Ordinance, ensure or confirm that:
 - (1) A reliable site-specific evaluation of Chesapeake Bay Preservation Area boundaries is conducted to determine whether water bodies on or adjacent to the development site have perennial flow, and
 - (2) That Resource Protection Area boundaries are adjusted, as necessary, on the site based upon the site-specific evaluation.
- (C) Perennial flow determinations for site-specific evaluations shall be performed using one of the protocols acceptable to the Virginia Department of Environmental Quality as referred to in the document adopted by the Commonwealth of Virginia entitled *Determinations of Water Bodies with Perennial Flow Guidance on the Chesapeake Bay Preservation Area Designation and Management Regulations*. For nontidal wetlands connected by surface flow and contiguous to perennial streams, the *Eastern Mountains and Piedmont Regional Supplement to the 1987 USACOE Wetlands Delineation Manual* and the *Resource Protection Areas: Nontidal Wetlands Guidance on the Chesapeake Bay Preservation Area Designation and Management Regulations* adopted by the Commonwealth of Virginia, should be consulted.
- (D) A site-specific evaluation must be performed and certified as complete and accurate by a qualified professional. To be qualified, a professional must: (i) work or be certified in a related field such as stream ecology, hydrology, or hydrogeology; (ii) have secondary education, post-secondary education, or technical training in a related field such as stream ecology, hydrology, or hydrogeology; and (iii) have field experience performing or substantially assisting with the performance of a site-specific evaluation using the protocol employed. As an alternative, the Town of Smithfield Administrator may, at their sole discretion, conduct a site-specific evaluation using a professional qualified pursuant to this subsection for any purpose.
- (E) When a delineation of a Chesapeake Bay Preservation Area, or any component thereof, has been approved or established by the Town of Smithfield Administrator, the Chesapeake Bay Preservation Area Map shall be amended by the Town of Smithfield to reflect such delineation.
- (F) The resolution of conflicting district boundaries when the adjusted boundary delineation has been contested by the applicant, shall be in accordance with the provisions of Section 114.

Sec. 106. General performance standards.

The general performance standards set forth in this Section are intended to prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice. Except as otherwise provided

herein, the following standards shall apply to all development and redevelopment in both Resource Protection Areas and Resource Management Areas of the Chesapeake Bay Preservation Area:

(A) Land disturbance shall be limited to the area necessary to provide for the proposed use or development. The limits of land disturbance, including clearing, grading, or filling shall be strictly defined by the construction footprint as shown on the approved plan of development.

- (1) Clearing shall be allowed only to provide for necessary access, site drainage, water quality best management practices, and/or the installation of utilities and primary and reserve drainfield sites as detailed on a Virginia Department of Health sewage disposal construction permit. The limits of land disturbance shall be clearly shown on all plans submitted and physically marked on the site.
- (2) Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Town of Smithfield Administrator.

(B) Existing indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Stormwater Management Handbook.

- (1) Mature trees shall be protected during development and only removed where necessary, including to provide for the proposed use or development.
- (2) Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved outside the construction footprint.
- (3) Diseased trees or trees weakened by age, storm, fire, or other injury may be removed when approved by the Town of Smithfield Administrator. Other woody vegetation on site shall also be preserved outside the approved construction footprint. When a diseased tree or tree weakened by age, storm, fire, or other injury is to be removed, tree restoration should occur according to the Vegetation Replacement Rates table in Appendix D of the *Riparian Buffer Modification & Mitigation Manual (Buffer Manual)* 2003, prepared by the Chesapeake Bay Local Assistance Division of the Department of Conservation and Recreation and as may be amended by the Commonwealth of Virginia. Native species shall be preferred for all replacement plantings.
- (4) Prior to clearing and grading, suitable protective barriers consistent with the Town of Smithfield design specifications, zoning ordinance, and subdivision ordinance, current editions, and including safety fencing, signs, or such other material as may be required by the Town of Smithfield Administrator, shall be erected to protect the critical root zone for any tree or stand of trees to be preserved on the site, as well as to protect the critical root zone of trees on adjacent properties that extend onto the site.
- (5) A waiver may be granted to allow reasonable access to the site and work area, with specific conditions to be established by the Town of Smithfield Administrator. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(C) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development. During the design phase of development, use of the following means of minimizing impervious cover are encouraged:

- (1) Placement of parking areas under multiple-family, office, or commercial buildings.
- (2) Use of shared parking where possible in mixed use developments.
- (3) Construction of no more than the minimum number of parking spaces required by the Town of Smithfield Zoning Ordinance.
- (4) Use of modular grid pavers on private property and in low-traffic zones.
- (5) Use of low impact development, better site design, and/or cluster development land development planning techniques in lieu of conventional design as set forth in the Town of Smithfield Zoning Ordinance.

(D) Any development or redevelopment involving land disturbance of 2,500 square feet or more shall be accomplished through a plan of development review process as set forth in Section 110 of this Ordinance, and other such requirements set forth in Town of Smithfield ordinances.

(E) Any land disturbing activity, as defined in Va. Code § 62.1-44.15:51, exceeding an area of 2,500 square feet, including, but not limited to, construction of all single-family homes, septic tanks, and drain fields, shall comply with the requirements of the Town of Smithfield Erosion and Sediment Control Ordinance. Enforcement for noncompliance with the erosion and sediment control requirements referenced in these criteria shall be conducted under the provisions of the Erosion and Sediment Control Law and attendant regulations.

(F) Any Chesapeake Bay Preservation Act land-disturbing activity as defined in Va. Code § 62.1-44.15:24 shall comply with the requirements of the Virginia Stormwater Management Handbook and with the requirements of 9 VAC 25-870-51 and 9 VAC 25-870-103, the Stormwater Management Program Regulation.

(G) All on-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five (5) years, provided that:

- (1) Subject to conditions established by the Western Tidewater Health District of the Virginia Department of Health (VDH), the owners of such systems may, in lieu of pumping out such systems every five (5) years, have a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter shall satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) administered by VDH; and
- (2) In lieu of requiring proof of septic tank pump out every five (5) years, the Town of Smithfield may allow owners of on-site sewage treatment systems to submit documentation every five (5) years, certified by an operator or onsite soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design onsite sewage systems, that the septic system has been inspected, is functioning properly, and that – as of the date of inspection – pump-out of the effluent was not deemed necessary.
- (3) For new construction not served by public sewer or other system requiring a VPDES permit, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Western Tidewater Health District. Building or construction of any impervious cover shall be prohibited on the area of all sewage disposal sites, including reserve sewage disposal sites, until the property is served by public sewer or an on-site sewage treatment system operating under a VPDES permit. All sewage disposal site records shall be administered to provide adequate notice and enforcement. As an alternative to the reserve sewage disposal site, the owners of such systems may install an alternative drainfield system meeting the following conditions:
 - (a) Each of the two (2) alternating drain fields in the system shall have at a minimum, an area not less than fifty (50) percent of the area that would otherwise be required if a single primary drainfield were constructed.
 - (b) An area equal to fifty (50) percent of the area that would otherwise be required for the primary drainfield site shall be reserved for subsurface absorption systems that utilize a flow diversion device, to provide for future replacement or repair to meet the requirements for a sewage disposal system. Expansion of the primary system shall require an expansion of the reserve system.
 - (c) The two (2) alternating drain fields shall be connected by a diversion valve, approved by the Western Tidewater Health District, located in the pipe between the septic tank and the distribution boxes. The diversion valve shall be used to alternate the direction of effluent flow to one (1) drainfield or the other at a time. Diversion valves shall not be used for the following types of treatment systems:

1. Sand mounds.
2. Low pressure distribution systems.
3. Repair situations when installation of a valve is not feasible.
4. Any other approved system for which the use of a valve would adversely affect the design of the system, as determined by the Western Tidewater Health District.

(d) The diversion valve shall be a three-port, two-way valve of approved materials (i.e., resistant to sewage, leak-proof and designed so that the effluent from the tank can be directed to flow into either one (1) of the two (2) distribution boxes).

(e) There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.

(f) The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds or other structures.

(g) In lieu of a diversion valve, any device that can be designed and constructed to direct the flow of effluent from the tank into either one (1) of the two (2) distribution boxes may be approved if plans are submitted to the Western Tidewater Health District and determined to be satisfactory.

(h) Owners shall alternate using the drain fields every 12 months to permit the yearly resting of half of the absorption system.

(i) The Town of Smithfield Administrator shall ensure that the owners are notified annually of the requirement to switch the valve to the opposite drainfield.

(H) Prior to the authorization and initiation of grading or other on-site activities, all wetlands permits required by law shall be obtained and evidence of such submitted by the applicant to the Town of Smithfield Administrator.

(I) Agricultural lands shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this Ordinance.

(1) Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed consistent with cost-share practice standards set forth in the January 1999 *Field Office Technical Guide* of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the *Virginia Agricultural Best Management Practices (BMP) Manual* of the Virginia Department of Conservation and Recreation, respectively, and accomplish water quality protection consistent with this Ordinance. Unless otherwise specified in this Section, general performance standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

(a) For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the *Field Office Technical Guide* of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System as defined in the *Field Office Technical Guide* of the U.S. Department of Agriculture Natural Resource Conservation Service.

(b) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85).

- (c) For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide", or other Extension materials related to pest control.
- (2) A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.
- (3) The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board, which will be the plan-approving authority.

Sec. 107. Development criteria for Resource Protection Areas.

- (A) In addition to the general performance standards of Section 106 of this Ordinance, the following standards shall apply to all use, land disturbance, development, or redevelopment proposed within the Resource Protection Area:
 - (1) Land development may be allowed in the Resource Protection Area subject to approval by the Town of Smithfield Administrator only if such development (i) is water dependent; (ii) constitutes redevelopment; (iii) is a new use established pursuant to subsection 107(C) of this Ordinance; (iv) is a road or driveway crossing; or (v) is a flood control or stormwater management facility. In addition, the following conditions shall apply:
 - (a) A Water Quality Impact Assessment, as set forth in Section 108 of this Ordinance, shall be required for any proposed land disturbance in the RPA.
 - (b) A resiliency assessment as set forth in Section 109 of this Ordinance shall be required for any proposed land development during the plan of development or other project review process in the RPA.
 - (c) A new or expanded water-dependent facility may be allowed, provided that the following criteria are met:
 - 1. Such facility does not conflict with the comprehensive plan.
 - 2. Any non-water dependent component of such facility is located outside of the Resource Protection Area. Restaurants, parking areas, in-ground pools, patios, and indoor or outdoor dry dock boat storage facilities are accessory to the water-dependent use. As they are not considered water-dependent facilities, they must be reviewed through the formal exception process
 - 3. Access to such facility will be provided with the minimum land disturbance necessary. Where practicable, a single point of access will be provided.
 - (d) Redevelopment outside of designated Intensely Developed Areas shall be permitted in the Resource Protection Area only if (i) there is no increase in the amount of imperious cover; (ii) no further encroachment within the Resource Protection Area; and (iii) such redevelopment conforms to applicable erosion and sediment control criteria and stormwater management criteria set forth in the Town of Smithfield Erosion and Sediment Control Ordinance, as well as all applicable stormwater management requirements of other state and federal agencies.
 - (e) Roads and driveways not otherwise exempt from the provisions of this Ordinance, as per subsection 112(A) of this Ordinance, may be constructed in or across Resource Protection Areas provided each of the following conditions is met:
 - 1. The Town of Smithfield Administrator finds that there are no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area.

2. The alignment and design of the road or driveway are optimized, consistent with other requirements, to minimize encroachment into the Resource Protection Area and adverse effects on water quality.
 - a. Driveways may be constructed of asphalt, concrete, pavers, bricks, gravel, etc. The imperviousness of each material will be based on current industry standards. Pervious concrete, asphalt, and pavers may be used but must meet Virginia Stormwater Management Act and Regulations and stormwater specifications for infiltration, must be designed by a professional engineer and supported with a geo-technical report.
 - b. Driveways may be no wider than 10-feet unless a greater width is required pursuant to some other standard adopted by the Town Council (e.g., emergency access requirements for long private lanes).
 - c. The parking pad for a one or two-car garage may be no larger than 22-feet in width by 18- feet in length.
 - d. A single 10-foot by 17-foot turn-around with ten-foot turning radius may be allowed.
 - e. Additional parking and a turn-around area may be allowed using completely pervious and vegetated turf reinforcements such as grass pavers installed as per manufacturer specifications.
3. The design and construction of the road or driveway satisfy all applicable criteria of this Ordinance, including submission of a water quality impact assessment.
4. The Town of Smithfield Administrator reviews the plan for the road or driveway proposed in or across the Resource Protection Area in coordination with Town of Smithfield site plan, subdivision, and other applicable plan of development reviews.

(f) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that:

1. Such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and Regulations.
2. The Town of Smithfield Administrator conclusively establishes that the location of the facility within the Resource Protection Area is the optimum location.
3. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both.
4. The facility is consistent with a comprehensive stormwater management plan developed and approved in accordance with 9 VAC 25-875-660 of the Virginia Stormwater Management Program (VSMP) regulations.
5. All applicable State and Federal permits are obtained from the appropriate federal and state agencies having jurisdiction, such as the U.S. Army Corps of Engineers, the Department of Environmental Quality, and the Virginia Marine Resources Commission.
6. Approval is received from the Town of Smithfield Administrator prior to construction.
7. Routine maintenance is performed on such facilities to assure that they continue to function as designed.

It is not the intent of this subdivision to allow a best management practice that collects and treats runoff from an individual lot or portion thereof to be located within a Resource Protection Area.

(B) Buffer area requirements. The 100-foot-wide buffer area shall be the landward component of the Resource Protection Area, as set forth in subsection 104(B) of this Ordinance. Notwithstanding the existence of permitted uses, encroachments, and vegetation clearing, as set forth in this subsection, the buffer area shall not be considered reduced in width. To minimize the adverse effects of human

activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100-foot-wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The planting of trees shall be incorporated into the re-establishment of the 100-foot buffer, as appropriate to site conditions, and in such a manner as to maximize the buffer function. The inclusion of native species in tree planting is preferred.

- (1) The 100-foot-wide buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.
- (2) Where land uses such as agriculture or silviculture within the area of the buffer area cease and the property is proposed to be converted to other land uses, then a minimum 100-foot-wide buffer shall be reestablished with woody vegetation. The planting of trees shall be incorporated into the reestablishment of the 100-foot buffer, as appropriate to site conditions and in such a manner to maximize the buffer function. Inclusion of native species in tree planting is preferred.
 - (a) A comprehensive planting plan for the entire buffer area that will ensure the survivability of vegetation and viability of the newly established buffer shall be submitted and approved by the Town of Smithfield Administrator prior to approval of a new land use or development plan (including subdivision) for the property.
 - (b) The comprehensive planting plan should provide for the planting of a standard buffer adjacent to all impacted RPA features and along all water bodies with perennial flow on the site. The planting plan should also provide for management measures such as proper monitoring and maintenance of the installed woody vegetation that assures the buffer functions set forth in this Ordinance.
 - (c) If, prior to plan of development approval, the Town of Smithfield Administrator determines that the 100-foot buffer is adequately vegetated and meets the pollutant removal criteria listed within this subsection, replanting additional vegetation may not be necessary. In these cases, the full 100-foot RPA buffer should be allowed to naturally regenerate, and no land disturbing activities should be permitted within this area.
 - (d) The *Buffer Manual* should be consulted to determine the best methods for planting the 100-foot buffer in such a way as to meet the pollutant removal criteria listed within this subsection.

(C) Permitted encroachments into the buffer area.

- (1) When the application of the buffer area would result in the loss of an adequate buildable area, as determined by the Town of Smithfield Administrator, on a lot or parcel legally recorded prior to October 1, 1989, the Town of Smithfield Administrator, after approval through the formal exception review process, can permit an encroachment into the buffer area as set forth in Section 113 of this Ordinance and with the following criteria:
 - (a) Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. For the purposes of this subsection, reasonable buildable area shall mean that area reasonably necessary for a principal structure and necessary utilities with compatible bulk and scale to those in the surrounding neighborhood or area. Detached accessory structures shall not be eligible for encroachment authorizations.
 - (b) Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer area encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel. Where established, such vegetated area shall include the planting of trees as appropriate to site conditions. The inclusion of native species in tree planting is preferred.
 - (c) Encroachments into the buffer area may not extend into the seaward fifty (50) feet of the buffer area.
 - (d) Encroachments into the buffer area processed through a formal exception process shall be subject to the findings required by Section 113 of this Ordinance.

(2) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989, and March 1, 2002, the Town of Smithfield Administrator may permit an encroachment into the buffer area after approval is granted through the formal exception process in accordance with Section 113 of this Ordinance, and in accordance with the following criteria:

- (a) The lot or parcel was created through a legal process conducted in conformity with the Subdivision Ordinance.
- (b) Conditions or mitigation measures imposed through a previously approved waiver or exception shall be met.
- (c) If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required.
- (d) The criteria in subsection 107(C)(1)(a) of this Ordinance shall be met.

(D) Permitted modifications of the buffer area.

(1) To maintain the functional value of the buffer area, existing vegetation may be removed subject to approval by the Town of Smithfield Administrator. Such removal shall only be allowed to provide for reasonable sight lines, access paths, general woodlot management, BMPs (including those that prevent upland erosion and concentrated flows of stormwater), shoreline erosion control projects, or adaptation measures. Such buffer modifications shall be permitted under the following conditions, and consistent with the requirements of this Ordinance:

- (a) In general, where the removal of trees within the buffer area is proposed, mature trees shall be preserved and trimmed or pruned in lieu of removal as site conditions permit and removal should be limited to the fewest number of trees feasible. Where tree planting for mitigation, conservation landscaping, or for buffer reestablishment is proposed, the inclusion of native species in tree planting is preferred.
- (b) Trees may be pruned or thinned as necessary to provide for sight lines, vistas, and access paths, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 1. When trees are proposed for removal to provide for site lines, vistas, and access paths they shall be replaced with trees as appropriate to site conditions and in such a manner as to maximize the buffer function and to protect the quality of state waters. The boundaries of this area shall be determined in a manner acceptable to the Town of Smithfield Administrator and be based on identified vantage points and the portion of the shoreline to be viewed.
 2. Trees may not be removed where reasonable sight lines, vistas, or access paths can be created by the pruning of trees alone. Pruning shall be performed in accordance with best available technical advice. Trees may not be pruned or removed within any RPA component listed in subsection 104(B)(1) through (3) of this Ordinance or a perennial stream.
 3. A written request for a determination by the Town of Smithfield Administrator that the proposed removal of vegetation from the RPA buffer is in accordance with the requirements of this subsection is required. Such request shall include a plan showing the following: (i) the vantage points for the sight lines, vistas, and access paths (ii) the portion of the shoreline to be viewed or accessed, (iii) the area in which trees are to be pruned or removed, (iv) the location of all trees six (6) inches or greater in diameter at breast height or as required by the Town of Smithfield Administrator, and (v) the location of the trees to be removed or pruned. The request shall also indicate the type, location and number of replacement vegetation proposed.

4. Trees may not be pruned or removed from the buffer area until a written determination is obtained from the Town of Smithfield Administrator that the proposed activity is in accordance with the requirements of this Ordinance.
1. Any path shall be constructed and surfaced to effectively control erosion. Paths serving individual residential lots shall be no more than four (4) feet in width except as necessary for handicapped access.

(c) Noxious weeds and dead, diseased, or dying trees or shrubbery may be removed provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff. Vegetation may not be removed from any RPA component listed in subsection 104(B)(1) through (3) of this Ordinance or within a perennial stream.

1. All dead or diseased trees must be field checked by Town of Smithfield Administrator prior to their removal.
2. When questions arise concerning the health of the trees proposed to be removed, the property owner shall be responsible for providing documentation from a certified landscape professional as to the health and viability of the trees. Such documentation shall be subject to review and approval of the Town of Smithfield Administrator.
3. No land disturbance in the buffer area may occur or result from the removal of dead or diseased trees or noxious weeds.
4. Dead or diseased trees must be replaced with 1-inch DBH minimum caliper trees at a 1:1 rate or with 15-inch minimum height shrubs at a 3:1 rate, absent conditions that suggest a higher or lower replacement ratio.
5. Removal of noxious weeds is permitted in the buffer area provided they are replaced with vegetation equally adapted for the growing environment.
6. Replacement vegetation should be protected by a surety bond and is subject to inspection one year after planting to ensure survival.
7. For removal of trees larger than six (6) inches DBH, a buffer management permit is required.
 - a. The buffer management permit application shall be reviewed by the Town of Smithfield Administrator prior to removal of the tree(s). Upon approval of the permit, the property owner may remove the tree(s) specified in the permit.
 - b. Tree restoration shall be required within six (6) months of removal. A subsequent inspection for the replanting of tree(s) shall be performed by the Town of Smithfield Administrator. If in the opinion of the Town of Smithfield Administrator, the replanting requirements may lead to further future structural damage to the principal building, the replanting requirement may be modified.
 - c. Site clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Town of Smithfield Administrator through the plan of development review process outlined under Section 110 of this Ordinance. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected five (5) feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
 - d. A buffer management violation penalty of \$1,000 per tree removed without an approved woodlot management permit shall be assessed. Violators must still meet the provisions of this Ordinance to include designated tree replacement requirements. Property owners, contractors, and any other individuals associated with the removal of a tree without a buffer management permit approved by the Town of Smithfield

Administrator are subject to this penalty, or subject to the criminal provisions of the Town of Smithfield Zoning Ordinance.

(d) For shoreline erosion control projects, trees and woody vegetation within the footprint of the shoreline erosion control project may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

1. The removal of mature trees for the installation and maintenance of proposed shoreline erosion control projects shall only be permitted as necessary and consistent with the best available technical advice, approved project plans, and applicable permit conditions or requirements.
2. Where vegetation is proposed for removal within the buffer area as part of a shoreline erosion control project, a water quality impact assessment with vegetative mitigation equal to the area of encroachment is required. Trees shall be incorporated, as appropriate to the site conditions and the project specifications. In addition, vegetation in the form of a mixture of grasses, sedges, flowers, and shrubs can be used by property owners to provide natural stabilization of shorelines. Inclusion of native species is preferred.
3. Existing trees, proposed plantings, and clearing limits must be shown on the Joint Permit Application and/or Water Quality Impact Assessment.
4. Shoreline erosion control within the RPA shall be consistent with the Wetlands Act (Chapter 13 Title 28.2), the Virginia Marine Resources Commission (VMRC) *Tidal Wetlands Guidelines* which provide for "minimum standards for the protection and conservation of wetlands," and "ensure protection of shorelines and sensitive coastal habitat from sea level rise and coastal hazard."
 - a. Installation of living shorelines is the required adaptation measure for stabilizing tidal shorelines unless the best available science indicates that such approaches are not suitable for the site on which the practice is being considered, as determined by the Virginia Marine Resources Commission. Such projects should be coordinated to address the requirements of the VMRC *Tidal Wetlands Guidelines* current at the time of application submission in conjunction with the requirements of this Ordinance.
 - b. Approval from the VMRC is also required for adaptation measures proposing the use of sea walls, riprap, groins, or other structural means of stabilization within tidal wetlands. Such projects shall demonstrate to the satisfaction of the Town of Smithfield Administrator that vegetative techniques cannot be effectively utilized and shall incorporate elements of living shoreline approaches into permitted projects to the maximum extent possible.
 - c. If a hardened shoreline structure is allowed, the applicant shall be required to incorporate elements of living shoreline approaches into permitted projects, to the maximum extent possible.

(e) Adaptation measures proposed for location within the Resource Protection Area, shall meet the following conditions:

1. The selected adaptation measure shall be a nature-based solution that uses environmental processes, natural systems, or natural features identified as being appropriate for existing site conditions.
2. An identified adaptation measure shall be selected from one of the following sources: Chesapeake Bay program approved BMP list, the Virginia Stormwater Management Handbook, the VMRC Tidal Wetlands Guidelines, or be a project that is eligible for funding by the Virginia Community Flood Preparedness Fund Grant.
 - a. Adaptation measures should consist of trees, vegetation, stone or enhance existing natural elements.

3. Adaptation measures approved for use in the RPA shall be designed, installed, and maintained in accordance with the applicable specifications for the selected adaptation measure.
4. Adaptation measures should be placed channelward of the proposed development whenever possible and should maximize the preservation of mature trees and other natural vegetation to minimize adverse impacts to the RPA and to maximize water quality benefits.
5. The use of fill as a component of an adaptation measure may be permitted, provided it meets the following conditions:
 - a. The grading and slope created by the use of fill shall be no greater than necessary based upon the project specifications and implemented in a manner that minimize the impact of run-off.
 - i. Slopes should be equal to or less than 10% to support water quality conditions, including infiltration.
 - ii. Slopes less than or equal to 5% or that convey sheet flow of velocities less than one and one-half (1.5) feet/second are preferred, to reduce runoff and tidal wave energies.
 - iii. Slopes greater or different than the above may be necessary based upon certain site conditions and adaptation measure specifications. In such instances, submittal of additional calculations and engineering plans, and assessments of the impacts of the use of fill on existing vegetation, wetland migration and water movement, both landward and channelward, in support of the proposed slope shall be required.
 - b. Fill shall have the necessary biogeochemical characteristics, including sufficient organic content, to support the growth of vegetation and adequate permeability to allow infiltration consistent with project specifications. The applicant shall:
 - i. Provide documentation specifying the proposed depth, extent, and type of fill material proposed for use.
 - ii. Provide documentation that the proposed soils are compliant with the requirements governing the use of lightly contaminated soil consistent with the Virginia Solid Waste Management Regulations (9 VAC 20-81 et seq.) or permitting requirements for upland placement of dredge soil, if applicable.
 - iii. Provide documentation that the newly placed fill is revegetated with multi-strata vegetation inclusive of canopy and understory trees, shrubs, and ground cover consistent with the guidance found in the *Buffer Manual*. Inclusion of native species is encouraged.
 - iv. Ensure that the fill area is vegetatively stabilized within seven (7) days.
 - c. The use of fill shall not exacerbate stormwater run-off, and lateral flow onto adjacent properties shall be controlled.
 - i. Appropriate erosion and sediment control and stormwater management measures shall be incorporated into the design specifications, including the establishment of positive and proper drainage.
 - ii. If the adaptation measure triggers separate stormwater management requirements, then these criteria should be considered in conjunction with those requirements.
 - iii. Larger scale adaptation measures may require the use of stormwater calculations to ensure these criteria are met.
 - iv. Any impacts on the management of stormwater upland of the Resource Protection Area created by the use of fill shall be mitigated, as necessary.

- d. The use of fill for an adaptation measure shall not negatively impact septic systems and drain fields located within the RPA. Where present, the proximity of the adaptation measure using fill should be considered such that the fill will not interfere with the proper function or maintenance of either of these features.
- e. The use of fill shall be consistent with any applicable local, state, or federal floodplain requirements. The applicant shall provide documentation to verify that proposed adaptation measures do not conflict with any constraints or requirements of floodplain management or flood control provision, including federal floodplain management regulations found in Title 40 CFR Part 60. The allowance of fill under these provisions does not negate those independent requirements.
- f. The placement of fill allowed by either the Living Shoreline Group 1 or Group 2 general permits to establish appropriate elevations to support required vegetation shall be consistent with the fill requirements of this subsection, in that a change in slope or land elevation may not alter water flow in contravention with the fill requirements of this subsection.

- 6. The preservation of existing natural vegetation shall be maximized, including mature trees, and land disturbance consistent with design specifications shall be minimized.
- 7. Adaptation measures shall comply with all federal, state and local requirements, including any required permits and conditions such as the need for a Water Quality Impact Assessment.
- 8. Nothing in these provisions shall be construed to authorize approval or allowance of an adaptation measure in contravention of floodplain management requirements, including Article 3.O.

(2) On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area, and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:

- (a) Agricultural activities may encroach into the landward 50 feet of the 100-foot-wide buffer area if at least one (1) agricultural best management practice is being implemented on the adjacent land and such best management practice, which in the opinion of the Local soil and water conservation district board, addresses the predominant water quality issue (either erosion control or nutrient management). In such cases, the combination of the undisturbed buffer area and the best management practice(s) shall achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the minimum 100-foot buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, shall be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85) administered by the Virginia Department of Conservation and Recreation.
- (b) Agricultural activities may encroach within the landward 75 feet of the 100-foot-wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the *National Soil Survey Handbook* of November 1996 in the *Field Office Technical Guide* of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, shall be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining undisturbed portion of the buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the minimum 100-foot buffer area.

- (c) The buffer area shall not be required to be designated adjacent to agricultural drainage ditches if at least one (1) best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land (either erosion control or nutrient management) is being implemented on the adjacent land.
- (d) If specific problems are identified pertaining to agricultural activities that are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the Town of Smithfield Administrator, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while considering the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.
- (e) In cases where the landowner or the landowner's agent or operator has refused assistance from the local soil and water conservation district in complying with or documenting compliance with the agricultural requirements of this Ordinance, the district shall report the noncompliance to the Town of Smithfield Administrator. The Town of Smithfield Administrator shall require the landowner to correct the problems within a specified period not to exceed 18 months from their initial notification of the deficiencies to the landowner. The local government, in cooperation with the district, shall recommend a compliance schedule to the landowner. This schedule shall expedite environmental protection while considering the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.

(E) Buffer requirements for Intensely Developed Areas.

- (1) Where the Town of Smithfield Administrator has determined that buffers are to be established, they shall be designed in accordance with the standards established in the *Buffer Manual*. When considering the re-establishment of a buffer within an Intensely Developed Area, the Town of Smithfield Administrator shall encourage the planting of trees, including native species, as a component of such buffer reestablishment measure.

(F) *Buffer mitigation standards.* The following standards shall apply in cases in which buffer mitigation is required pursuant to the provisions of this Ordinance due to land disturbance, development, or redevelopment within a Resource Protection Area:

- (1) For new impervious cover:
 - (a) Buffer restoration of an area equal to two (2) times the proposed impervious cover in the Resource Protection Area shall be provided. The Town of Smithfield Administrator or Town of Smithfield Planning Commission shall allow a lesser area of buffer restoration if the property owner demonstrates that site conditions or structural treatment methods are such that a lesser buffer restoration area will adequately protect water quality.
 - (b) In-ground pool water surface, decks, pavers, and gravel driveways shall be considered impervious cover for buffer restoration calculations.
 - (c) In accordance with the *Buffer Manual*, for the buffer to function as intended, it shall contain the full complement of vegetation that includes canopy trees, understory trees, shrubs, and ground cover, whether the ground cover is vegetation, leaf litter, or mulch. The composition of the buffer restoration area shall be per Appendix D, Table A of the *Buffer Manual*.
 - (d) Salt- and flood-tolerant plant species shall be planted below the five-foot contour to ensure greater survival of the plantings, where appropriate.
 - (e) Trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of shoreline structures.
 - (f) Buffer restoration shall be located in the Resource Protection Area, including in areas occupied by turf or where impervious cover is removed. To the extent possible, such restoration shall be

located in the 50-foot seaward portion of the buffer area. The Town of Smithfield Administrator may require a site evaluation to determine the location and extent of vegetation needed to meet this requirement where specific site conditions warrant, including, but not limited to, the presence of steep slopes and existing vegetation recommended for buffers in Appendix D, Table A of the *Buffer Manual*.

- (g) All trees, plants, and groundcover, required as buffer restoration shall be maintained and not removed or allowed to revert to turf.
- (2) For shoreline erosion control projects, mitigation for land disturbance and/or the removal of vegetation within the RPA shall be in accordance with Appendix D, Table A of the *Buffer Manual*; provided that trees shall not be planted within 15 feet of the shoreline where such planting would result in marsh shading or interference with the integrity of existing or proposed shoreline structures.
- (3) For buffer area establishment or restoration, vegetation shall consist of a mix of canopy trees, understory trees, shrubs, and groundcovers that achieve the buffer functions set forth in subsection 107(B) of this Ordinance. The density of plants, the type of plant materials, and planting techniques shall be as specified in Appendix D, Table A of the *Buffer Manual*.
 - (a) Groundcover (non-woody) plants and grass augment necessary woody planting materials and are not to be used in lieu of trees and shrubs.
 - (b) Foundation plantings, within five (5) feet of a structure are not counted towards restoration and replacement requirements.
 - (c) The use of native plants is strongly encouraged, and invasive species are discouraged.
 - (d) A buffer establishment or restoration plan and narrative shall include the following information, at a minimum:
 - 1. Property owners' contact information including name, mailing address, email address, and phone number.
 - 2. Subject property address, property lines, and location of physical improvements or structures such as houses, sheds, pools, patios, decks, driveways, etc.
 - 3. The type, number, and location of trees greater than 3-inches DBH within the "seaward" 50-feet of the buffer area and trees greater than six (6)-inches DBH in the "landward" 50-feet of the RPA buffer.
 - 4. Type, number, and location of mature trees within the RPA buffer.
 - 5. Proposed planting schedule, to include the type, number, and location of replacement trees and shrubs.
 - 6. Location, limits, and depth of proposed fill.
 - 7. Designation of trees to remain and trees to be removed.
 - 8. Proposed tree protection measures.
 - 9. Appropriate erosion control measures.
 - 10. Expected date of completion.
 - 11. A GIS map or a current physical survey may be used as a base map for the plan.
 - 12. The plan and narrative must have sufficient information for staff inspection.

Sec. 108. Water quality impact assessment.

- (A) The purpose of a water quality impact assessment is to: (i) identify the potentially adverse impacts of proposed development on water quality and lands within Chesapeake Bay Preservation Areas consistent with the goals and objectives of this Ordinance; (ii) ensure that, where use, development or

redevelopment takes place within Chesapeake Bay Preservation Areas, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of Resource Protection Areas and other sensitive lands; and (iii) specify means to avoid, minimize or mitigate the impacts of development for water quality protection.

(B) A water quality impact assessment must demonstrate that the undisturbed buffer area, enhanced by vegetative plantings and any other best management practices will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff and will retard runoff, prevent erosion, and filter non-point source pollution equivalent to an undisturbed 100-foot buffer area.

(C) A water quality impact assessment shall be required for any proposed land disturbance, development or redevelopment within a Resource Protection Area consistent with this Section, and for any other development in Chesapeake Bay Preservation Areas that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.

(D) A water quality impact assessment shall include the following information:

- (1) A narrative that describes the nature of the proposed RPA encroachment, provides justification for the proposed impacts to the RPA, and addresses the findings required in subsection 113 (A) of this Ordinance.
 - (a) An analysis of the anticipated reduction in buffer function due to the proposed land development, its impact on the buffer area, proposed mitigation or adaptation measures, and the anticipated effect of the proposed project on water quality.
 - (b) A description of the extent and nature of any proposed disturbance or disruption of wetlands.
 - (c) Impacts of the proposed development on topography, soils, surface and groundwater hydrology on the site and adjacent lands.
 - (d) Source location and description of proposed excavation and fill material.
 - (e) For any water-dependent activity, the location of, and potential adverse impacts upon, shellfish beds, submerged aquatic vegetation, and fish spawning and nursery areas.
 - (f) A statement of any anticipated future land disturbance within the RPA.
 - (g) All federal, state, and local permits required for the development of the site.
- (2) A site drawing to scale which depicts the following:
 - (a) Delineation of the RPA components, including the 100-foot buffer area and the location of any water body with perennial flow, and the RMA boundary, if necessary.
 - (b) Existing topography, soils information (including depth to groundwater and infiltration rate), where appropriate, surface and groundwater hydrology, wetlands and, if necessary, drainage patterns from adjacent lands.
 - (c) Location and nature of the proposed encroachment into the buffer area, including limits of clearing or grading and the area of land disturbance; location of any structures, driveways, or other impervious cover; type(s) of paving material(s); area of proposed impervious cover; and location of proposed utilities, including sewage disposal systems or reserve drainfield sites.
 - (d) Location and area (in square feet) of existing impervious cover.
 - (e) Existing vegetation, including the number and type of trees and other vegetation to be removed in the RPA to accommodate the proposed buffer encroachment or modification.
 - (f) Proposed vegetative mitigation plan equal to the area of land disturbance within the existing buffer area.
 - (g) Type and location of proposed additional best management practices that may be necessary to mitigate for the proposed encroachment.

(h) Type and location of proposed adaptation measures necessary to address the impacts of storm surge, sea level rise, and flooding.

Sec. 109. Resiliency assessment.

(A) Submittal of a resiliency assessment that considers the potential impacts of sea level rise, storm surge, and flooding on buffer function in light of a proposed RPA encroachment is required during the review of a plan of development or other review process. Such an assessment is to be based upon the RPA as delineated at the time of the proposed land development and is required in addition to all other requirements of this and other local ordinances. At a minimum the resiliency assessment should contain the following information:

- (1) *A scaled drawing or aerial image* of the proposed project that includes the RPA boundary, required setbacks, existing topography, and a graphic depiction of the anticipated impacts of sea level rise, flooding, and storm surge on the parcel and the proposed project, based upon a review of approved models and forecasts, to include the following:
 - (a) For sea level rise, use the 2017 National Oceanographic and Atmospheric Administration (NOAA) Intermediate-High scenario projection curve [or any subsequently updated version thereof on the project site. Sea level rise data can be accessed on the AdaptVA website, maintained by the Virginia Institute of Marine Science (VIMS). When determining potential sea-level rise impacts, the applicant should use the model to identify both the extent of anticipated inland migration, as well as the water depth.
 - (b) For storm surge, use the most up to date NOAA hydrodynamic Sea, Lake, and Overland Surges Hurricanes (SLOSH) model on the project site. Storm surge data can be accessed on the AdaptVA website.
 - (c) For flooding, use the most up to date Special Flood Hazard Area and the Limit of Moderate Wave Action (LiMWA) model on the project site according to the Virginia Flood Risk Information System (VFRIS) model in conjunction with the requirements and application of the [local] floodplain management ordinance. VFRIS includes the Flood Insurance Rate Maps, flood insurance studies, and associated models produced by the Federal Emergency Management Agency, and is available on the Virginia Department of Conservation and Recreation (DCR) website. When identifying flooding impacts, the applicant may rely on existing use and application of the relevant Special Flood Hazard Area. This data is also accessible on the AdaptVA website.
 - (d) The anticipated impacts shall be based upon a thirty (30) year timeframe, unless the applicant demonstrates that the lifespan of the project proposed for development is less than thirty (30) years based upon the information in 2(b) as approved by the Town of Smithfield Administrator. Where a lifespan of less than 30 years is proposed, the applicant shall provide documentation of proposed building materials, anticipated quality of construction, design specifications, and other materials or information in support of a predicted lifespan of less than 30 years for the project.
- (2) A narrative report that analyzes the results of the data and graphic research, and provides the following information:
 - (a) Define the intended service life of the proposed structure(s).
 - (b) Identification of any proposed impact directly from proposed impervious cover or structures in the RPA and the extent of such impact.
 - (c) Identification of extent of impact on the current buffer area including impacts to existing vegetation from the landward movement of water and vegetative migration.
 - (d) Describe the extent to which anticipated impacts can be or have been mitigated by altering the location design, size, or orientation of proposed structures or impervious cover, by preserving and/or supplementing existing buffer areas as provided for in Section 108 of this Ordinance,

and/or by considering other limiting site conditions including required setbacks and parcel size, and/or by proposing an adaptation measure in accordance with the provisions of Section 108.

(e) Identification of the utilization of existing local programs that already take potential impacts into account through the building permit or site design review processes, such as freeboard requirements enacted through the [local floodplain ordinance].

(3) The Town of Smithfield Administrator will review the narrative report from (2) along with the water quality impact assessment and determine whether the anticipated impacts necessitate an alteration or conditions to the proposed project or implementation of an adaptation measure for approval.

(a) In considering whether a requirement for project alteration or adaptation measure is appropriate, the Town of Smithfield Administrator will ensure that the proposed alteration or adaptation measure is practical, achievable, and necessary to mitigate the identified impact.

(b) Where possible, consideration will be given to modifying the proposed development size or location, such that the extent of land disturbance or impervious cover can be reduced to avoid or minimize the area or areas of the parcel that the assessment indicates will be impacted.

(c) If the resiliency assessment reveals that impacts on the parcel can be addressed by structural design or siting alterations, then supplemental information on the potential alterations shall be provided for consideration by the Town of Smithfield Administrator. Supplemental information may include additional sketches or plans, including plan and section views, building specifications, and other supporting materials.

(d) Approval may be conditioned on the implementation of the proposed alterations, conditions, or adaptation measure.

(e) The resiliency assessment may also indicate that no alterations, conditions, or adaptation measures are required, in which case the applicant may proceed through the remainder of the approval process.

(4) Should an impact from sea-level rise, storm surge, or flooding be identified that exceeds available design alterations, approval of the proposed project should then be conditioned with the requirement for an adaptation measure and the following information provided:

(a) Describe the proposed adaptation measure(s) for the site as selected from one of the sources listed in subsection 109(A) of this Ordinance and submit documentation of the proposed adaptation measure and its suitability for use on the site, such as design specifications, construction methods and materials that will provide shoreline stabilization until vegetation is established, and a proposed maintenance plan.

(b) Describe how the selected adaptation measure meets the requirement for being a nature-based solution.

(c) Describe how the selected adaptation measure(s) comply with applicable regulatory or permitting requirements. Submit a water quality impact assessment pursuant to Section 108 of this Ordinance and a site plan pursuant to Section 110 of this Ordinance detailing the proposed placement of the adaptation measure, existing and proposed topography and vegetation, proposed limits of clearing and grading, and mitigation for the area of land disturbance within the RPA. Additionally, provide documentation of as-built documentation of the final design and installation, including photographs, and final inspection is required upon completion of installation.

(5) The resiliency assessment may be submitted as a standalone document as part of the plan of development process or it may be submitted as part of a water quality impact assessment pursuant to Section 108 of this Ordinance for those projects disturbing less than 2,500 square feet.

Sec. 110. Plan of development process.

(A) Any development or redevelopment in the Chesapeake Bay Preservation Area shall be accomplished through a plan of development process consistent with Va. Code §15.2-2286(8). Approval shall be

rendered for a plan prior to commencement of any land-disturbing activity on site or the issuance of any building permit. Plans and information required under this subsection may be coordinated or combined as deemed appropriate by the Town of Smithfield Administrator. All information required in this subsection shall be drawn to the same scale as the preliminary site plan or final subdivision plat and certified as complete and accurate by persons duly licensed by the Commonwealth of Virginia to practice as such. Any applicant, or potential applicant, may confer with such departments and other agencies of the Town of Smithfield as may be appropriate concerning a general development or redevelopment proposal before submission of an application. Such a conference shall not be construed as an application for approval of such a proposal.

(B) Except as otherwise provided herein, the plan of development process for any development or redevelopment in a CBPA, shall consist of the plans and information identified below:

- (1) A site plan or a subdivision plat which meets the requirements of the Site Plan Ordinance or Subdivision Ordinance, and which includes the following information:
 - (a) RPA boundaries as identified during the site-specific CBPA determination conducted pursuant to Section 105 of this Ordinance, and the location of the following environmental features:
 1. Tidal wetlands.
 2. Tidal shores.
 3. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, the location and extent of which shall be determined in accordance with the procedures specified in the *United States Corps of Engineers' Wetland Delineation Manual, Technical Report Y-87-1*, January 1987, Final Report, the *Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region* (Version 2.0) ERDC/EL TR 10-20, and the *Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region* (Version 2.0) ERDC/EL TR 12-9.
 4. A buffer area not less than 100-feet in width and located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow.
 - (b) Evidence of the site specific CBPA boundary determination, inclusive of perennial flow determinations and wetland delineation studies, as appropriate to the site conditions.
 - (c) Limits of land disturbance and all areas of clearing, grading, access ways and staging areas and the total area of land disturbance, as well as total area of land disturbance proposed within the RPA.
 - (d) Location of all approved existing and proposed septic tanks and drainfield areas, including reserve areas, and the location of all existing and proposed wells and utilities.
 - (e) A statement that excavation material and debris from construction shall be disposed of in a lawful manner.
 - (f) Existing and proposed impervious cover and the total amount of impervious cover proposed for the site, as well as total amount of impervious cover proposed within the RPA.
 - (g) Evidence that all applicable wetland permits required by law have been obtained prior to authorization of grading or other on-site activities shall be provided.
 - (h) Additional information shall be requested, and reasonable and appropriate conditions shall be imposed by the Town of Smithfield Administrator, if necessary, to preserve the purpose and intent of this Ordinance.
- (2) A water quality impact assessment, according to Section 108 of this Ordinance.
- (3) A resiliency assessment, according to Section 109 of this Ordinance.
- (4) A landscape plan that delineates or complies with the following:

- (a) The location, size, and description of existing and proposed plant material. All existing canopy trees and understory trees on the site of six (6) inches or greater diameter at breast height shall be shown. Where there are groups of trees, stands of trees may be outlined, except for mature trees, which shall be individually identified. The location and specific number of mature trees, canopy trees, and understory trees to be preserved on the project site shall be indicated on the plan. Mature trees, canopy trees, and understory trees and other vegetation to be disturbed or removed to create a desired construction footprint shall be clearly identified. Mature trees shall be protected during development and only removed where necessary, including to provide for the proposed use or development.
- (b) A description of the proposed measures for mitigation shall include (i) a replanting schedule for trees and other vegetation removed for construction, including a list of plants and trees to be used for mitigation; (ii) a demonstration that the design of the plan will preserve mature trees, canopy trees, and understory trees and other vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation; (iii) a demonstration that existing plants are to be used to the greatest extent possible; and (iv) a demonstration that where the planting of new trees or vegetation is required, native species will be used to the greatest extent possible. If no mitigation or planting is required, existing trees may be delineated as required above on the site plan or subdivision plat.
- (c) A delineation of any required buffer area and any plant material to be added to establish or supplement the buffer area. Trees should be used for mitigation and supplementation of the buffer area to the extent practicable and as appropriate to the site conditions and project specifications. Where possible use of native species is preferred.
- (d) Within the buffer area, identification of the trees to be removed for sight lines, vistas, access paths, best management practices, and shoreline stabilization projects, as applicable, and the location, type, and size of replacement trees and vegetation proposed for mitigation. Mature trees shall be preserved and trimmed or pruned in lieu of removal as site conditions permit. Any removal of mature trees should be limited to the fewest number of trees feasible. When mature trees are removed to provide for site lines and vistas, access paths or BMPs, they shall be replaced with trees as appropriate to site conditions. The location, type and size of replacement trees and other vegetation proposed for mitigation for the removal of trees from the buffer area shall be shown on the landscape plan.
- (e) A depiction of grade changes or other work adjacent to trees which would adversely affect them. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved. Specifications shall also be provided for the protection of existing trees and vegetation during site work and construction.
- (f) A description of the limits of clearing of existing vegetation, based on all anticipated improvements, including buildings, drives, and utilities.
- (g) All supplementary or replacement plant materials shall be in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the *American Standard for Nursery Stock*, published by the American Nursery and Landscape Association, and shall be installed according to standard planting practices and procedures.
- (i) Where areas to be preserved are encroached upon, replacement of existing trees and other vegetation shall be achieved at a ratio of three (3) trees planted to one (1) tree greater than six (6) inches diameter at breast height removed, or by such other measures as in the judgment of the Town of Smithfield Administrator will adequately compensate for the removal of such trees and other vegetation. Replacement trees shall be a minimum two (2) to two and one-half (2½) inches caliper at the time of planting.
- (j) Location of signage along the RPA boundary to alert property owners of the environmentally sensitive areas and to protect the RPA from secondary impacts following the completion of construction activities. Signage shall be subject to the following provisions:

1. Signs must be located on property lines at and along the intersection of the landward edge of the RPA buffer and spaced at intervals not exceeding 100-feet.
2. Where possible, the signs will be mounted to a tree larger than three (3) inches in DBH. Where it is not possible to mount the sign to the tree, a treated 4 x 4 or a metal signpost must be used. The post must be buried at least 24 inches. The signs must be mounted between four (4) and six (6) feet above the ground surface.

(5) An erosion and sediment control plan meeting the requirements of the provisions of the Town of Smithfield Erosion and Sediment Control Ordinance.

(6) A stormwater management plan containing maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and supporting references shall be submitted in accordance with the requirements of the Virginia Stormwater Management Regulations. At a minimum, the stormwater management plan shall contain the following:

- (a) Location and design of all planned stormwater control devices.
- (b) Procedures for implementing nonstructural stormwater control practices and techniques.
- (c) A long-term schedule for inspection and maintenance of stormwater management consistent with the Virginia Stormwater Management Handbook.
- (d) A maintenance agreement as deemed necessary and appropriate by the Town of Smithfield Administrator to ensure proper maintenance of best management practices in order to continue their functions.
- (e) Predevelopment and post development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations as outlined in the Virginia Stormwater Management Handbook.
- (f) For stormwater management facilities, verification of structural soundness, which shall be certified by a professional engineer. All engineering calculations shall be performed in accordance with the current edition of the Virginia Stormwater Management Handbook.
- (g) Such additional elements that are required to be contained in a stormwater management plan for Chesapeake Bay land disturbing activities by the Virginia Stormwater Management Handbook.
- (h) A description of any proposed structural stormwater management solutions and the extent to which lateral movement of stormwater to neighboring parcels is a concern, and the extent to which it has been addressed by proposed mitigation measures and/or adaptation measures.

(D) *Performance and bonding requirements.*

- (1) No approved plans required by this Section shall be released until the applicant provides performance bonds or other form of surety acceptable to the Town of Smithfield Attorney, provided, however, that when the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a building permit and certificate of occupancy may be issued if the applicant provides to the Town of Smithfield Administrator a form of surety satisfactory to the Town of Smithfield Attorney in an amount equal to the estimated cost of construction, related materials, and installation costs of the required landscaping or other specifications and maintenance costs for any required stormwater management facilities.
- (2) All required landscaping shall be installed as approved by the end of the first planting season following issuance of a certificate of occupancy. Landscaping must survive or be replaced by the end of the second planting season, or the surety shall be forfeited to the treasury of the Town of Smithfield.
- (3) All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may

be forfeited to the treasury of the Town of Smithfield, which may also collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

- (4) After all required actions of the approved plan have been completed, the applicant shall submit to the Town of Smithfield Administrator a written request for a final inspection. If the requirements of the approved plan have been completed, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty 60 days following the receipt of the applicant's request for final inspection.
- (5) Prior to the issuance of any grading, building or other permit for activities involving site development activities, the applicant shall furnish to the Town of Smithfield Administrator a reasonable performance bond, cash escrow, letter of credit or other legal surety, or any combination thereof acceptable to the Town of Smithfield Attorney, to ensure that measures may be taken by the Town of Smithfield, at the applicant's expense, should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate conservation action which may be required of them as a result of the approved site development.

Sec. 111. Nonconforming buildings and structures.

- (A) The Town of Smithfield Administrator may permit the continued use, but not necessarily the expansion, of any structure in existence prior to 1998 or which exists at the time of any amendment to this Section. The Town of Smithfield Administrator may waive or modify the criteria of this Section for structures on legal nonconforming lots or parcels, provided that:
 - (1) There will be no net increase in nonpoint source pollutant load.
 - (2) Any development or land disturbance exceeding 2,500 square feet complies with all erosion and sediment control requirements.
- (B) Additions and modifications to existing legal principal structures may be processed through an administrative review of the application by the Town of Smithfield Administrator and shall be subject to the findings required by subsection 113(A) of this Ordinance. Such findings are to be made by the Town of Smithfield Administrator, but without the requirement for a public hearing. This provision shall not apply to accessory structures, as defined by Section 103 of this Ordinance, which are not permitted uses within the Resource Protection Area and require submittal to the formal exception process.
- (C) A nonconforming use and development waiver shall become null and void 12 months from the date of issuance if the Town of Smithfield Administrator documents that no substantial work has commenced. The Town of Smithfield Administrator shall notify the permittee of the revocation of the waiver in writing.
- (D) Reconstruction or restoration of any nonconforming building or structure destroyed or damaged by reason of casualty loss shall be allowed, provided that the area encompassed by such building or structure, as reconstructed or restored, is not extended or enlarged and is subject to the requirements of this Ordinance and other Town of Smithfield ordinances.

Sec. 112. Exemptions.

- (A) *Exemptions for public utilities, railroads, and public roads, and facilities.*

- (1) Construction, installation, operation and maintenance of electric, natural gas, fiber optic, and telephone transmission lines, railroads, public roads and their appurtenant structures are deemed to comply with this Ordinance provided such activities are performed in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51 et seq.) and the Stormwater Management Act (Va. Code § 62.1-44.15:24 et seq.); (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental Quality or the locality, as required; or (iii) local water quality criteria at least as stringent as the state requirements. Exemptions for public roads shall also be subject to the following conditions:

- (a) The road alignment and design are optimized and consistent with other applicable requirements to prevent or otherwise minimize (i) encroachments into Resource Protection Areas and (ii) adverse effects on water quality.
- (b) Such appurtenant structures shall include, but are not limited to, bridges, guard rails, lighting and traffic-control devices, fences, and berms.
- (2) Construction, installation and maintenance of water, sewer, underground cable and telecommunications lines and natural gas lines owned or permitted by the Town of Smithfield, or a regional service authority, shall be exempt from this Ordinance provided that:
 - (a) To the degree practicable, the location of such utilities and facilities shall be outside RPAs.
 - (b) No more land shall be disturbed than is necessary to provide for the proposed installation.
 - (c) All construction, installation, and maintenance of such utilities and facilities shall comply with all applicable state and federal requirements and permits and shall be designed and constructed in a manner that protects water quality.
 - (d) Any land disturbance exceeding an area of two 2,500 square feet complies with all requirements of the Erosion and Sediment Control Ordinance.

(B) *Exemptions in Resource Protection Areas.* Land disturbances in RPAs associated with water wells, passive recreation facilities such as boardwalks, trails and pathways, and historic preservation and archaeological activities shall be exempt from the criteria of this Ordinance provided that the following are demonstrated to the satisfaction of the Town of Smithfield Administrator:

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued.
- (2) Sufficient and reasonable proof is submitted to the Town of Smithfield Administrator that the intended activity will not deteriorate water quality.
- (3) Any land disturbance exceeding an area of 2,500 square feet shall comply with the Erosion and Sediment Control Ordinance.

(C) *Exemptions for silvicultural activities.* Silvicultural activities located within designated CBPAs shall be exempt from the requirements of this Ordinance provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the Fifth Edition (March 2011) of *Virginia's Forestry Best Management Practices for Water Quality Technical Manual*. The Virginia Department of Forestry will oversee and document the installation of best management practices and will monitor in-stream impacts of forestry operations in CBPAs.

- (1) The exemption of silvicultural activities only applies to those operations that install and properly implement all necessary forestry best management practices. Failure to properly install or maintain any of the forestry BMPs within the RPA would automatically eliminate the silvicultural exemption status under this Section and may subject the property owner to penalties for violations under Section 115 of this Ordinance and possible enforcement actions from the Virginia Department of Forestry.
- (2) Silviculture entails the continued production of trees, wood, or wood products and any related actions that occur during the management of the land for these purposes. Silviculture does not include clearing a site in preparation for future development nor does it involve the removal of stumps for any reason. If the Town of Smithfield Administrator determines that the intended use of the site is not silvicultural in nature, all exemptions from this Ordinance are null and void and the project would have to comply with all requirements of this Ordinance. This may include preserving the full 100-foot RPA buffer or replanting it in woody vegetation, if necessary, and full compliance with all erosion and sediment control requirements if more than 2,500 square feet of land has been disturbed.

(D) *Exemptions for living shorelines.* A living shoreline, as defined by Va. Code § 28.2-104.1 may be exempt from additional performance criteria requirements of Section 107, including a water quality impact assessment in Section 108, provided the project minimizes land disturbance, maintains or

establishes a vegetative buffer inland of the living shoreline, complies with the fill conditions in subsection 107(E)(1)(f) of this Ordinance, and receives approval from the VMRC or the local wetlands board, as applicable.

Sec. 113. Waivers and exceptions.

(A) *General requirements.* Applications for waivers and exceptions from the requirements of Section 106, general performance standards, and 107, development standards for RPAs, shall be made in writing and filed with the Town of Smithfield Administrator. Such applications shall identify any potential impacts of the proposed waiver or exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, pursuant to Section 108 of this Ordinance, and shall examine the impacts of sea level rise, storm surge, and flooding on the project through the performance of a resiliency assessment, pursuant to Section 109. Each application for a waiver and exception shall be approved, denied, or approved with conditions according to the review process outlined in the following subsections. No application for a waiver or exception to sections 106 and 107 of this Ordinance shall be granted under this Section without meeting the following findings:

- (1) The requested waiver or exception to the criteria is the minimum necessary to afford relief.
- (2) Granting the waiver or exception will not confer upon the applicant any special privileges that are denied by this Ordinance to other property owners who are subject to its provisions and who are similarly situated.
- (3) The waiver or exception is in harmony with the purpose and intent of this Ordinance and is not of substantial detriment to water quality.
- (4) The waiver or exception request is not based upon conditions or circumstances that are self-created or self-imposed.
- (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- (6) Other findings, as appropriate to the Town of Smithfield Administrator are met.

(B) *Administrative waivers.* The Town of Smithfield Administrator shall approve, deny, or approve with conditions an application requesting an administrative waiver following the review of a complete application, as defined under subsection 113(A) of this Ordinance. No such application shall be accepted by the Town of Smithfield Administrator unless accompanied by a nonrefundable fee as determined by Town Council.

- (1) The Town of Smithfield Administrator may establish such review policies as they deem expedient in implementing the intent of this Ordinance. In approving an application, the Town of Smithfield Administrator shall, if warranted, include reasonable and appropriate conditions that will prevent the degradation of water quality.
- (2) No administrative waiver or exception shall be granted to Section 106 of this Ordinance, general performance standards, unless the Town of Smithfield Administrator makes the findings required in subsection 113(A) of this Ordinance.
- (3) Administrative waivers to provisions within sections of this Ordinance other than 106 or 107 may be granted, provided that:
 - (a) Waivers to the criteria shall be the minimum necessary to afford relief.
 - (b) Reasonable and appropriate conditions upon any waiver granted shall be imposed, as necessary, so that the purpose and intent of this Ordinance is preserved.

(C) *Formal exceptions.* Exceptions from the criteria of Section 107 of this Ordinance, development criteria for Resource Protection Areas, require public notice and a public hearing before the Planning Commission. Complete applications for an exception shall be submitted to the Town of Smithfield Administrator for review and evaluation prior to being forwarded to the Planning Commission for

consideration. No such application for an exception shall be accepted by the Town of Smithfield Administrator unless accompanied by a nonrefundable fee as determined by Town Council.

- (1) The Town of Smithfield Administrator shall review complete applications for an exception to the requirements of Section 107 of this Ordinance, including the water quality impact assessment and resiliency assessment, and provide the Planning Commission and the applicant with copies of the submitted materials, an evaluation of the required findings and potential impacts of the proposed exception, and such other information as may aid the Planning Commission in considering the application no less than five (5) days prior to the scheduled hearing.
- (2) Not later than 60 days after the receipt of a complete application, the Planning Commission shall hold a public hearing on such application. Notice of the time and place of the hearing shall be published twice in a newspaper published or having general circulation in the Town of Smithfield, with the first notice appearing no more than 28 days before and the second notice appearing no less than seven days before the date of the meeting referenced in the notice.
- (3) The Zoning Administrator shall notify, by first class mail, all property owners adjacent to the subject property and each waterfront property owner across the waterway from the subject property, if the water body is less than 500-feet wide, of the public hearing at least five (5) days prior to the hearing.
- (4) The Planning Commission may make, alter and rescind rules for its procedures not inconsistent with the provisions of this Ordinance; provided, however, that a quorum shall be not less than a majority of the members of the Planning Commission, and provided further, that the concurring vote of a majority of the members of the Planning Commission present and voting shall be required to grant any exception.
- (5) The Planning Commission shall approve, deny, or approve with conditions an application requesting an exception to the requirements of Section 107 following the review of a complete application and a determination that the proposed project meets the findings required by subsection 113(A) above.

(D) No application for relief from sections 106 or 107 of this Ordinance shall be considered complete where a resiliency assessment, as outlined in Section 109 of this Ordinance has not occurred or the proposed adaptation measure allows for the use of fill in a Resource Protection Area in contravention to the requirements of subsection 107(E)(1)(f)5 of this Ordinance.

Sec. 114. Appeals.

- (A) Any order, determination or decision made by the Town of Smithfield Administrator or any administrative officer in the administration or enforcement of this Ordinance, including any decision on an application for an administrative waiver or a formal exception, may be appealed by any person aggrieved by the decision to the Planning Commission by application filed with the Town Manager within 10 days from the date of such order, determination or decision. Such application shall state with particularity the grounds of such appeal. Any application failing to do so shall be rejected by the Town Manager. The filing of an appeal shall not stay any proceedings in furtherance of the action appealed from.
- (B) The fees and notice requirements for appeals under subsection (A) hereof shall be as set forth in Section 113 of this Ordinance.
- (C) Any party aggrieved of a decision of the Town Council may, within 30 days of the date of such decision, petition the circuit court to review such decision. The procedure in such cases shall be as provided in Va. Code § 15.2-2314, as amended.
- (D) The circuit court may affirm, reverse, or modify any decision of the Town Council, and may impose any reasonable conditions in its judgment, provided, however, that no decision of the Town Council shall be disturbed unless the court shall find:
 - (1) The decision appealed from was based upon the erroneous application of the criteria set forth in subsection 113 (A) of this Ordinance or was based upon grounds other than those set forth therein.

- (2) There was no substantial evidence upon which the Town Council could have made all findings required by subsection 113 (A) of this Ordinance.
- (3) The decision of the Town Council was plainly wrong.
- (4) The Town Council failed to impose reasonable and appropriate conditions intended to prevent the variance from causing or contributing to a degradation of water quality.

Sec. 115. Violations; penalties.

- (A) Without limiting the remedies which may be pursued under this Ordinance, any person who (i) violates any provision of this Ordinance or (ii) who violates, fails, neglects, or refuses to obey any notice, order, rule, regulation, variance, exception, or permit condition authorized under this Ordinance shall, upon such finding by the circuit court, be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day of violation. Such penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the Town of Smithfield, in such a manner as the court may direct by order, except that in the event the Town of Smithfield or its agent is the violator, the court shall direct the penalty to be paid into the treasury of the Commonwealth.
- (B) Without limiting the remedies which may be pursued under this Ordinance, and with the consent of any person who has violated any provision of this Ordinance, or who has violated, failed, neglected, or refused to obey any notice, order, rule, regulation, variance, exception, or permit condition authorized under this Ordinance, the Town Council may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each violation. Such civil charges shall be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage or restoring Chesapeake Bay Preservation Areas in the Town of Smithfield, except that in the event the Town of Smithfield or its agent is the violator, the civil charges shall be paid into the treasury of the Commonwealth. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection 115(A) of this subsection. Civil charges may be in addition to the cost of any restoration required by the Town Council.
- (C) In addition to, and not in lieu of, the penalties prescribed in subsections (A) and (B) hereof, the Town of Smithfield may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this Ordinance and may seek any other remedy authorized by law.
- (D) Upon notice from the Town of Smithfield Administrator that any activity is being conducted in violation of any of the provisions of this Ordinance, such activity shall immediately be stopped. An order to stop work shall be in writing and shall state the nature of the violation and the conditions under which the activity may be resumed. No such order shall be effective until it shall have been tendered to the owner of the property upon which the activity is conducted or his agent or to any person conducting such activity. Any person who shall continue an activity ordered to be stopped, except as directed in the stop-work order, shall be guilty of a violation of this Ordinance.

Sec. 116. Severability.

The provisions of this Ordinance shall be deemed to be severable, and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this ordinance shall remain in full force and effect and their validity shall remain unimpaired.

Sec. 117. Vested rights.

The provisions of this Ordinance shall not affect the vested rights of any person under existing law.

Sec. 118. Enforcement.

This Ordinance shall be enforced by the Town of Smithfield Administrator, who shall exercise all authority of police officers in the performance of their duties. Such authority shall include, without limitation,

the authority to issue summonses directing the appearance before a court of competent jurisdiction of any person alleged to have violated any of the provisions of this Ordinance.

Sec. 119. Effective date.

This Ordinance shall become effective on the 2nd day of October, 2024.

Article 3.Q:
MH-P, Mobile Home Park District

Article 3.Q:
MH-P District
(Mobile Home Park District)

A. Purpose and Intent:

The MH-P, Mobile Home Park District is established to provide for the location of mobile homes and manufactured homes in mobile home parks and to allow for other selected uses which are compatible with the intended residential character of this district. Sites for mobile home parks should be not less than twenty (20) contiguous acres in those areas of the Town with adequate provision of adequate public street access, water supplies and sanitary sewer facilities. Existing mobile homes and manufactured homes located within the Town, though recognized in their non-conforming status, will be subject to the provisions of the MH-P District if altered in any manner.

B. Permitted Uses:

1. Residential single-wide mobile home dwellings.
2. Residential manufactured home dwellings.
3. Accessory residential uses (limited to one hundred twenty [120] square feet in area), including detached carports and garages, tool and storage sheds, children's playhouses and doghouses.
4. Single family detached residential dwelling limited to one family occupancy; to be limited to one single family detached residential dwelling per mobile home park.
5. Office and/or maintenance facility to be used only by the managers of the mobile home park. Preferably, the office and/or maintenance facility and the allowed single family residential dwelling would be located within the same structure.
6. Commercial swimming pools and tennis courts for the exclusive use of the mobile home park residents.
7. Home occupations.

C. Uses Permitted By Special Use Permit:

1. Residential double-wide mobile home dwellings.
2. Cemeteries.
3. Churches and places of worship.
4. Libraries.
5. Museums and historic sites and shrines.

6. Plant nurseries.
7. Child day centers.
8. Community buildings and facilities.
9. Private swimming pools and tennis courts.
10. Nursery schools.
11. Private schools and related uses.
12. Public schools and related uses.
13. Laundromat facilities.
14. Recycling collection center, for exclusive use of mobile home park residents.
15. Accessory storage buildings, for exclusive use of mobile home park residents.
16. Public utilities.
17. Waiver of district size.
18. Public uses.
19. Adult day care centers.
20. Waiver of Parking and Loading Requirements.

(Ord. of 9-2-2008)

D. Maximum Density:

1. Six (6.0) dwelling units per net developable acre.

E. Lot Size Requirements:

1. Minimum district size:	Twenty (20) acres
2. Minimum lot area:	
A. Single-wide mobile homes:	4000 square feet
B. Manufactured homes:	4000 square feet
C. Double-wide mobile homes:	5000 square feet
D. Non-residential structures:	10,000 square feet
3. Minimum lot width:	
A. Mobile home park lot:	100 feet
B. Single-wide mobile home and manufactured home single lot (within park):	40 feet
C. Double-wide mobile home single lot (within park)	52 feet
D. Other detached dwellings:	

Interior lot:	75 feet
Corner lot:	90 feet

F. Bulk Regulations:

1. Height
 - A. Mobile/manufactured home dwellings 16 feet or one (1) story
 - B. Other residential structures 35 feet
 - C. Non-residential structures 35 feet
2. Minimum yard requirements:
 - A. Front yard: 20 feet,
75 feet from the front lot line or public right of way
 - B. Side yard: 12 feet,
60 feet from the side lot line of the park
 - C. Rear yard: 15 feet,
60 feet from the rear lot line of the park
 - D. Minimum yard requirements:
no mobile or manufactured home shall be located closer than
 1. 25 feet to any other mobile or manufactured home or building.
 2. 50 feet to any public street.
 3. 15 feet to a private street or a common open space area
within the mobile home park.
3. Floor Area Ratio: A maximum floor area ratio of 0.25 shall apply to all uses other than mobile homes and manufactured homes in a mobile home park.

G. Open Space and Recreation Areas:

1. Twenty-five percent (25%) of the gross site area shall be open space dedicated to common usage and ownership.
2. Fifty percent (50%) of the required open space area shall be developed as active recreational areas and facilities.

3. Active recreational areas may include playgrounds with recreational structures, tot lots, tennis courts, swimming pools, wading pools, spas and saunas, clubhouse facilities, community meeting rooms and other similar facilities intended for the exclusive use and participation of residents within the MH-P development. The applicant shall establish that the type and quality of the planned improvements for the active recreation space shall satisfy the needs of the residents of the project. The location, mix, type, quality and phasing of active recreation facilities and open spaces shall be delineated on the General Development Plan and is subject to Planning Commission approval. A bond may be required for such improvements and facilities subject to the discretion of the Planning Commission.
4. No more than 40% of the required open space shall consist of land classified as 100 year floodplain, stream valleys, wetlands, water features, stormwater management facilities, slopes greater than 30% and/or drainage easements.
5. Required open space shall be contiguous and shall occupy a single parcel within the MH-P development unless otherwise approved by the Planning Commission.
6. In no instance shall open space credit be given for lands which are included in or reserved for public rights of way or private travelways, loading areas, pedestrian walkways or parking areas.
7. Open space and active recreational areas shall be accessible to all attached residential lots within the development via dedicated pedestrian access easements. Walkways and other forms of pedestrian access shall form an interconnected system within the MH-P District, serving as access to open space, recreational areas and other pedestrian destinations. Pedestrian systems shall be delineated on the General Development Plan.
8. Where community bike and pedestrian trails intended for public use have been designated by the Town's adopted Comprehensive Plan or the Capital Improvements Plan, the applicant shall connect interior pedestrian trails and sidewalks within the project, where appropriate, to these community trails.
9. All open space shall be further regulated by landscaping and buffer yard requirements.
10. All common open space, recreational areas and other common properties shall be preserved for their intended purpose as shown on the approved Plan of Development and shall be established by metes and bounds on the Final Subdivision Record Plat.

11. Common open space, recreational areas and other common properties shall be owned, administered and maintained by a not-for-profit, property owners association, provided, however, that a portion or all of such properties may be dedicated to the Town subject to and at the sole discretion of the Town for acceptance at time of plat recordation. Property owner's association by-laws, articles of incorporation, restrictive covenants and a schedule of maintenance shall be submitted with any application for subdivision plat or site plan approval.
12. For open space, recreational areas and other common properties to be retained by the property owners association of a subdivision, the initial developer/owner of the subdivision must establish the owners association as a legal entity prior to the recordation of the final plat. Membership in the association shall be mandatory for all lot owners within the subdivision. The owners association shall own all common open space and recreational facilities and shall provide for their perpetual administration, maintenance and operation.

H. Net Developable Area Calculation for the MH-P District:

1. Notwithstanding governing lot size and yard regulations, the maximum number of units for attached residential development or subdivision shall be calculated based on existing land conditions. The yield of a subdivision shall be based on its net developable area, with adjustment factors for physical land units as specified on the following chart.
2. The final plat and/or site plan for a project shall graphically depict the location and area for the physical land units as outlined herein below. A calculation of the net developable area shall be required for all subdivision and site plan submissions. (*Refer to illustrative example of net developable area calculation in the appendix of the Zoning Ordinance.*)

Physical Land Unit	Percent Credited Toward Net Acreage
<i>Slopes less than 10%:</i>	100%
<i>Slopes from 10% but less than 20%:</i>	75%
<i>Slopes from 20% but less than 30%:</i>	50%
<i>Slopes 30% or more:</i>	10%
<i>Soils with high shrink/swell characteristics, as defined:</i>	75%
<i>Wetlands, existing water features and streams:</i>	0%
<i>Stormwater management basins and structures:</i>	0%
<i>Above-ground 69 KV or greater transmission lines:</i>	0%
<i>Public right-of-way</i>	0%

Private streets, travelways and combined travelways and parking bays 0%

3. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.
4. No MH-P District residential lot shall be configured such that more than 10% of the prescribed minimum lot area for a subdivided attached residential or duplex residential lot is comprised of one or more of the physical land units: (a) slopes 30% or more, (b) wetlands, (c) 100-year floodplains and (d) water features. Stormwater management and BMP facilities shall not be constructed within the boundaries of a residential lot.

(Ord. of 8-1-2001)

I. Additional Regulations:

1. Refer to Article 6, Landscaping and Screening Regulations for screening and buffer yard provisions.
2. Waiver of minimum district size:
 - A. The Planning Commission may approve a special permit waiving the minimum district size requirement for the MH-P District in accordance with the following provisions:
 - (1) Such lot is (a) not adjoined or has not been adjoined by any other land in the same ownership or (b) reduced in width or area to a width or area less than that required and/or
 - (2) The owner shall demonstrate that consolidation with contiguous lots represents an undue economic hardship or physical impossibility as well as establishing that such proposed development will have no deleterious effect on those contiguous properties.
3. Refer to Parking and Loading Requirements for parking regulations.

- A. Two off-street parking spaces shall be provided for each dwelling.
- B. Parking spaces shall be assigned and located within close proximity to the individual dwelling unit served.
- C. Additional parking spaces shall be provided and designated for recreational vehicles based on one (1) recreational vehicle parking space per twelve (12) dwelling units.
- D. ADA parking requirements and dimensions shall be incorporated as a required improvement into all plats and plans with the MH-P District.

4. Private Travelways, Travelways with Parking Bays, and General Access

- A. Mobile and manufactured home dwellings shall have direct access to a private street with a minimum width of 24 feet (curb to curb) contained within a minimum 30 foot private vehicular access easement.
- B. Private streets and travelways with parking bays shall be constructed to geometric and pavement design standards as specified by the Town's Design and Construction Standards manual.
- C. Travelways and parking bays shall have CG-6 or equivalent curb and gutter.

5. Refuse Collection Screening and Buffering

- A. All refuse shall be contained in completely enclosed and screened facilities.

6. Required Improvements and Maintenance of Improvements

- A. For any development in the MH-P District, all common area improvements (including open space, recreational facilities, private travelways, walkways, parking areas and other community facilities) shall be maintained by and be the sole responsibility of the developer-owner of the MH-P District development until such time as the developer-owner conveys such common area to a non-profit (homeowners') entity consisting of at least all of the individual owners of the dwelling units in the development.
- B. On-site lighting, signing, accessory structures and mailboxes shall be provided by owner-developer of MH-P District development. These improvements shall be of compatible and coordinated scale, materials and colors.

7. Covenants

- A. Deed restrictions and covenants shall be included with the conveyance to include, among other things, that assessments, charges and costs of maintenance of such common areas shall constitute a pro-rata share lien upon the individual dwelling lots, such lien inferior only to taxes and recorded trusts. Further, covenants shall specify means in which the non-profit entity shall govern and manage itself and maintain building exteriors, landscaping, lighting, recreation areas, walkways, parking areas, snow removal and travelways.
- B. All deed restrictions, covenants, non-profit (homeowners') entity incorporation documents, and information related to conveyance programs shall be prepared by the MH-P District developer-owner and presented at the time of plat and plans submission for Town review and approval.

8. Zoning and Site Plan Requirements

- A. The rezoning of any project under the MH-P District zoning provisions shall require a general development plan which is intended to depict the master plan for the specific development proposal.
- B. Development of any and all sections within the MH-P District shall require site plan approval with final engineering designs and final plats in conformance with the approved rezoning general development plan.
- C. A parking and traffic impact study may be required of the applicant with the submission of the site plan.

9. Special criteria for mobile home park development:

- A. No mobile or manufactured home shall be located in any park unless it can be demonstrated that it meets the requirements of the Manufactured Home Manufacturers' Association "Manufactured Home Standards for Plumbing, Heating and Electric Systems" as well as other qualifying standards adopted by the Commonwealth of Virginia. Manufactured Homes may be located only upon approval of necessary building permit applications.
- B. All dwelling units shall be placed on a designated home lot and shall not obstruct the use of, or project over, any right of way, private driveway, walkway, private easement, common open space or public utility easement.
- C. Every home lot as described on the site plan shall be clearly defined by field survey and indicated on the ground with permanent and visible markers.

- D. Every home lot shall be provided with an appropriate home stand so designed to provide adequate load bearing support. Each stand shall be located as to provide for the most practical placement of the manufactured or mobile home and its appurtenant structures in a manner complying with all requirements of the mobile home district. Each home shall be securely anchored to each stand to prevent overturning and shifting, in accordance with National Fire Protection Association Standards.
- E. Every dwelling unit shall be provided with a landscaped outdoor space (with sidewalks) to supplement the interior living space. Outdoor landscaped space shall be located convenient to the entrance of the mobile home. The outdoor area shall be at least 250 square feet.
- F. Sidewalks shall be provided for safe, convenient, all-weather access from home stands to paved streets, parking spaces and other concentrated pedestrian areas.
- G. No home lot shall be designed for direct access to a public street. All home lots shall abut a private street or driveway and each lot shall have unobstructed access to a public street. Private street and driveways shall be constructed in accordance with the standards and criteria of the Town's Site Design and Construction Standards.
- H. No home lot shall extend into a floodplain.
- I. Street lighting shall be provided with the development of the mobile home park, with final layout and design subject to final plan approval.
- J. An approved garbage, refuse and recycling program and temporary storage system shall be provided for all home lots, with such program and physical system subject to final plan approval. At minimum, the owner or manager of the mobile home park shall collect garbage, refuse and recycling goods not less than twice per week, insuring that collection is provided on a lot-by-lot, curb-side basis.
- K. No space in a mobile home park shall be rented for residential use for less than thirty (30) days.
- L. A landscaped buffer of 60 feet in width shall be constructed and maintained around the perimeter of the mobile home park, with plant material and placement thereof to final plan approval.
- M. Accessory buildings of not more than one hundred twenty (120) square feet may be located in the rear yard of a mobile home lot.
- N. No sale of goods or products shall be permitted, except as accessory and incidental to a permitted or special permit use.
- O. Expansion of any existing mobile home parks or developments must comply fully with all regulations contained herein.

- P. Lots within a mobile home park must be recorded.
- Q. Lot corners for any lot within a mobile home park must be set in accord with subdivision plat requirements.

10. Refer to the FP-O, Floodplain Overlay Zoning District, where applicable.
11. Refer to the Chesapeake Bay Preservation Overlay District.
12. Refer to Article 10, Sign Regulations for signage provisions.
13. Any subdivision or lot which is proposed to be developed on shrink/swell soils shall require a geotechnical report to be submitted with the preliminary plat and plans. Such report shall be prepared by a registered professional engineer and shall address the feasibility of development on the subject soils.
14. No subdivision plat or site plan shall be approved for final recordation until a foundation engineering report has been reviewed by the Town. All recorded plats for lots containing shrink/swell soils shall bear the following note: *"This lot contains shrink/swell soils which require special engineering design for foundations and structural elements. No structure will be approved for issuance of a building permit until a foundation engineering design prepared by a certified professional engineer has been approved for the proposed structure."*

Article 3.R:
ECO, Entrance Corridor Overlay District

Article 3.R:
Entrance Corridor Overlay District (ECO)

A. Purpose

The purpose for establishing these provisions is to protect the aesthetic and visual character of land in the Town of Smithfield adjacent to major existing and proposed highway corridors, as defined herein, and to provide for and promote their orderly development. The overlay district regulations are intended to supplement the regulations of the underlying zoning districts and to provide for compatibility of development along the identified corridors. All development proposed within this District shall be subject to the procedures, standards, and guidelines specified in the following Sections, in addition to those standards pertaining to the particular base zoning district in which the development occurs. In particular, the purpose of the Entrance Corridor District is to:

1. Encourage and better articulate positive visual experiences along the town's major existing and proposed highway corridors.
2. Provide for the continued safe and efficient use of these highway corridors.
3. Maintain natural beauty and scenic, cultural, and historical character of these corridors, particularly distinctive views, vistas, and visual continuity.
4. Protect existing natural vegetation and wildlife habitats along these corridors.
5. Discourage indiscriminate clearing, excessive grading, and clear cutting along these corridors.
6. Minimize cut and fill operations by placing emphasis on the retention of natural topography of these corridors.
7. Minimize intersections and individual site access points along these corridors.

The Planning Commission shall evaluate all proposed development activities within the Entrance Corridor Overlay District, with the exception of signage pursuant to Section L.2.a of Article 10, which will include a review of the location, character and appearance of new development in the District. It is the purpose of such review to determine, in a cooperative fashion with the applicant, whether a proposed development plan meets the guidelines and other standards of this District.

(Ord. of 2019-01-08; Ord. of 2020-08-04)

B. Intent

The Entrance Corridor District shall include all lands within five-hundred (500) feet of each side of the following arterial rights-of-ways:

1. North Church Street/Business Route 10, extending from the town limits to the Pagan River Bridge.
2. West Main Street/United States Route 258, extending from the town limits to the intersection of United States Route 258 and United States Highway Route 10 Bypass.
3. South Church Street from Battery Park Road to the Cypress Creek Bridge.
4. South Church Street from the Bypass to Battery Park Road.
5. Benns Church Boulevard/United States Highway Route 10 Bypass, extending the entire distance between the town corporate boundaries.
6. Battery Park Road from South Church Street to the Corporate Town Limits.

The boundary of the Entrance Corridor District may either follow a fixed distance as set forth in Section B of this Article or the defined boundaries of a natural or man-made feature as determined by the Planning Commission.

The boundary of the Entrance Corridor District shall be shown on the official Town of Smithfield Zoning Maps and shall be delineated as a surveyed line on any property proposed for development.

C. Affected Development

1. Review Required. All proposed development activities located within the Entrance Corridor Zoning District, with the exception of signage pursuant to Section L.2.a of Article 10, shall be reviewed and approved by the Planning Commission. Any changes shall also receive such approval before proceeding. If a portion of the District will not be visible from the arterial highway once the project is completed, the Planning Commission may waive the special requirements of this Section for that portion. The Planning Commission may also review preliminary development plans or design development drawings at the request of the applicant.
2. Development activity permitted within the District. There shall be no alteration of the existing condition of the lands, uses or structures within the Entrance Corridor Overlay District from the date of enactment of this Article henceforth, except as provided for by this Section or by other sections of this Article.

3. Development activity prohibited within the District. These regulations are supplementary to the permitted uses and requirements for the appropriate underlying zoning district as contained in the Town of Smithfield Zoning Ordinances. Uses prohibited in the underlying zoning district are also prohibited in the Entrance Corridor Overlay District.

(Ord. of 2019-01-08; Ord. of 2020-08-04)

D. Tree Protection

1. Development of land for different uses and intensity of uses may necessitate the removal of trees to accommodate roads, parking, buildings, and facilities. It is the expressed intent of this Section that every effort be made through the design, layout, and construction of development projects to incorporate and preserve as many trees as possible.
2. No person shall cut, destroy, move, or remove any living, disease-free tree of any species having a trunk with a diameter at breast height (dbh) of six (6) inches or larger, in conjunction with any development of land governed by this Article unless and until such removal or destruction has been approved under the provisions of this Article.
3. No person shall cut or clear trees for the sole purpose of offering land for sale. Land may be underbrushed ("bushhogged") in preparation for sale or development.
4. The clear-cutting of trees strictly in conjunction with timbering or silvicultural activities is permitted upon any lot, parcel, or tract of land located within the District except said clearcutting shall not occur within at least fifty (50) feet of any arterial right-of-way designated in Section B of this Article, unless otherwise permitted by the Town Council with a recommendation from the Planning Commission. Clear-cutting within fifty (50) feet of any arterial right-of-way designated in Section B of this Article shall require the planting of replacement trees in a like kind and quantity as were cut subject to the requirements of Section K of this Article.
5. A survey of all trees of applicable size shall be made and submitted in conjunction with the development plan. All trees proposed for removal shall be clearly noted. The tree survey shall be certified by either a licensed land surveyor, registered engineer, or landscape architect.
6. The requirement for a tree survey is waived in the case of golf course construction or when preliminary site evaluation by applicant reveals the ability to accomplish the proposed project without removal of any trees six (6) inches in diameter or larger. In the latter case, the

applicant shall submit a written statement that no trees will be removed and his development plan will indicate "No Tree Removal" as a condition thereof.

7. Considerable damage to or the death of trees may result if more than six (6) inches of soil is added around the base of a tree, more than thirty (30) percent of circumferential bark is removed. In addition, asphalt paving, building construction, and soil compaction too close to trees may cause their destruction. Accordingly, it shall be the responsibility of the developer to institute alternative site designs to assure the best chance of tree survival whenever these criteria cannot be adhered to.
8. Those trees designated for preservation in accordance with the provisions of this Ordinance as shown on the approved landscaping plan shall be marked with ribbons encircling the tree trunk at a height of four (4) feet above the ground and a barricade four (4) feet in height will be erected around the tree at least three (3) feet outside the drip line prior to the start of construction.
9. As a condition of approval under this Article, the applicant may be required to plant replacement trees for trees approved for removal as part of the development plan. In requiring replacement trees, the following shall be considered:
 - a. The intended use of the property.
 - b. The existing or pre-development tree coverage sizes and types.
 - c. The number, size, type, and location of natural trees proposed for preservation by the applicant.
 - d. The grading, road, building, parking, and drainage requirements.

E. Minimum Visual Buffer Along the Corridor Right-of-Way

1. Each development plan shall provide a minimum visual buffer between the right-of-way line and the subject arterial highway and all proposed structures and parking lots from the road, to screen vehicular headlight glare on and off-site and to lessen spillover light from on-site lighting.
2. The buffer shall be continuous, except as set forth below, and be no less than forty (40) feet average and sixty (60) feet minimum depth from the existing right-of-way line should the proposed development activity under consideration be required to or voluntarily provide a dedication of or easement for transportation purposes. Buffer requirements shall be consistent with Article 9, Section E.10 of the Town of Smithfield Zoning Ordinance. The minimum depth of forty (40) feet shall not occur at the high activity areas of a project. These

areas include but are not limited to, building entrances, vehicular access and movement areas and loading and unloading zones.

To determine the average depth of the minimum visual buffer, measurements shall be taken at intervals not greater than ten (10) feet perpendicular to the property line. Where drainage swales and other natural features occur in the minimum visual buffer and should remain undisturbed because of natural land forms or drainage patterns, additional buffer depth and vegetation shall be required to augment the screening effect.

3. The intent of the minimum visual buffer is to leave the naturally occurring buffer vegetation intact for its softening effect. This buffer shall be enhanced or created, where such vegetation is insufficient or non-existent, with trees and shrubs of a variety of species appropriate to Town character. If the visual minimum buffer already has trees of protected size and species, their preservation is required, unless otherwise provided for in Section B of this Article. Where masses of native shrubs are present, their preservation with minimum disturbance is strongly encouraged. While complete screening of a project is not required, sufficient plant material shall be installed to accomplish the softening effect required.
4. In order to maintain the screening effect of preserved trees, existing limbs or branches shall not be removed from the ground more than six (6) feet to the lowest branches. However, if understory planting is planned, existing vegetation may be removed with the approval of the Zoning Administrator.

F. Exemption from the Buffer Requirements

1. Purpose. Exemptions, whether partial or total, from the bufferyard provisions may be granted if it can be sufficiently demonstrated that such buffer will have a negative visual effect upon an existing situation or that through the preservation of an existing stand of trees or other unique natural vegetative resource, particular effort on the part of a developer in protecting the existing natural environment warrants the relaxation of bufferyard requirements.
2. Protection of existing visual environment. The following cases anticipate those situations where the Planning Commission with a recommendation from the Planning and Zoning Administrator may determine that the bufferyard requirements may be modified:
 - a. Views and vistas of existing buildings which exhibit a high degree of aesthetic value serving to heighten the visual experience, serve as important points of spatial identification or contain value as important points of spatial identification or contain value as important historical resources.

- b. Views and vistas of existing natural landscape/topographical features of a particular area of the District which corresponds to certain high points affording panoramic views, views involving settlement clusters, views of water, tidal and non-tidal wetlands, tributary streams and other elements of the physical landscape.
- c. Views and vistas to existing recreational/open space areas, whether natural or man-made, which serve to contribute to the overall visual environment. Such uses include golf courses, State or local parks, equestrian centers, cemeteries, etc.
- d. Views and vistas which give the observer an awareness of a location's inherent character related to views of farmland, pastures, water activities, such as docks or other maritime activities.

3. Protection of proposed visual environment. Where a proposed development intends to further enhance or protect the existing visual environment, the Planning Commission with a recommendation from the Planning and Zoning Administrator may exempt, wholly or partially, the proposed development from the required bufferyard. Examples include the following:

- a. A proposed development, which by virtue of the characteristics of its structures indicates innovation of design, a unique relationship with the site, represents a focal point and establishes a particular identifying element for the Town.
- b. A proposed development that exhibits innovative or unique uses of site landscaping, or which combines in the use of the site, open recreational areas such as described above.

G. Permitted Activity in Minimum Visual Buffer

1. No existing vegetation of any type, size, or origin shall be altered or removed unless it satisfies the requirements of this Article.
2. Within the minimum visual buffer there shall be no development, clearing, grading, or construction activity with the following exceptions:
 - a. Roadway or driveways access to the portion of the site not in the minimum visual buffer provided that it is approximately perpendicular to the arterial public right-of-way.
 - b. Provision for water, sanitary sewer, storm drainage, electrical, telephone, natural gas, cable, utility service lines below the surface of the ground provided the natural vegetation is preserved and protected to the greatest extent practicable.

- c. Pedestrian and bicycle paths designed to provide continuous connection along the road corridor, provided they can be constructed without materially reducing the screening and visual softening capacity of the buffer yard.
- d. Lighting fixtures only for approved signs or if, for safety reasons, they cannot be placed outside the buffer and then only when electric utility lines serving these fixtures and necessary easements can be established and constructed without reducing the screening and visual softening capacity of the buffer yard.
- e. Signs in accordance with the Section L.2 of Article 10 and the underlying zoning district.
- f. Clear sight distances at the permitted entrances and exits to any development as needed to provide for reasonable traffic safety, in accordance with accepted traffic engineering practices when recommended or required by the Virginia Department of Transportation.
- g. The addition of plantings, earthen berms, or other visual buffers which, in the opinion of the Planning Commission, would better achieve the purposes of this District.

(Ord. of 2019-01-08; Ord. of 2020-08-04)

H. Yard and Height Requirements

- 1. Yard requirements. The following yard requirements shall apply to any lot or parcel located within the Entrance Corridor District.
 - a. The visual buffer as required in Section E of this Article shall determine front yard setback for all structures and vehicular movement and parking areas. In no instance shall the setback for structures or vehicular parking areas be less than forty (40) feet. This minimum setback shall strictly apply on all portions of any lot or parcel abutting arterial public right-of-ways designated by this Article, including corner side yards.
 - b. Side yard setback for all structures and vehicular movement and parking areas shall be a minimum of ten (10) feet. The minimum corner side yard setback for any lot or parcel shall be forty (40) feet. One (1) foot shall be added to each side yard for each three (3) feet that the building height adjacent thereto exceeds forty-five (45) feet or three (3) stories, whichever is less.

- c. Rear yard setback for structures and vehicular movement and parking areas shall be a minimum of twenty (20) feet. One (1) foot shall be added to each rear yard for each three (3) feet that the building height adjacent thereto exceeds forty-five (45) feet or three (3) stories, whichever is less.
2. Height Requirements. The maximum height of all structures shall be as permitted by the underlying zoning district(s).
3. Permitted variations in side and rear yard requirements. The required minimum side and rear yards for any lot or parcel within the District may be reduced with the retention of natural vegetation or the provision of addition landscaping as follows:
 - a. The required side yard may be reduced to ten (10) feet with the retention of natural vegetation, which shall provide a visual screen, or the provision of landscaping in accordance with Section K of this Article. In no case shall the required rear yard be reduced when the lot or parcel is adjacent to any Conservation or Residential District.
 - b. The required rear yard may be reduced to twenty (20) feet with the provision or retention of natural vegetation, which shall provide a visual screen, or the provision of landscaping in accordance with Section K of this Article. In no case shall the required rear yard be reduced when the lot or parcel is adjacent to any Conservation or Residential District.

I. Access and Internal Circulation

1. Purpose and intent. The purpose and intent of this Section is to maximize the functional capacity and maintain the level of service of highways within the Entrance Corridor District; to minimize the number of access points to these arterials and other public rights-of-ways within the District; to promote the sharing of access and the ability to travel between sited; to provide pedestrian circulation networks among residential, commercial and recreational areas; and, to enhance safety and convenience for land uses within the District.
2. Access to arterial highways. Access from any parcel or lot having frontage along an arterial highway within the District and in existence prior to adoption of this Article shall be permitted one (1) direct access point to said highway, unless an Access Plan is submitted and approved by the Planning Commission and the Virginia Department of Transportation for more than one (1) access point as provided for in Subsection 5, Access plan.
3. Access for two (2) or more lots under singular ownership. If two (2) or more parcels are placed under one (1) common ownership and/or control, such assembly shall be permitted only one (1) direct access to the arterial highway within the District, unless an Access Plan is

submitted to, and approved by the Planning Commission and the Virginia Department of Transportation for more than one (1) access point.

4. Access from lots or parcels not permitted direct access. Direct access to arterial highways shall be provided by one (1) or more of the following means for lots or parcels not permitted direct access to the arterial, subject to approval by the Planning Commission and the Virginia Department of Transportation:
 - a. Access to the site may be provided by an existing or planned road, and/or,
 - b. Access to the site may be provided via the internal circulation of a shopping center and office complex, or similar group of buildings having access in accordance with an approved Access Plan; and no additional direct access shall be provided to the site from a public street intended to carry through traffic over and above those entrances which may exist to provide access to the shopping center, office complex, or similar group of buildings; and/or,
 - c. Access to the site may be provided by a service drive generally parallel with the arterial highway, but located behind the minimum visual buffer (See Section E of this Article) which provides controlled access to the site.
 - d. Use of reverse frontage or double frontage lot layouts on parallel roads when possible to provide access exclusively from the road. All minimum buffers shall be maintained as required by Section E of this Article.
 - e. Use of shared entrances with those established or likely to be required on adjacent sites to minimize curb cuts or increasing spacing between curb cuts.
 - f. Use of deceleration or turning lanes where access must be from the arterial highway with sufficient capacity to avoid stacking or queuing of entering vehicles on the arterial highway.

The means of access control provided shall be that which effectively minimizes creation of new intersections and new individual site access locations along the corridors and best preserves the highway traffic capacity.

5. Access plan. An access plan shall be submitted and approved prior to development plan approval for those lots or parcels proposing more than one (1) access point to an arterial highway within the District. A sufficient explanation of why more than one access point is

needed shall accompany the access plan. Such access plan shall be drawn to scale, including dimensions and distances, and clearly delineate the traffic circulation system and the pedestrian circulation system as coordinated with adjacent properties including the location and width of all streets, driveways, access aisles, entrance to parking areas, walkways and bicycle paths.

6. Traffic impact analysis. A traffic impact analysis shall be submitted to, and approved by the Planning Commission under the following circumstances:
 - a. Any proposed development which will generate two-hundred (200) Average Daily Trips (ADT) or more based on vehicular trip generation rates as defined by the Institute of Transportation Engineers' publication, Trip Generation, or the Virginia Department of Transportation.
 - b. At the request of the Planning Commission, when the proposed development is expected to significantly impact the vehicular movement on the arterial highways within the District.
7. Internal circulation. Sites shall be designed to achieve direct and convenient pedestrian and vehicular circulation between adjacent properties unless otherwise required by the Planning Commission.

J. Site Development Guidelines

1. Purpose and intent. The compatible relationship of architecture along highways within the Entrance Corridor District is of critical public concern for any structures or site improvements. The purpose and intent of these architectural guidelines and development standards is not to stifle innovative architecture or development, but to assure respect for and to reduce incompatible and adverse impacts on the visual experience from the highway.
2. The design of structures and their materials and colors shall be visually harmonious with the overall appearance, history, and cultural heritage of Isle of Wight County and the Town of Smithfield with natural land forms and existing vegetation and with other development plans already approved by the Town. Specific consideration shall be given to compatibility with adjacent properties where such properties demonstrate the Town's character. Design and architectural features will demonstrate consistency with the following provisions:
 - a. Large work area doors or open bays shall not open toward or face the highway.
 - b. Heating, ventilating, and air conditioning equipment duct work, air compressors, other fixed operating machinery shall be either screened from view or located so that such

items are not visible from the highway. Large trash receptacles, dumpsters, utility meters, above ground tanks, satellite dishes, antennas, etc., shall be similarly treated. Screening materials should be consistent with the building's architecture & design.

- c. Fencing along the highway right-of-way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the highway.
- d. Avoidance of long monotonous façade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.
- e. Stucco, natural wood siding, brick, or other materials with similar texture and appearance are considered appropriate to town character. Reflective surfaces may be considered acceptable based on overall architectural treatment and use in relation to the site.
- f. Colors of paints and stains shall be natural blending with generally no more than three (3) colors per building. Semi-transparent stains are recommended for application on natural wood finishes.
- g. No building façade (whether front, side or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other façade of the same building. The intent of this requirement is not to preclude the use of different materials on different buildings' facades (which would be acceptable if representative of good architectural design), but rather to preclude the use of inferior materials on sides which face adjoining property and thus, might adversely impact existing or future development causing a substantial depreciation of property values.
- h. No portion of a building constructed of barren and unfinished cinder block or unfinished or finished corrugated material and/or sheet metal shall be visible from any adjoining property or public rights-of-way.

3. Proposed development within the District should provide for visual compatibility and harmony with surrounding natural land forms and vegetation; be protective of views and vistas from the arterial highways within the District; and provide continuity of site design within the proposed development. These objectives include the following standards:

- a. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation that could cause disruption of natural water courses or disfigure natural land forms.

- b. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views from the main highway or from existing structures and the natural environment.
- c. Structures shall not dominate, by excessive or inappropriate height or mass, any general development, adjacent building or natural landscape in an incompatible manner.
- d. Architectural lighting shall be recessed under roof overhangs or generated from a concealed source, low level light fixtures.
- e. Site lighting shall be of low-intensity from a concealed source, shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way interfere with the vision of on-coming motorists. Such lighting fixtures or devices shall be of a directional type capable of shielding the light source from direct view. The development plan must show the relationship of fixtures and the light patterns to each other, to the project site, to the unit development, and to the highway corridor.
- f. Decorative, low-level intensity, non-concealed source lighting that defines vehicular and/or pedestrian ways shall be acceptable when used for such purposes.
- g. Vehicular movement and parking areas shall be paved with concrete, asphalt, or other similar material. Vehicular movement and parking areas surfaced with gravel or other similar material shall be prohibited. Concrete curb and gutter or other stormwater management structure as approved by the Planning Commission shall be installed around the perimeter of all driveways and parking areas. Drainage shall be designed so as not to interfere with pedestrian traffic. Improvements to existing gravel or other similar materials are permissible; however, the parcel is required to be in compliance and remain in compliance with the landscaping and paving requirements of this Ordinance once improvements, other than landscaping and interior renovation, made during a rolling 5-year period constitute 50% or more of the structure's assed value.

(Ord. of 2024-06-04)

- h. Outdoor storage shall be permitted by the underlying zoning district, provided that all outdoor storage areas shall be visually screened from the public rights-of-way, internal roadways, and adjacent property. Screening shall consist of a solid board fence, masonry wall, dense evergreen plants, or other such materials as may be approved by

the Planning Commission. All such screening shall be of sufficient height to screen storage areas from view and shall be appropriately landscaped in accordance with the standards set forth in Section K of this Article. Outdoor storage shall include the parking of all company owned and operated vehicles, with the exception of passenger vehicles.

- i. Site development should include streetscape improvements. These improvements are considered as those architectural or functional facilities or structures that occur on site but are not part of the building and that encourage and facilitate human interaction with the built environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculptures, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, and fences. These improvements shall be designed to be consistent with all requirements listed above, and shall be reviewed for aesthetic functionality and compatibility with town character.

K. Landscape Requirements

1. Purpose and intent. A comprehensive landscaping plan for each individual lot or parcel within the District is essential for the visual enhancement of the corridors and to protect and promote the appearance, character, and economic values of land along the corridors and surrounding neighborhoods. The purpose and intent of such landscaping requirements is also to reduce the visibility of paved areas from adjacent properties and streets; moderate climatic effects; minimize noise and glare; and, to enhance public safety by defining spaces so as to influence traffic movement. Landscaping will also reduce the amount of storm water runoff and provide transition between neighboring properties.
2. Standards or requirements for landscape plan. The landscape plans for the proposed development shall provide visually harmonious and compatible setting for structures on the same lot and on adjoining or nearby lots and shall blend with the surrounding landscape. Natural appearing landscape forms are strongly encouraged. The following standards or requirements shall apply to all landscape plans:
 - a. A landscaping plan shall be submitted in conjunction with development plan submittal.
 - b. Such landscaping plan shall be drawn to scale, include dimensions and distances, and clearly delineate all existing and proposed vehicular movement and parking, and the location, size and description of all landscaping materials.
 - c. All plant materials shall be living and in a healthy condition. Plant materials used in conformance with the provisions of these specifications shall conform to the standards of

the most recent edition of the "American Society for Nursery Stock" published by the American Association of Nurserymen.

- d. The property owner, or his designated agent, shall be responsible for the maintenance, repair, and replacement of all landscaping materials as may be required by the provisions of this Subsection.
- e. All plant material shall be tended and maintained in a healthy growing condition, free from refuse and debris at all times.
- f. The Town Streetscape shall refer to the following elements: one street tree located every 40' along properties that are adjacent to the defined corridors in conjunction with a 5' wide sidewalk (see Entrance Corridor Master Plan, Town of Smithfield, Virginia). In addition, if a parking lot fronts along a designated corridor, an evergreen hedge will be planted along the edge between the parking lot and the road frontage. The hedge should reach 42' in height at maturity and be continuous. Adequate lighting is also essential along all parcels that front the designated corridors.
- g. All sites are encouraged to provide an underground irrigation system.
- h. Where landscaping is required, the Zoning Administrator shall issue no Zoning Permit until the required landscaping is completed in accordance with the approved landscape plan. When the occupancy of a structure is desired prior to the completion of the required landscaping, a Certificate of Occupancy may be issued only if the owner or his designated agent provides to the town a form of surety in favor of the Town in an amount equal to the costs of the remaining plants, related materials and installation costs. The Town Attorney shall approve all sureties and related documents as to form.

Should an acceptable surety be provided, then all required landscaping shall be installed and approved by the first planting season following issuance of Certificate of Occupancy or the surety shall be forfeited to the Town. In addition, all required the property owner in accordance with the approved landscape plan shall maintain landscaping.

3. Replacement of trees and other vegetation. Should the Zoning Administrator determine that trees six (6) inches in diameter or greater and/or vegetation have been removed without specific approval for such removal or have been removed in accordance with an approved landscape and/or development plan, the Zoning Administrator shall require replacement of such trees or vegetation. The minimum height of the new replacement trees shall be eight

(8) to twelve (12) feet. The minimum height of new shrubs used to create the minimum visual buffer shall be three (3) feet.

L. (Repealed by Ord. of 2020-08-04).

M. Exemptions to the Requirements of the Entrance Corridor District

1. Single-family dwellings. The construction of detached single-family dwellings and residential accessory structures on individual lots or parcels within the Entrance Corridor District are exempt from this Article.
2. Agricultural structures. The construction of bona-fide agricultural structures required for on-premise farming operations involving the cultivation of crops or the raising and keeping of livestock and the preparation of land for cultivation of crops are exempt.

(Ord. of 2024-11-06)

N. Development Plan Review

1. Applicability. All development proposed in the Entrance Corridor District and other applicable projects, with the exception of signage pursuant to Section L.2.a of Article 10, shall submit a development plan to the Zoning Administrator for review by the Planning Commission.
2. Minimum requirements for development plan review. All development plans submitted for review shall be complete according to the requirements of this Article before being reviewed by the Planning Commission for conformance with all standards and guidelines of this Article. No development plan submitted for review shall be considered until the minimum items of submission required by this Article have been submitted in a format acceptable to the Zoning Administrator and the review fee as established by this Ordinance has been paid.
3. Content of development plan. A development plan submitted for review by the Planning Commission shall include clearly labeled plans, drawings, photographs and/or narratives depicting or presenting the following, unless deemed unnecessary by the Zoning Administrator due to the scope and nature of the proposed development:
 - a. Surveyed property lines.
 - b. Survey of existing topography and the location of trees and other vegetation meeting the preservation and/or protection provisions of this Article.

- c. A site development plan or plans depicting the dimensions and location of all structures (including rooflines), all site improvements with distances and dimensions, and the bufferyard requirements of Section E of this Article.
- d. Photographs or drawings of neighboring uses and architectural styles.
- e. Location of bordering public or private streets or roads and existing, proposed, and/or approved access points.
- f. Comprehensive sign plan prepared pursuant to Section L.2.g of Article 10.
- g. Location, dimensions, and layout of all areas to be used for pedestrian movement areas and vehicular and parking areas.
- h. Architect's or artist's rendering of all proposed structures depicting the front, side and rear elevations including architectural treatment of all structural exteriors, including building materials and colors to be utilized.
- i. A landscaping plan prepared pursuant to Section K of this Article.
- j. Location and design of all proposed exterior site lighting within the proposed development.
- k. Location, size, and dimension of all yards and setbacks.
- l. A time-line or schedule as to the project start date, completion date, and occupancy date.

(Ord. of 2019-01-08; Ord. of 2020-08-04)

O. Development Plan Review Procedures

- 1. All development plans, with the exception of signage pursuant to Section L.2.a of Article 10, shall be submitted and reviewed according to the following procedures:
 - a. A complete development plan shall be submitted to the Zoning Administrator.
 - b. After the complete development plan and related materials have been submitted, it shall be reviewed and processed by the Planning Commission and other affected governmental agencies for conformity to this Article and other applicable regulations.

The Planning Commission shall act upon a complete development plan and related materials as submitted by the applicant, or as modified by the development plan review process within thirty (30) days, unless extensive modification to the development plan or extenuating circumstances require additional time.

- c. Applicants shall be informed in writing of the outcome of their review including a list of required revisions, if necessary.
- d. Applicants shall be informed in writing of a final approval of the development plan.

(Ord. of 2019-01-08; Ord. of 2020-08-04)

P. Waivers

1. An applicant or owner may request a waiver, variation or substitution pursuant to the requirements and application of this article. A written request for a waiver, variation or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the applicant or owner.
2. Such request shall be submitted to the Planning and Zoning Administrator with the filing of a preliminary or final site plan.
3. The Planning Commission, at its sole discretion, may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or subdivision of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Planning Commission may recommend a conditional modification to the request or the Planning Commission may deny the request.
4. Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this article, this ordinance, the subdivision ordinance, and the Comprehensive Plan.
5. No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.

Q. Appeal to Town Council of Decisions by Planning Commission

1. Appeals of a decision of the Planning and Zoning Administrator in the administration of this article shall be to the Planning Commission as provided in Section 15.2-2311 (1997) of the Code of Virginia.
2. Appeals of a decision of the Planning Commission by the applicant or a party in interest regarding a site plan, waiver, variation or substitution shall be to the Town Council, provided that such appeal is filed with the Town Manager within ten (10) calendar days of the decision being appealed. The appeal shall be placed on the agenda of the Town Council at the next regular meeting. The Town Council may reverse or affirm, wholly or partly, or may modify the decision of the Planning Commission.

(Ord. of 9-5-2000)

Article 3.S:

PHIP-O, Pinewood Heights Industrial Park Overlay District

Article 3.S:**PHIP-O, Pinewood Heights Industrial Park Overlay District****A. Purpose and Intent:**

The Pinewood Heights Industrial Park Overlay District is established to provide specific guidance on the redevelopment of the Pinewood Heights subdivision in the Town of Smithfield.

B. Bulk Regulations:

1. Maximum Building Height:
 - a. 50 feet
2. Setbacks:
 - a. Front: 15 feet
 - b. Side: 10 feet
 - c. Rear: 10 feet
 - d. Accessory Structures: 5 feet
3. Lot Size:
 - a. Not regulated
4. Floor area ratio and building area coverage:
 - a. Not regulated

C. Permitted Uses and General Development Requirements:

1. All uses allowed by the underlying zoning district of Light Industrial (I-1) are permissible, whether by-right or through obtaining a special use permit. Prohibited uses are not permitted in the Overlay without successfully obtaining a Special Use Permit. Shipping containers require a special use permit.
2. Outdoor storage shall be permitted by-right as an accessory or primary use, provided that it meets the following criteria:
 - a. All outdoor storage must be screened from view from the right-of-way by a screening mechanism.
3. Fences:
 - a. Fences may be located in front, side, and rear yards regardless of whether it is a corner lot.
 - b. All fencing must be maintained and repaired if damaged.
 - c. Safety and security may supersede height regulations.
4. Accessory Structures:
 - a. Accessory structures may be located in side, and rear yards.
 - b. Accessory structures cannot exceed the maximum building height.
 - c. Accessory structures may exceed 20% of the rear yard.
 - d. Accessory structures are permitted without a primary building.

5. Required open space is 10% of the lot area.
6. Curb and gutter are not required and pavement of 6 inches of crushed stone is appropriate for parking and drive aisles.
7. Curb cuts shall be approved on a case-by-case basis by the Zoning Administrator.
8. Parking and loading spaces can be located in front yards.
9. The Planning Commission may waive any of the following regulations through a Planning Commission Waiver:
 - a. Planning Commission waiver for satellites dish antennas, satellite receiving dishes, or similar structures that do not comply with Article 2.P.13.
 - b. Planning Commission waiver for telecommunication towers that do not comply with Article 2.S.
 - c. Planning Commission waiver for tree canopy, screening, buffers, and landscaping that does not comply with Article 9.
 - d. Planning Commission waiver for required parking minimums and maximums and loading spaces that do not comply with Article 8.
 - e. Planning Commission waiver for signage that does not comply with Article 10.K.5.
 - f. Planning Commission waiver for accessory structures in front yards.

Article 4:
ZONING AMENDMENTS

Article 4:
Zoning Amendments

A. Initiation of Zoning Amendments and Changes:

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town Council may by ordinance amend, supplement or change (a) the text of the Zoning Ordinance, (b) the zoning district boundaries of the Official Zoning Map or (c) the zoning district classification of property.

Any such amendment may be initiated by:

1. Town Council on its own motion;
2. Recommendation by the Planning Commission to the Town Council;
3. Petition of the owner(s), contract purchaser with the owner's written consent or the owner's agent with the owner's written consent, of the property which is the subject of the proposed amendment.

B. Requirements for Zoning Amendment Application:

For zoning amendment applications initiated by a property owner's petition in accord with paragraph A.3. above, the applicant shall be responsible for the preparation and cost of all materials, exhibits, notifications, fees and other considerations related to the application. All petitions for zoning map amendment (rezoning) or zoning ordinance text change related thereto shall include a complete and signed rezoning application as well as other materials as specified hereinafter.

Ten (10) copies of the application must be submitted to the office of the Planning and Zoning Administrator and shall include, at a minimum, the following:

1. Names, addresses and relationship to the land of all owners and applicants for rezoning of the property described in the application or who may have an interest in the development of the subject property. Where the application is filed by an agent, contract purchaser or lessee, a written and notarized statement shall be provided signed by the title owner or owners indicating endorsement of the application by the owner or owners and authorizing the applicant to seek the rezoning on their behalf.

2. A notarized affidavit, signed by the applicant(s), stating whether or not any member of the Planning Commission or the Town Council has any interest in the land to be rezoned either individually, by ownership of stock in a corporation owning such land, partnership, as the beneficiary of a trust, or the settler of an irrevocable trust or whether any member of their immediate household has any such interest in the outcome of the decision.
3. Tax map of the property to be rezoned.
4. A certified plat showing the metes and bounds of the property to be rezoned, with the seal and signature of the Certified Land Surveyor preparing the plat.
5. A legal description of property and area (in square feet or acres) of the property to be rezoned.
6. Location of all existing buildings and structures.
7. Statement of purpose, feasibility and justification of the proposed amendment, to include:
 - a. A statement addressing the relationship of the proposed zoning to the Comprehensive Plan or any adopted ordinance, land use plan, facility plan or other Town document which may be related to the application.
 - b. A statement addressing the physical, transportation, public infrastructure, community facilities, schools and environmental impact of the proposed land use(s) for the property to be rezoning.
 - c. Description of areas having environmental or historic significance.
 - d. Description of proposed development, including a statement addressing the impact of the development on adjoining properties and neighborhoods.
 - e. A statement addressing the adequacy of public services and infrastructure to serve the proposed land uses.
 - f. A statement addressing special amenities and improvements to be included with the proposed development.
 - g. A statement setting forth the timing and phasing of the proposed development.

- h. Any conditional elements and additional information that the applicant may desire to proffer in the consideration of the zoning amendment (see Conditional Zoning and Proffers, Article 5).
8. A General Development Plan which graphically depicts the scope and intent of the proposed development to include the following:
 - a. Schematic land use plan (to be prepared on an accurate base map with 2' contour intervals (minimum interval) and a horizontal scale of 1" = 50' or other appropriate scale to be approved by the Planning and Zoning Administrator prior to submission of application.)
 - b. Proposed location and height of building and other physical improvements including parking and loading spaces.
 - c. Proposed location, type, size and area of open spaces, recreational areas and other community facilities.
 - d. Proposed density of development, maximum floor area coverage, dwelling unit count and estimate of net developable areas in accord with the provisions of the applicable zoning district(s).
 - e. Plan of vehicular and pedestrian circulation.
 - f. Environmental features (including 100 year flood plain, wetlands, soils with high shrink/swell characteristics, sinkholes, quarried and filled land and other sensitive environmental areas.)
 - g. Schematic plan for storm drainage and stormwater management improvements.
 - h. Schematic plan for public water and sewer services.
 - i. Schematic plan depicting how adjacent and neighboring properties shall be protected from any adverse effects of the proposed development, including screening, buffering, fencing and related landscape treatments.
 - j. Schematic development and/or subdivision plan depicting the phasing of the proposed development if the project is to be developed in more than one phase.

9. When deemed necessary by the Planning and Zoning Administrator or the Planning Commission, the following studies and additional information shall be provided:
 - a. A Traffic Impact Assessment, prepared in accord with standards and criteria included in the Smithfield Design and Construction Standards Manual and Appendix 14.B of this ordinance, showing the effect of traffic generated by this project on surrounding streets and neighborhoods.
 - b. A public infrastructure utility impact analysis, showing the effect (location, demands, cost, etc.) of the project on public water, sewer and storm drainage facilities.
 - c. A fiscal impact analysis indicating the relative revenues and expenditures of the proposed development.
 - d. Any additional information which is deemed necessary to fully evaluate a zoning amendment proposed within an adopted overlay district.
10. A fully complete application package and a signed application form as provided by the Town.
11. The names, addresses and tax map identification numbers of all owners of abutting property and property immediately across the street from the property requested to be rezoned and any abutting property or property immediately across the street from the property requested to be rezoned which lies in the County.
12. An application fee as provided for in Planning and Zoning Administrator's Schedule of Fees.

C. Pre-Application Conference Requirement:

1. A Pre-Application Conference shall be conducted with the Planning and Zoning Administrator and the Staff Review Committee prior to the submission of an application for zoning amendment.
2. An application for zoning amendment shall not be deemed "complete" unless and until the Pre-Application Conference has been conducted.

D. Action on Application by Planning and Zoning Administrator:

1. The application for zoning amendment shall be reviewed for completeness by the Planning and Zoning Administrator and designated members of the Town staff. A determination of completeness of the application shall be made within fourteen (14) days from date of submission. If the applicant is not deemed "complete", it shall be returned to the applicant with written correspondence provided which outlines the nature and areas in which the applicant is incomplete. No further review shall be conducted on an application which is deemed incomplete.
2. Within thirty (30) days of the receipt of a complete application, the Planning and Zoning Administrator shall prepare a staff report outlining the review findings and other relevant comments and recommendations related to the proposed zoning amendment. This report shall be forwarded to the Planning Commission prior to the first public meeting on the application.

E. Action on Application by Planning Commission:

1. Upon receipt of the staff review report of a complete application, the Planning and Zoning Administrator shall set a time and place for a public hearing by the Planning Commission on said amendment and direct that the public notice for said amendment be given as required in Section 15.2-2204 of the Code of Virginia.
2. No zoning amendment or change shall be adopted, amended or reenacted unless a complete application on the proposed amendment has been reviewed by the Planning Commission.
3. The Commission shall hold at least one (1) public hearing on such proposed amendment after required notice have been given. Following the hearing, the Planning Commission shall prepare and by motion adopt its recommendations, which may include changes in the original proposal resulting from the hearing and shall report such recommendations, together with any explanatory matter and the Commission's statement, by motion or resolution, indicating the public purposes to the Town Council.
4. Failure of the Planning Commission to report within one hundred (100) days after the first meeting of the Commission after the proposal has been referred to the Commission shall be deemed a recommendation for approval, unless such proposal has been withdrawn by the applicant prior to the expiration of such time period.

(Ord. of 5-4-2004)

F. Posting of Property by Applicant:

1. A "Public Notice" sign or signs indicating the zoning case number and other information required by the Planning and Zoning Administrator shall be posted in a prominent place on the property subject to the application and such sign shall be visible from a public street. The sign or signs shall be erected by the Zoning Administrator and shall be located within ten (10) feet of a boundary which abuts a public street.
2. The sign or signs shall be posted fourteen (14) days prior to the scheduled Planning Commission public hearing and shall remain on the property until action on the application has been taken on the application by the Town Council.
3. The Zoning Administrator shall be responsible for ensuring that the sign is maintained during this period. It shall be unlawful for any person, except the Planning and Zoning Administrator to remove or tamper with any sign during the period it is required to be maintained.

(Ord. of 5-4-2004)

G. Action on Application by Town Council:

1. Before approving and adopting any amendment to this chapter, the Town Council shall hold at least one (1) public hearing thereon (whether or not jointly held with the Planning Commission), after public notice and written notice as required in Section 15.2-2204 of the Code of Virginia, after which the Town Council may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public notice and written notice as required in Section 15.2-2204 in the Code of Virginia.
2. An affirmative vote of at least a majority of the members of Town Council shall be required to approve a zoning amendment.

H. Reconsideration of Request:

1. No consideration of a new request for amendment or change initiated by a property owner's petition in accord with paragraph A.3. hereinabove and as further provided for in this Article, including any change to the boundaries or designations on the Official Zoning

Map, which is deemed substantially the same request as an earlier application filing, shall be considered within three hundred sixty-five (365) calendar days of the date of the earlier filing acted upon by the Town Council.

2. The provision of paragraph H.1. hereinabove shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their own motion at any time.

I. Withdrawal of Application:

1. Applications for a change in zoning may be withdrawn from consideration by the applicant at any time prior to any vote by the Planning Commission or Town Council, provided that no new application concerning any or all of the same property shall be filed within twelve (12) months of the date of action by the Planning Commission or Town Council unless the body approving the withdrawal specifies that the time limitation shall not apply and, thereby, permits the application to be withdrawn "without prejudice."
2. The applicant shall not be entitled to any refund of application fees upon withdrawal of an application.

J. Amendments and Variations of Conditions:

There shall be no amendment, change or variation of any condition created pursuant to the provisions of this Article until after a public hearing before Town Council advertised pursuant to the provisions of the Code of Virginia.

Article 5:
CONDITIONAL ZONING AND PROFFERS

Article 5:
Conditional Zoning and Proffers

A. Purpose

It is the purpose of this article to provide a procedure by which conditional zoning may be used in the Town of Smithfield in accordance with the enabling legislation provided in the Code of Virginia.

It is the policy of the Town to encourage the voluntary proffering of conditions by the applicant in cases where the use of traditional zoning methods is inadequate to achieve certain desired goals and where the proffered conditions will offset identified problems to the extent that the proposed rezoning is thus acceptable. The use of conditional zoning is not to be encouraged (a) where the proffered conditions do not sufficiently offset identified problems, (b) where the proffered conditions are unrelated to identified problems or (c) where traditional zoning methods are adequate to achieve certain desired goals.

It is further the purpose of this section to allow for complete and timely review and evaluation of the proffered conditions by the Town Staff, the Planning Commission and the Town Council.

B. Conditional Zoning Defined

As part of classifying land via police powers within the Town into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, with such conditions being in addition to, or modification of, the regulations provided for a particular zoning district or zone by the Town's adopted zoning ordinance. Refer to Article 4 for specific requirements for zoning amendments.

C. General Criteria for Proffers

Any applicant for a zoning map amendment (rezoning) may, as a part of a rezoning application, proffer reasonable conditions concerning the use and development of one's property, including off-site improvements that may serve or benefit the specific property and the public welfare. Proffers shall only be accepted as conditions attached to the rezoning if such proffered conditions meet the following criteria:

1. The rezoning itself must give rise to the need for the condition.
2. All such conditions shall have a reasonable relation to the rezoning.
3. All such conditions shall be in conformity with the Town's adopted Comprehensive Plan.
4. Such conditions shall be capable of being readily and effectively enforced by the Town of Smithfield at the time of development of the property.
5. Such conditions shall be deemed necessary and sufficient to offset identified problems caused by the rezoning in a manner not available with traditional zoning methods.
6. Such conditions shall be consistent with the Town's adopted Capital Improvements Plan, Official Map and other facilities and infrastructure planning documents.

D. Proffers for Dedication of Real Property or Payment of Cash

1. In the event proffered conditions include the dedication of real property or payment of cash to the Town, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the Town's adopted Capital Improvements Plan, provided that nothing herein shall prevent the Town from accepting proffered conditions which are not normally included in such capital improvement program.
2. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.
3. Nothing in this section shall be construed to affect or impair the authority of the Town Council to accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements or to impose or accept conditions of conditional use permits.
4. In the event proffered conditions include (1) the dedication of real property or (2) the payment of cash which is not to be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, the Town Attorney shall advise the Planning Commission and the Town Council of the adequacy of provisions securing to the Town the timely performance of such conditions. Such provisions may include bonding, letters of credit or other forms of surety.

E. Administrative Procedures for Conditional Zoning Applications

1. Any rezoning applicant may, at his or her option, submit a written proffer of conditions to accompany his rezoning petition. Refer to Article 4 for specific requirements for zoning amendments.
2. Such written proffers, together with the title certificate, shall be submitted to the Planning and Zoning Administrator as part of the application. In complying with the notice requirements, the Planning Commission and Town Council shall state whether conditions have been proffered, and such proffers shall be made available for public review by the Planning and Zoning Administrator as part of the public documents in the case.
3. Within thirty (30) days after receipt of a complete zoning application, the Planning and Zoning Administrator shall submit to the petitioner a written proffer analysis addressing the following items:
 - (a). A list of identified problems or reasons, if any, where the proposed rezoning may be deemed to fall short of compliance or policy;
 - (b). The degree to which the proffered conditions respond to the identified problems;
 - (c). A list of those proffered conditions, if any, that do not respond to identified problems, are insufficient to offset them, or that are not in keeping with the criteria set forth in this section;
 - (d). An indication of whether the identified problems will be adequately offset by the voluntarily proffered cash contribution, dedication of real or personal property, or payment for or construction of off-site improvements and
 - (e). The date of the Planning Commission hearing.
4. Submission of proffer statements:
 - (a). A copy of the (a) applicant's written proffers and (b) the proffer analysis from the Planning and Zoning Administrator shall be forwarded to the Planning Commission.
 - (b). Upon receipt of the proffer analysis, the petitioner may make subsequent voluntary changes deemed appropriate to the written proffers, provided that it is submitted no later than ten (10) calendar days prior to the Planning Commission public hearing.

- (c). Where an amendment to the written proffers provides for a voluntary cash contribution, dedication of real or personal property, or payment for or construction of off site improvements, the Planning and Zoning Administrator may require that the amended proffers be submitted at least twenty (20) calendar days prior to the public hearing when additional time is deemed necessary to allow for adequate staff review of the sufficiently of such amended proffers.
- (d). Upon receipt of the amended proffers, the Planning and Zoning Administrator shall make them part of the public record. The Planning Commission shall not consider any proffer not made available for public review for at least ten (10) calendar days prior to the public hearing.

F. Commission and Council Action on Proffered Conditions:

- 1. After holding a public hearing on the conditional zoning application, the Planning Commission, in taking its action on the application, may recommend from the following options: (1) recommend to the Town Council approval of the zoning application as submitted, (2) recommend to the Town Council denial of the application as submitted or (3) recommend approval of the application with the deletion of one or more of the proffers in the application.
- 2. If the Planning Commission takes final action on a conditional rezoning application, it shall require the applicant to (a) reduce all proffers made to the Planning Commission to a final written proffer statement in the proper legal form required by the Town and (b) return the final proffer statement to the Planning and Zoning Administrator not more than ten (10) calendar days after the Planning Commission hearing for subsequent transmittal to the Town Council.
- 3. The Planning Commission, upon the concurrence of the applicant, may defer action to a later meeting for the purpose of considering the revised proffers, provided that such revisions are submitted in proper legal form and are reviewed on the same time schedule as the original zoning application.
- 4. Upon completion of Planning Commission action on the conditional zoning application, the matter shall be forwarded to the Town Council in the manner of all rezonings. The Town Council, in taking action on the zoning amendment proposal and proffers, may (1) approve the zoning application, (2) deny the zoning application or (3) consider modification of the proffered conditions for subsequent approval.

5. The applicant may add to, expand, clarify or otherwise modify the proffer statement in writing at the time of the Town Council public hearing. Upon receipt of the modification of the proffer statement, the Town Council may take any one of the following actions:
 - (a) The Council may decline to consider the modification to the proffer statement as not timely filed and act only upon the application which was acted upon by the Planning Commission if it finds that the additional modifications do not alter the overall application sufficiently to warrant continued review or referral to the Planning Commission.
 - (b). The Council may continue the hearing on the application to another hearing date, in which case the applicant shall be required to submit to the Planning and Zoning Administrator a final written proffer statement not less than ten (10) days before the scheduled hearing in order for the Council to act upon the application with the modified proffers. Nothing herein shall limit the Council's discretion to continue application to subsequent dates for further modification.
 - (c) The Council may refer the modified application back to the Planning Commission for review and recommendation in accordance with the preceding sections.
6. If an applicant at any time modifies an application by deleting any provision from any proffer that has been reviewed and acted upon by the Planning Commission, the Council shall refer the application with such modified proffer back to the Planning Commission for review and recommendation in accordance with the preceding section.
7. The Town Council may also modify any proffered condition, but only with the concurrence of all parties to the proffers and only after a new public hearing is held to consider the modified proffer, with the modified proffer being submitted in writing to the Planning and Zoning Administrator at least ten (10) days prior to said public hearing.
8. The Town Council shall accept only those proffers which have been reviewed and deemed acceptable in legal form, sufficiency and enforceability by the Town Attorney.
9. No proffer may be modified or amended except in accordance with these provisions. After the effective date of this section, the Town Council shall attach no conditions to nor accept any proffer with a rezoning except in accordance with this section.

G. Recordation of Proffers and Amendment of Zoning Map:

1. If the Town Council approves the rezoning petition and accepts the written proffer, the Town Attorney shall, within ten (10) days of the Town Council's action, examine the appropriate records so as to determine whether any change in the interest in the property has occurred since the date of the title certificate. In the event that the Town Attorney determines that no such change in interest has occurred, the Town Attorney shall, within the said ten (10) day period, present the written proffer to the Clerk of the Circuit Court for recordation.
2. Upon recordation of the written proffer, the Planning and Zoning Administrator shall promptly delineate by appropriate symbol on the Town's Official Zoning Map the existence of the written proffers and other conditional zoning considerations for the subject property. The Planning and Zoning Administrator shall maintain and make available for public inspection the full and complete records of written proffers.
3. If upon Town Council approval of the rezoning petition and acceptance of the written proffers, the Town Attorney determines that a change in interest in the property has taken place, and that, in his opinion, such change may adversely affect the Town's interest in the proffer, the applicant shall be notified in writing that the proffer will not be recorded and that the Town Council's action in approving the rezoning will be rescinded and void unless an appeal is filed for a hearing before the Town Council within sixty (60) days of the date of the Town Attorney's letter.
4. In the event that the applicant files an appeal within sixty (60) days of the date of the Town Attorney's letter, the applicant shall be given the opportunity for a hearing before the Town Council. At the conclusion of such hearing, the Town Council may, at its legislative discretion, permit the applicant a certain amount of time in which to correct the legal or procedural objection raised by the Town Attorney or may rescind its earlier action in approving the rezoning.
5. If the applicant fails to file his appeal within the said sixty (60) day period or upon hearing an appeal the Town Council acts to rescind its earlier action, the approval of the rezoning application shall be void. In no event shall the zoning map be changed to reflect the Town Council's approval of the conditional zoning application until the Planning and Zoning Administrator receives written notification from the Town Attorney that the proffer has been properly recorded.

H. Legal Form of Proffer Statement and Title:

1. All proffers shall be in writing and shall be in a form suitable for recordation in the deed books maintained in the land records of Isle of Wight County.
2. No prooffer shall be accepted by the Town Council which has not received the approval of the Town Attorney as to legal form, sufficiency and enforceability.
3. Each conditional zoning petition and prooffer statement shall be accompanied by a certificate of title, prepared and signed by an attorney licensed to practice law in the Commonwealth of Virginia. The title certificate shall describe the property that is the subject of the petition and shall identify all parties having a recorded interest in the property, including legal and equitable owners and shall state the source of title or interest for each party.
4. The certificate of title shall state the latest date through which the applicant's attorney examined the title to the property, which date shall not be more than six (6) months prior to the date of the filing of the petition.
5. The Town Attorney shall reject any certificate of title which, in the Town Attorney's opinion, is incomplete or is otherwise insufficient from a legal standpoint.
6. The written prooffer shall name as grantors all owners of the property and shall be signed by all such parties. In the event that the applicant for the rezoning is a contract purchaser, such purchaser shall also be made party to the prooffer and shall sign same.
7. The foregoing provisions shall not be construed as limiting the authority of the Town Attorney to require that any additional person, firm, association or corporation be made a party and sign the prooffer, when, in the Town Attorney's opinion, the inclusion of such person, firm, association or corporation is necessary to protect the Town's interest.

I. Effect, Enforcement and Amendment of Proffered Conditions:

1. Once proffered and accepted as part of an amendment to the Town's zoning ordinance, such proffered conditions shall continue in full force and effect until any subsequent amendment changes the zoning of the property covered by such conditions. However, such proffers conditions shall continue in full force and effect if the subsequent zoning amendment is part of a municipal action to comprehensively implement a new or substantially revised zoning ordinance.

2. The Planning and Zoning Administrator shall be responsible for recording and referencing on the Town's Official Zoning Map the existence of adopted proffered conditions for individual properties. Any site plan, subdivision plat, general development plan, special use permit plan or other land use application thereafter submitted for development of property with proffered conditions shall conform with all of such conditions, and, further, in the absence of full conformity, shall not be approved by any Town official or body. For the purpose of this section, "full conformity" shall mean conformity which leaves a reasonable margin for technical adjustment due to introduction of final engineering and mapping data, but conforms to the general nature and intent of the development plat or plan, the specific uses, as well as the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant's professional consultants.
3. In the event of an inconsistency between a specific written proffer and a graphic depiction upon an approved general development plan, the proffered text shall control.
4. The Planning and Zoning Administrator is hereby vested with all necessary authority to enforce such proffered conditions. Failure to comply shall be sufficient cause to deny the approval of (1) site plans, (2) subdivision plats, (3) zoning permits and/or (4) occupancy permits. In exercise of this authority, the Planning and Zoning Administrator may initiate action through the Town Manager to (1) issue a violation notice and correction order, (2) bring legal action to ensure compliance, including lien, injunction and/or abatement and/or (3) proceed with institution of criminal process.
5. There shall be no amendment or variation of any conditions proffered pursuant to Article 5, until after a public hearing before the governing body. However, where an amendment to such proffered conditions is requested, and where such amendment does not affect condition of use or density, a local governing body may waive the requirement for a public hearing, by a majority vote at the next regularly scheduled Town Council meeting.

Article 6:
SPECIAL USE PERMITS

Article 6:
Special Use Permits

A. Purpose and Intent

Special permits are authorized under the terms of this article to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by only the application of the underlying zoning district regulations. Further, special permit uses are those uses which, if not specially regulated, can have an undue impact on or be incompatible with other uses of land within or adjacent to a given zoning district. Upon the granting of a special use permit by Town Council, these uses may be allowed to be located or expanded within given designated zoning districts under the standards, controls, limitations, performance criteria, restrictions and other regulations of this article.

B. General Standards and Criteria for Special Use Permit Review

All applications for special use permit shall be reviewed using the following criteria:

1. The proposed use shall be:
 - a. In harmony with the adopted Comprehensive Plan;
 - b. In harmony with the intent and purpose of the zoning district in which the use is proposed to be located and
 - c. In harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.
2. The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.
3. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.
4. The proposed use shall be designated, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

C. Special Conditions

1. In granting any special use permit, the Town Council may impose any conditions necessary to assure that the proposed use will conform with the requirements of this section and will continue to do so. The Town Council may take all necessary actions to ensure compliance with the conditions imposed.
2. The Town Council may impose reasonable standards as deemed necessary to protect the public interest and welfare. Such standards may include, but need not be limited to:
 - a. More restrictive sign standards.
 - b. Additional open space, landscaping or screening requirements.
 - c. Additional yard requirements.
 - d. Special lighting requirements.
 - e. Time limitations on hours of operation.
 - f. Additional off-street parking and loading requirements.
 - g. Additional utility, drainage and public facility requirements.
 - h. Additional right-of-way and public access requirements.
 - i. Additional requirements to ensure compatibility with the Comprehensive Plan.
 - j. Conditions for renewal, extension, expiration, and/or revocation of special use permit.
3. The Town Council may specify time limits or expiration dates for a special use permit, including provisions for periodic review and renewal.

D. Application Requirements for Special Use Permit

1. An application for a special use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the Planning and Zoning Administrator, and shall be accompanied by the filing fee as established by the Town Council.
2. If the request for a special use permit has been denied by Town Council, a request in substantially the same form shall not be resubmitted within one (1) year of the date of denial.
3. The application shall include the following information:
 - a. A preliminary site plan in accordance with the Site Plan Regulations and the Design and Construction Standards Manual.
 - b. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.
 - c. A written statement of proposed project compatibility with the following:
 - (1) The Comprehensive Plan.
 - (2) The applicable zoning district.
 - (3) The surrounding properties.
 - (4) Current and future neighborhood conditions.
 - (5) Pedestrian and vehicular traffic patterns, on-site and off-site.
 - (6) Adequate public facilities.
 - d. When requested by the Planning and Zoning Administrator, the Planning Commission, or the Town Council, the following information shall be provided by the applicant:
 - (1) The architectural elevations and floor plans of proposed building(s).
 - (2) Traffic impact analysis.
 - (3) Fiscal impact analysis.
 - (4) Parking and site circulation analysis.
 - (5) Photographs of property and surrounding area.
 - (6) Environmental impact statement.

E. Action by Planning Commission

1. No special use permit shall be approved unless the proposal has been reviewed by the Planning Commission. The Planning Commission shall conduct at least one (1) public hearing in accordance with this ordinance. Following the public hearing, the Planning Commission shall prepare and by motion adopt its recommendations, which may include changes in the applicant's original proposal resulting from the hearing, and shall report such recommendations, together with any explanatory material, to the Town Council.
2. Failure of the Planning Commission to report within ninety (90) days after the first meeting of the Planning Commission after the proposal has been referred to the Planning Commission shall be deemed approval, unless the proposed special use permit has been withdrawn by the applicant prior to the expiration of such time period or the time period has been extended by mutual agreement by the Town and the applicant.

F. Action by Town Council

1. Before approving a special use permit, the Town Council shall hold at least one (1) public hearing in accordance with this ordinance after which the Town Council may make appropriate changes to or impose appropriate conditions upon the proposed special use. Nothing herein shall preclude the Town Council from holding a joint public hearing with the Planning Commission.
2. A concurring vote of a majority of the members of Town Council shall be required to approve a special use permit.

G. Extension, Renewal, Expiration, Revocation**1. Extension**

- a. An extension shall be for the purpose of administratively extending timeframes established by the Town Council for the implementation and/or completion of certain improvements which were stipulated as a condition of original special permit approval. A request for extension may be initiated by the property owner.
- b. Upon initiation of property owner's request for extension, or upon any other initiative, the Zoning Administrator shall inspect the special use permit, review the

record of compliance with those conditions and restrictions previously imposed by the Town Council; and make a determination on whether the special use permit satisfies other conditions of approval and the provisions of the article.

- c. Upon a favorable finding, the Zoning Administrator shall approve an extension of the original special permit for a period of time not to exceed one (1) year or for such timeframe as may have been otherwise specified for future extension by the Town Council at the time of approval of original special permit.
- d. If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the Town Council, the Zoning Administrator shall, depending on the nature of the noncompliance, either deny the extension or require the remedy of any violation within a specified time. If the extension is denied or the property owner fails to correct the violation within the time specified, the special permit shall expire. The approval of a new special permit shall be required prior to any subsequent reinstatement of the use.

2. **Renewal**

- a. A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid special use permit; provided, however, that the Town Council shall not approve a renewal application for a use which is no longer allowed as a special use permit in the zoning district in which the special use permit is located.
- b. The procedure for the renewal of a special use permit shall be the same as specified herein for the approval of the original permit, except that the Zoning Administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.
- c. The Town Council shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the use still satisfies the provisions of this Article.
- d. Any special use permit that is not renewed prior to the established time shall expire without notice and become null and void.

3. Expiration

- a. Whenever a special use permit is approved by the Town Council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the Town Council may have specified, or, if no such time has been specified, then within eighteen (18) months from the approval date of such permit.
- b. If the special use or construction has not commenced in accordance with the above provisions, then the special use permit shall automatically expire without notice and become null and void.

4. Revocation

- a. Unless a time limit is specified for a special use permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two (2) years or more, the special permit shall automatically terminate without notice and become null and void.
- b. The approval of a new special use permit shall be required prior to any subsequent reinstatement of the use.
- c. A special use permit shall be revocable upon written order of the Town Council at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.

H. Other Provisions

The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this ordinance.

I. Bed & Breakfasts

1. All applicable Building Code and State Health Department regulations shall be met.

2. If the bed and breakfast is located in a residential district, then the property owner must be the occupant/resident of the structure.
3. One off-street parking space shall be provided on site for each bedroom rented, and shall be used by the occupants of the rental bedrooms. Two additional off-street parking spaces shall be provided for the occupant(s) of the dwelling.
4. All applications for a special use permit for a bed and breakfast shall be accompanied by a site plan in accordance with Article 11, Site Plan Requirements, of the Zoning Ordinance.
5. The bed and breakfast shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.

(Ord. of 05-04-2004)

Article 7:
NONCONFORMING USES

Article 7:
Nonconforming Uses

A. Purpose and Intent

1. **Land use objectives:** The objective of this article is to regulate and limit the development and continued existence of uses, structures and lots established prior to the effective date of this ordinance which do not conform to the requirements of this ordinance. Certain nonconformities may continue, but the provisions of this article are intended to curtail substantial investment in non conformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this article and the desired character of the Town.
2. **Conditions for continuation:** Any nonconforming use, structure or lot which lawfully existed as of the effective date of this ordinance and which remains nonconforming, and any use, structure or lot which has become nonconforming as a result of the adoption of this ordinance or any subsequent reclassification of zoning districts or other amendment to this ordinance, may be continued or maintained only in accordance with the terms of this article.
3. **Variances and special exceptions:** The limitations of this article shall not apply to structures or lots whose nonconforming features are the subject of a variance or a special exception that has been granted by the Board of Zoning Appeals or a modification or condition that was approved by the Town Council.
4. **Change in title or possession:** If any change in title or possession of a lot or building, or renewal of a lease of a nonconforming building or use occurs, the existing nonconforming use or building may continue so long as all other applicable provisions of this article are met.

B. Nonconforming Uses: Change, Discontinuation & Expansion

1. **Change of nonconforming use to more restrictive use:** If no structural alterations are made to a nonconforming use of land or building, a nonconforming use of land or of a building may be changed to another nonconforming use of the same or of a less restrictive classification. Whenever a nonconforming use of land or buildings has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

2. **Expansion of nonconforming use:** Except as provided for herein, a nonconforming use shall not be expanded or extended beyond the floor area or lot area it occupied on the effective date of this ordinance.
3. **Discontinuation of nonconforming use:** If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.
(Ord. of 9-5-2000)

C. Nonconforming Structures

1. **Repair or reconstruction of nonconforming structure:** No building which is nonconforming for reasons other than use, such as setbacks or other site conditions, shall be restored or changed to another nonconforming use after damaged beyond fifty (50) percent of the fair market value of the building prior to damage. If a building is damaged by less than fifty (50) percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be completed within twelve months from the date of such damage. It shall be the duty of the property owner to provide two estimates of fair market value to the Planning and Zoning Administrator who will establish market value.
2. **Alteration or enlargement of nonconforming structure:** A nonconforming structure or use shall not be extended, enlarged, reconstructed or structurally altered, except in conformity with this article or when required to do so by law or ordinance or when the change does not compound the existing violation.
3. **Relocation of nonconforming structure:** A nonconforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements of this ordinance and other applicable ordinances.
4. **Pre-existing structures with prior approvals (“grandfather” clause):** Nonconforming buildings for reasons other than use which have been issued a building permit prior to

annexation or amendments to this ordinance shall be permitted under the conditions of said permit but thereafter held to the conditions herein.

D. Nonconforming Lots

1. **Usage of nonconforming lot of record:** If a lot was approved on a subdivision plat and duly recorded prior to the effective date of this ordinance and if such lot met the requirements of the subdivision ordinance in effect at the time of recordation, then, such lot may be used for any use permitted under the current zoning district designation even though the lot does not meet the lot area or lot width and depth requirements of the district, provided that all other regulations (such as setbacks, yards requirements, density, screening, etc.) of this ordinance can be satisfied.
2. **Prohibition on establishment of nonconforming lot:** A lot may only be established after the effective date of this ordinance if such lot conforms with all requirements of this ordinance.
3. **Boundary line adjustments:** Notwithstanding the provisions hereinabove, boundary line adjustments may be permitted between nonconforming lots provided the Planning and Zoning Administrator finds that the degree of nonconformity is not increased due to such adjustment.
4. **Eminent domain and condemnation:** Any lot which, by reason of realignment of a Town, State or Federal highway, street or other public improvement which is implemented by reason of public land acquisition or condemnation proceedings related thereto, has been reduced in size to an area less than that required by law, shall be considered a nonconforming lot of record subject to the provisions set forth herein; and any lawful use or structure existing at the time of such public acquisition or condemnation proceedings which would thereafter no longer be permitted under the terms of this ordinance shall be considered a nonconforming use or structure except as where the average front setback establishes a new setback line.

E. Nonconforming Signs

Refer to Article 10, *Sign Regulations*, Section I, *Nonconforming Signs*.
(Ord. of 9-5-2000)

F. Relationship to Site Plan Requirements

A change or addition to any non-conforming use, structure, or site subject to a major or minor site plan (Article 11) shall require that the entire use, structure, or site (including both the non-conforming and conforming improvements) be brought into full conformance with all of the requirements of this ordinance, provided that the Planning Commission, upon recommendation by the Planning and Zoning Administrator, may waive a portion or all of the individual requirements for conformance.

Article 8:

PARKING AND LOADING REQUIREMENTS

Article 8:
Parking & Loading Requirements

A. Purpose:

The purpose of these regulations is to set forth off-street parking and off-street loading requirements for structures and uses governed by this article. The general criteria for these requirements shall be in accordance with the intensity of such use or structure, and with the aim of providing adequate parking for the public and reducing traffic hazards, conflicts and inconvenience.

B. General Parking and Loading Provisions:

1. Every building or structure shall be provided, at the time of initial construction, or at any other time specified in this article, with the minimum required off-street parking space and the minimum required space for the loading of goods or commodities.
2. Every building or structure changed in use or structurally altered shall be furnished with off-street parking, ingress and egress, space for loading of goods and commodities and adequate circulation required, but only to the extent that the change in use or structural alteration necessitates the need for additional parking.
3. All off-street parking spaces required for any residential use permitted in any residential district in the Town shall be provided on the same lot with such use.
4. All off-street parking spaces required for any use other than a residential use permitted in any residential district shall be provided on the same lot with such use except where practical difficulties prevent such location or where the public safety or the public convenience would be better served by a location other than on the same lot. In such cases the Zoning Administrator may authorize alternative and/or cooperative locations of required parking spaces, subject to the following:
 - a. An alternative location shall be in the same ownership (fee simple or common) and zoning classification as that of the land on which the use is located.
 - b. A common or cooperative location, which provides parking for two or more uses, shall be in the ownership (fee simple or common) of at least one of the participants and shall have combined parking space equal to the sum required for the separate uses, except that the amount of space may be reduced by the

Zoning Administrator for reason of different hours of activity among the various uses, and shall be subject to such arrangements as will guarantee the permanent availability of such space.

- c. The entrance to an alternative, common or cooperative location shall be within two hundred (200) feet pedestrian walking distance of the entrance to the use such location serves and be connected to such use by a pedestrian walkway. Such pedestrian access shall be accessible to the handicapped and shall meet ADA requirements.
- d. The right to use such property for parking shall be established by deed, easement, lease or similar recorded covenant or agreement, shall be approved as to form and content by the Town Attorney and shall be recorded in the Clerk's Office.
- e. Should such off-street parking spaces become unavailable for use at some future time, an equal number of parking spaces shall be constructed and provided on either the primary site or by another off-site arrangement meeting the requirements of this Article. Failure to provide these parking spaces within ninety (90) days from the date on which the use of the previously available spaces was terminated shall be a violation of this ordinance.
- f. The Zoning Administrator may require a detailed parking impact and pedestrian access study to be prepared by the applicant in support of the requirements hereinabove.

5. All off-street parking spaces and off-street loading spaces shall be curb and guttered and designed to provide safe and convenient access to a public street. Ingress and egress shall be provided only through driveway, travelway or private street openings of design, location, and criteria approved by the Zoning Administrator or the Planning Commission as needed. Access by a vehicle to required parking spaces shall be afforded without requiring another vehicle to be moved.
6. Requirements for parking space and parking bay paving improvements:
 - (a) For all residential, institutional and commercial uses (other than single family residential off-street parking and as otherwise addressed by the HP-O District), all required off street parking spaces and drives shall be constructed of an all weather, stabilized, dust free surface (concrete, bituminous concrete, paving blocks, or other similar material) with curb, guttering and drainage improvements.

Except, improvements to existing gravel or other similar materials are permissible; however, the parcel is required to be in compliance and remain in compliance with the landscaping and paving requirements of this Ordinance once improvements, other than landscaping and interior renovation, made during a rolling 5-year period constitute 50% or more of the structure's assed value.

- (b) For commercial and industrial uses, all employee and customer parking, as well as all entrances into parking areas, shall be constructed of an all weather, stabilized, dust free surface with curb, guttering and drainage improvements. For industrial uses, such paved surfacing may be waived by the Planning Commission only for areas used for the parking and/or loading of heavy equipment. Except, improvements to existing gravel or other similar materials are permissible; however, the parcel is required to be in compliance and remain in compliance with the landscaping and paving requirements of this Ordinance once improvements, other than landscaping and interior renovation, made during a rolling 5-year period constitute 50% or more of the structure's assed value.
- (c) For parking areas of six (6) spaces or less, the requirement for paved parking with curb and gutter may be waived by the Planning Commission, provided that the parking surface be constructed with a minimum surface of six (6) inches of crushed stone with adequate storm drainage provisions.
- (c) The requirements of the Town's Design and Construction Manual shall govern the parking space and parking lot design sections, width, base and subbase structural characteristics, and construction criteria. Storm drainage and stormwater management construction details and calculations shall be provided with parking space and parking lot designs.

(Ord. of 2024-06-04)

- 7. All off-street parking spaces and related accessibility requirements for handicapped persons shall conform with the most recent Americans with Disabilities Act (ADA) regulations and as otherwise provided in this article. Where ADA regulations are in conflict with or are more stringent than the regulations in this article, ADA regulations shall govern. A copy of these ADA regulations is available through the office of the Planning and Zoning Administrator.
- 8. In commercial and industrial zoning districts (except in the D, Downtown District), and except as may be otherwise qualified in this ordinance, off-street parking spaces may be

located in required yards, but in no case shall it be located less than five (5) feet from any adjacent lot line or as otherwise provided by screening and buffer yard requirements. In all cases, a ten (10) foot minimum setback for off street parking spaces abutting a public street shall be provided and maintained.

9. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which the parking is accessory. No repair, dismantling or servicing of any vehicle, equipment, materials or supplies shall be permitted in any required off-street parking facility.
10. All off-street parking spaces, parking lots, loading areas, private streets, travelways and entrances shall comply with the geometric design criteria and pavement design standards as provided in the Town's Design and Construction Standards Manual or as otherwise approved by the Zoning Administrator.
11. Appurtenant lighting to residential parking areas shall be designed to minimize glare away from adjoining residential districts and away from adjacent uses.
12. Computations of parking space requirements on an *employee/person* basis shall be based on (a) maximum number of *employees* on duty and/or (b) the occupancy load of the building and/or (c) a detailed parking impact analysis as provided by the applicant's Professional Engineer or Architect and approved by the Planning and Zoning Administrator.
13. No off-street loading space shall be located within a front yard.
14. All parking spaces shall be designed to prevent vehicles from extending over any property line, right-of-way, sidewalk or travelway. Where parking spaces allow a vehicle to extend over the face of curb into such areas, an additional parking space depth of two (2) feet shall be provided and/or parking bumper stops shall be incorporated into the parking space design.
15. Computations and analysis of parking and loading space requirements shall be performed by the Engineer or Architect submitting the subdivision plat and/or site plan, and those computations shall be considered as an integral element of the plat or site plan certification.
16. Where parking spaces or loading requirements are unclear or not specifically mentioned, the requirements shall be the same as required for a use of similar nature or as otherwise stipulated by the Zoning Administrator.

17. Spaces designated for off-street loading shall not be counted toward the required number of off-street parking spaces.
18. Available on-street parking spaces shall not be counted toward the required number of off-street parking spaces.
19. In addition to the number of parking spaces required for new uses under this article, a change in use from existing single family dwelling to permitted multifamily housing units or other tenant housing facilities shall meet the following requirements:
 - a. Off-street parking spaces shall not be located within the established front yard area between the front property line and the building itself and
 - b. All areas on-site which comprise the off-street parking site plan shall be visually defined by appropriate use of surface materials for vehicular uses which shall be duly maintained as a condition of the occupancy permit.
20. In addition to the number of parking spaces required by use under this article, non-residential uses permitted in the Town's residential districts shall meet the following requirements:
 - a. Non-residential parking spaces shall be designated so as to provide continuous visual separation of at least six (6) feet in width between parking and adjoining residential property, where applicable, by means of landscaping, fencing and/or ground cover. In addition, all areas between building setbacks and public street frontage shall be restricted to fifty percent (50%) development for parking area; and
 - b. All areas on-site which comprise the off-street parking plan shall be visually defined by paved surfaces which shall be duly maintained as a condition of the occupancy permit.
21. Any parking arrangement which requires the moving of any vehicle on-site in order to maneuver another vehicle on-site into or out of a required parking space shall not meet the intent of this article.
22. Access to on-site parking shall not depend on the public right of way, other than alleys, in order to safely and conveniently maneuver into or out of parking spaces.

23. Required off street parking spaces may be provided within open carports, provided that the provisions of this Article pertaining to dimensions, layout, and accessibility are met. (Ord. of 8-5-2008)

C. Parking and Loading Space Dimensions:

1. Minimum parking space dimensions and layout:
 - (a) Parallel spaces: Standard parallel parking spaces shall have minimum dimensions of eight (8) feet by twenty-two (22) feet.
 - (b) Perpendicular spaces: Standard perpendicular parking spaces shall be designed with a width of nine (9) feet and a length of eighteen (18) feet, provided that travelways combined with parking bays providing perpendicular parking shall have a minimum width of twenty four (24) feet (with 2-12 foot lanes) to accommodate two-directional traffic movements.

Long-term or compact car perpendicular parking spaces (such as parking lots for full day shift for office or industrial employees) may be reduced to eight and one-half (8.5) feet upon petition to and acceptance by the Planning Commission, provided that such spaces are clearly designated.
 - (c) Angled and other forms of parking spaces: In cases where parking space and adjoining travelway dimensions vary from those above due to the nature of the parking areas and circulation patterns, the applicant shall be required to submit a detailed parking study prepared by a qualified professional to justify such parking space size variations. Documentation shall be provided addressing parking space geometry, travelway access and turning movements, and other elements related to parking space layout and design criteria.
 - (d) Refer to the Town's Design and Construction Standards Manual for additional information and design criteria for parking spaces and parking lots.
2. Off-street loading space dimensions and layout:
 - (a) No loading space shall be less than fifteen (15) feet wide, twenty five (25) feet long and fifteen (15) in vertical clearance, provided that the depth shall be sufficient to accommodate the largest delivery trucks supplying the establishment and that loading space lengths for semi-trailer vehicles shall be not less than fifty (50) feet. Where more than one loading space has been provided and located

parallel to the first, each additional space may be reduced to twelve (12) feet in width.

- (b) No off-street loading area shall necessitate maneuvering from a public right of way. No loading space shall be located in a front yard, except for industrial uses.
- (c) Off-street loading spaces shall not be located closer than forty (40) feet from the nearest point of intersection of the loading approach travelway with the public street right-of-way, provided that if such space is to access semi-trailer vehicles, then such distance be not closer than sixty (60) feet.

D. Computation of Required Parking Spaces:

- 1. Floor area shall mean the gross floor area of the specific use, measured from the exterior faces of exterior walls or from the center line of walls separating two attached buildings. Unless otherwise specified, gross floor area shall include associated corridors, utility rooms and storage space.
- 2. When the units of measurements determining the number of required parking spaces result in calculations requiring a fractional space, one space shall be provided for said computed fractional space.
- 3. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

E. Minimum Required Parking Spaces:

The following parking requirements represent minimum standards for the provision of on-site parking for permitted and special permit uses:

- 1. **Accessory Living Unit:** Minimum: Two (2) spaces per unit; such space must have convenient access to a street: N/A.
- 2. **Ambulance Service, Fire Department or Rescue Squad Facility:** Minimum: Adequate space to accommodate all motor vehicles operated in connection with such use and five (5) additional parking spaces per each such vehicle. Maximum: N/A.
- 3. **Event Facilities:** For principal uses, the minimum required parking is one (1) space for every three (3) persons based upon the maximum live load according to the Virginia

Uniform Statewide Building Code (VUSBC) for the building in or at which events are to occur. For accessory uses, the minimum required parking will be the same, or that of the principal use, whichever is greater. For both principal and accessory uses engaged in holding outdoor events, the minimum required parking shall be one (1) space for every three (3) expected attendees for the outdoor event that is to occur. For the purpose of this regulation, the most restrictive language shall govern. For both principal and accessory uses within the Downtown (D) and Downtown Neighborhood Residential (DNR) districts where sufficient parking cannot be provided onsite, the applicant(s) must furnish an alternate/cooperative required parking agreement, pursuant to Section B.4 of this Article.

4. **Barber Shop, Beauty Shop:** Minimum: One (1) space per two hundred (200) square feet of gross floor area; Maximum: One (1) space per one hundred (100) square feet of gross floor area.
5. **Bed and Breakfast Lodging:** Minimum: One (1) space per room accommodation, plus two (2) additional spaces; Maximum: Two (2) spaces per room accommodation, plus two (2) additional spaces.
6. **Boardinghouse or Rooming house:** Minimum: One (1) space per room accommodation, plus two (2) additional spaces; Maximum: Two (2) spaces per room accommodation, plus two (2) additional spaces.
7. **Building Materials Sales:** Minimum: One (1) space per five hundred (500) square feet of retail sales area. Maximum: One and one half (1.5) spaces per five hundred (500) square feet of retail sales area.
8. **Car Wash:** Minimum: Two (2) spaces per bay or stall; provided that such spaces may be stacked one behind another, plus one (1) space per employee on the major shift. Maximum: N/A.
9. **Child Care Center / Adult Day Care Center and Nursery:** Minimum: One (1) space per three hundred fifty (350) square feet of gross floor area; Maximum: One and one half (1.5) spaces per three hundred fifty (350) square feet of gross floor area.
10. **Churches and Places of Worship:** Minimum: One (1) space per four (4) seating accommodations in the assembly area of the facility having the largest capacity. Maximum: Two (2) spaces per four (4) seating accommodations in the assembly area of the facility having the largest capacity.

11. Repealed 8-5-2008
12. **Contractor's Office and Shop:** Minimum: Five (5) parking spaces. Maximum: To be determined by the Zoning Administrator.
13. **Convenience Store (Quick Food Shops):** Minimum: Six (6) spaces per one thousand (1,000) square feet of gross floor area; Maximum: Six (6) spaces per one thousand (1,000) square feet of gross floor area.
14. **Dance Hall (including dance area in restaurant, hotel, etc):** Minimum: Five (5) spaces per one thousand (1,000) square feet of gross floor area; Maximum: Six (6) spaces per one thousand (1,000) square feet of gross floor area.
15. **Bank or Financial Institution:** Minimum: One (1) space per two hundred and fifty (250) square feet of gross floor area; Maximum: Two (2) spaces per two hundred and fifty (250) square feet of gross floor area.
With drive in: Additionally, provided sufficient area for eight (8) stacking spaces for the first drive-in window and two (2) stacking spaces per each additional window.
16. Repealed 8-5-2008
17. Repealed 8-5-2008
18. **Restaurant:**
Without drive-in: Minimum: One (1) space per seventy-five (75) square feet of gross area; Maximum: One (1) space per fifty (50) square feet of gross floor area.
With drive-in: Minimum: One (1) space per sixty-five (65) square feet of gross floor area; Maximum: One (1) space per fifty (50) square feet of gross floor area.
(Ord. 2022-09-06)
19. Repealed 8-5-2008
20. Repealed 8-5-2008
21. Repealed 8-5-2008
22. **Flea Market or Farmers Market:** Minimum: One and one half (1.5) spaces per booth; Maximum: To be determined by the Zoning Administrator.

23. **Funeral Home:** Minimum: One (1) space for every four (4) seats in chapels or parlors with fixed seats; or one (1) space for each 100 square feet of floor area for assembly rooms used for services without fixed seats, plus one (1) space per two (2) employees, plus one (1) space for each vehicle used in connection with the business. Maximum: TBD.
24. **Furniture Sales:** Minimum: One (1) space per five hundred (500) square feet of net floor area; Maximum: One (1) space per two hundred fifty (250) square feet of net floor area; plus one (1) space for each vehicle used in connection with the business.
25. **Golf:**
 - Driving Range – Minimum: One (1) space per two (2) tees; Maximum: One (1) space per one (1) tee.
 - Golf Course – Minimum: Four (4) spaces per hole; Maximum: Six (6) spaces per hole.
 - Miniature Golf – Minimum: One (1) Space per hole; Maximum: Two (2) spaces per hole.
26. **Green Houses and Plant Nursery:**
 - Enclosed Retail Sales Areas – Minimum: One (1) space for each five hundred (500) square feet of retail sales area; Maximum: One (1) space per three (300) square feet of retail sales area.
 - Greenhouse Sales Areas – Minimum: One (1) space per five hundred (500) square feet of greenhouse sales area; Maximum: One (1) space per three hundred (300) square feet of greenhouse sales area.
 - Exterior Nursery Sales Areas – Minimum: One (1) space per each two thousand five hundred (2,500) square feet of exterior nursery sales area; Maximum: One (1) space per one thousand five hundred (1,500) square feet of nursery sales area.
27. **Hospitals and Medical Center:** Minimum: One (1) space per four hundred (400) square feet of gross floor area; Maximum: One (1) space per one hundred (100) square feet of gross floor area.
28. **Hotel or Motel:** Minimum: One (1) space per rental unit plus one (1) space per two hundred (200) square feet of assembly rooms; Maximum: One and one quarter (1.25) spaces per rental unit and one (1) space per one hundred fifty (150) square feet of assembly rooms.
 - With dining facilities – Add spaces for interior dining facilities as listed in the Restaurant section.

29. **Housing:**

Single-Family Detached and Duplex Dwellings - Minimum: Two (2) spaces per dwelling unit; Maximum: N/A.

Multi-Family and Single-Family Attached Dwellings – Minimum: Two (2) spaces per dwelling unit, plus one visitor space per every three (3) units; Maximum: N/A.

Elderly and handicapped Housing –

With central dining facilities – Minimum: One (1) space per three (3) dwelling units; Maximum: One (1) space per two (2) dwelling units.

Without central dining facilities – Minimum: One (1) space per dwelling unit; Maximum: One and one half (1.5) spaces per dwelling unit.

30. **Industrial and Manufacturing Uses:** Minimum: One (1) space per 1.5 employees on major shift, plus one (1) space per company vehicle / equipment, plus sufficient space to accommodate largest number of visitors and customers expected at any one time; Maximum: N/A.

31. **Institutional Housing, Nursing or Convalescent Homes and Detention Facilities:** Minimum: One (1) space per three (3) rooms; Maximum: One (1) space per two (2) rooms, plus one (1) space per employee or staff member on a major shift.

32. **Kennels, Commercial:** Minimum: One (1) space per five hundred (500) square feet of gross floor area including runs; Maximum: One (1) space per three hundred (300) square feet of gross floor area including runs.

33. **Laundry, Dry Cleaning and Laundromats:** Minimum: One (1) space per two hundred (200) square feet of gross floor area; maximum: One (1) space per one hundred (100) square feet of gross floor area including runs.

34. Repealed 8-5-2008

35. **Medical or Dental Office:** Minimum: One (1) space per two hundred (200) square feet of gross floor area; Maximum: One (1) space per one hundred (100) square feet of gross floor area.

36. Repealed 8/5/2008

37. **Offices:** Minimum: One (1) space per three hundred (300) square feet of gross floor area; Maximum: One (1) space per one hundred fifty (150) square feet of gross floor area.

38. **Outdoor Sales / Display Area:** Minimum: One (1) space per five hundred (500) square feet of open sales / display. Maximum: One (1) space per one hundred (100) square feet of gross floor area.
39. **Personal Service Establishment Uses (not otherwise specified):** Minimum: One (1) space per two hundred (200) square feet of gross floor area; Maximum: One (1) space per one hundred (100) square feet of gross floor area.
40. **Recreational Facilities:**
 - Billiard, Pool Halls, and Video Game Rooms:** Minimum: One (1) space per game table plus, one (1) space per employee on the major shift. Maximum: N/A.
 - Bowling Alleys:** Minimum: three (3) spaces per alley, plus one space per employee on the major shift. Maximum: Four (4) spaces per alley, plus one space per employee on the major shift.
 - Boating, Country, and/or Hunt Clubs, and Civic, Fraternal, and/or Social Organization Halls:** Minimum: One (1) space per three (3) persons based upon maximum occupancy. Maximum: N/A.
 - Health Clubs, Gyms and Paint Ball Parlors:** Minimum: One and one half (1.5) spaces per thousand (1,000) square feet of gross floor area. Maximum: Ten (10) spaces per one thousand (1,000) square feet of gross floor area.
41. **Recycling Center:** Minimum: One (1) space per employee on the major shift, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions. Maximum: N/A.
42. **Repair Service Establishment:** Minimum: One (1) space per five hundred (500) feet of gross floor area; Maximum: One (1) space per three hundred (300) square feet of gross floor area.
43. **Retail Sales Establishment:** Minimum: One (1) space per three hundred (300) square feet gross floor area; Maximum: One (1) space per two hundred (200) square feet of gross floor area. The wholesale component of any industrial, manufacturing or warehousing facility shall provide parking based on requirements for Retail Sales Establishments. Discount stores, wholesale outlets and "superstores" marketing as wholesale establishments shall provide parking based on requirements for Retail Sales Establishments.
44. **School, Elementary, Middle and Kindergarten:** Minimum: Two and one half (2.5) spaces per classroom, plus sufficient parking for all associated vehicles; Maximum: N/A.

45. **School, High:** Minimum: Two and one half (2.5) spaces per classroom, plus sufficient parking for all associated vehicles, plus one (1) space per four (4) students, based on the maximum capacity. Maximum: N/A.
46. Repealed 8-5-2008
47. **Shopping Center:** Minimum: One (1) space per 200 square feet gross floor area, plus additional spaces for restaurants, theaters, and personal service establishments. as determined by the requirements of this section.
48. **Swimming Pool, Commercial:** Minimum: One (1) space per one hundred (100) square feet of water surface area, plus one (1) space per employee. Maximum: One and one half (1.5) spaces per one hundred (100) square feet of water surface area.
49. **Tennis Courts / Tennis Club:** Minimum: Four (4) spaces per court; Maximum: Six (6) spaces per court.
With dining facilities – Add spaces for interior dining facilities as listed in the Restaurant section.
50. **Theater, Auditorium, or Convention Center:** Minimum: One (1) space per six (6) viewing accommodations; Maximum: One (1) space per four (4) viewing accommodations.
51. **Vehicle Sale, Rental and Ancillary Service Establishment:** Minimum: One (1) space per five hundred (500) square feet of enclosed sales/rental floor area, plus one (1) space per twenty-five hundred (2500) square feet of open sales/rental display lot area, plus two (2) spaces per service bay, but not less than five (5) spaces minimum. Maximum: One and one half (1.5) spaces per five hundred (500) square feet of enclosed sales/ rental floor area, plus one and one half (1.5) spaces per twenty-five hundred (2500) square feet of open sales / rental display lot area, plus three (3) spaces per service bay.
52. **Vehicle Service Station, Vehicle Service Establishment:** Minimum: One (1) space per each employee plus two (2) spaces per each service stall, but not less than five (5) spaces. In addition, when accessory activities rental of automobiles, trucks and trailers of all types are involved on site, there shall be provided suitable area to accommodate the highest number of rental units expected at any one time. Maximum: To be determined by the Zoning Administrator.

53. **Veterinary Clinic:** Minimum: One (1) space per two hundred (200) square feet of gross floor area exclusive of that area to house animals; Maximum: One (1) space per one hundred (100) square feet of gross floor area exclusive of that area to house animals.
54. **Storage and Mini-storage:** Minimum: One (1) space per two hundred (200) square feet of gross floor area of office space; Maximum: One (1) space per one hundred (100) square feet of gross floor area of office space; however, at no time shall there be less than three (3) spaces.
55. **Warehousing and Freight Movement:** Minimum: The greater of one (1) spaces per five hundred (500) square feet of gross floor area or one (1) space per employee plus one (1) space per company related vehicle and / or equipment. Maximum: N/A.
56. **Wholesale Trade Establishment:** Minimum: One (1) space per employees, plus one (1) space per company vehicle, but with a minimum of one (1) space per two thousand (2000) square feet of gross floor area. Maximum: One (1) space per employee, plus one (1) space per company vehicle, plus one (1) space per one thousand (1,000) square feet of gross floor area.
56. **Miscellaneous Uses:** Where no specification is set forth herein for a specific use, parking requirements for such uses shall be based on facility usage by visitors, patrons, and/or customers plus employees, or as otherwise determined by the Zoning Administrator. At the discretion of the Zoning Administrator, the applicant may be required to submit a parking impact study for uses for which regulations are not hereinabove provided.
57. **Handicap Spaces:** Minimum handicap space requirements shall be in accord with the table below unless ADA requirements for the use stipulate otherwise:

Less than five (5) total spaces:	0
Five (5) to fifty (50) spaces:	1
Fifty-one (51) to 100 spaces:	2
One-hundred one (101) spaces to two hundred (200) spaces:	3
Over two hundred (200) spaces:	3

plus 1 for each additional 100 spaces

(Ord. of 2008-08-05; Ord. of 2019-09-03)

F. Minimum Required Off-Street Loading Spaces:

1. Loading space requirements for permitted and special permit uses:

- a. All required off-street loading spaces shall be located on the same lot as the use served.
- b. Required off-street loading spaces may be provided cooperatively for two or more uses, as long as the contractual arrangements for the permanent availability of such spaces meet the standards set by the Planning and Zoning Administrator.
- c. All required off-street loading spaces and their appurtenant aisles and driveways on any given lot shall be deemed to be required space, and shall not be reduced or encroached upon except by approval of the Planning Commission.
- d. All off-street loading space shall be provided with safe and convenient access to a street. If such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall only be provided through such a curbed driveway.
- e. No required off-street loading area shall be used to satisfy the space requirement for any off-street parking facilities, and no loading area shall be so located as to interfere with the free circulation of vehicles in any off-street parking area.
- f. No motor vehicle repair work, with the exception of emergency service, shall be permitted in any space designated as off-street loading area.
- g. All off-street loading areas, including aisles and driveways, shall be constructed and maintained with a dustless (concrete or bituminous concrete) surface, except as otherwise permitted for heavy equipment storage for industrial uses.
- h. Where a use or building contains a combination of uses, loading facilities shall be provided on the basis of the sum of the required spaces for each use. For loading spaces based on the square footage of a building, the net floor area shall be used.

2. Computation of required loading spaces

The following off-street requirements shall be provided in accordance with the following schedule:

- a. Eating and Fast Food Establishments:

One (1) space for the first 10,000 square feet of gross floor area plus one (1) space for each additional 25,000 square feet.

- b. Retail, Office, Service, Supply and Light Industrial Establishments:
One (1) space for the first 10,000 square feet of gross floor area plus one (1) space for each additional 20,000 square feet.
- c. Manufacturing, Heavy Industrial, Warehousing and Vehicles of Heavy Equipment Establishments:
One (1) space for the first 5,000 square feet of gross floor area plus one (1) space for each additional 20,000 square feet.
- d. Where the required number of loading spacers is not set forth hereinabove for a particular use, the Planning and Zoning Administrator shall determine the basis for the number of loading spaces required.

G. Stacking Lane Requirements:

- 1. Stacking spaces shall be required for any use having drive-through or drive-in facilities.
- 2. Stacking spaces shall be a minimum of ten feet in width and eighteen feet in length, and shall be designed so as not to impede on- and off-site traffic movements.
- 3. Stacking lanes and spaces shall be separate from other circulation aisles and parking spaces.
- 4. Stacking lanes shall be separated from other on-site parking and circulation lanes by a raised median or other acceptable method to ensure the adequate channeling and safety of traffic movements.
- 5. Computation of required stacking spaces:

The following minimum stacking space requirements shall be provided in accordance with the following schedule:

- a. Eating and fast food establishments:
Ten (10) stacking spaces, with distance as measured from the closest drive-through window.
- b. Car washes:

Three (3) stacking spaces per car wash bay.

c. Financial institutions:

Eight (8) stacking spaces for the first drive-through window and four (4) stacking spaces for each additional window.

d. Other uses:

For uses not specifically provided for herein, the Planning and Zoning Administrator shall make the final determination regarding the number of required stacking spaces.

H. Handicap Parking Space Requirements:

1. Handicap parking spaces for the physically disabled or elderly shall be required at the rate of three (3) percent of the first 200 parking spaces required for any use.
2. For uses which provide parking for more than 200 spaces, six (6) handicap spaces shall be provided for the first 200 parking spaces, plus one (1) percent of the required spaces in excess of 200 parking spaces.
3. Notwithstanding the above, all handicap parking space requirements shall conform with current ADA regulations.
4. The Planning Commission, upon recommendation by the Planning and Zoning Administrator may modify handicap space requirements where the applicant can demonstrate fewer spaces are required and that ADA requirements are fully satisfied.
5. Perpendicular handicap parking spaces shall be 13 feet wide and 18 feet long, including a 5 foot width for the delineation of aisles for access to vehicle, provided that two handicap spaces may share the same 5 foot access aisle. Spaces shall be located as close as possible to the primary building entrance(s).
6. No more than four (4) handicap spaces shall be grouped together within a parking lot.
7. Inclined access ramps shall be provided and designed to promote safe access from both sides of a vehicle directly to a sidewalk. Ramps shall have a minimum width of five (5) feet and a maximum slope of one unit vertical in twelve units horizontal (1:12), provided that if current ADA requirements for handicap space access are more restrictive, then ADA standards and criteria shall apply. These ramps should also provide suitable accessibility to vans.

8. All handicapped parking spaces shall be clearly identified by the placement of signs, with minimum height of four (4) feet and a maximum height of six (6) feet. Signs and parking spaces shall be marked with the standard handicap logo.

I. Private Streets, Travelways and Combined Travelways and Parking Bays:

1. Private streets in any development or subdivision may be approved only by the Town Council. Private travelways and combined travelways/parking bays may be allowed as a part of the site plan approval process.
2. Private streets, travelways, and combined travelways/parking bays (lots) are intended to provide on-site vehicular circulation and parking for projects such as townhouse and multi-family development, commercial shopping centers and freestanding uses, and other uses requiring a site plan for which public streets and parking is not deemed necessary. Private streets, travelways, and combined travelways/parking bays shall be limited to serve primarily non-through, fixed-traffic generating internal vehicular circulation conditions related to a particular site plan use and which, further, do not adversely affect the transportation objectives of the Comprehensive Plan or limit the ability of the Town to provide for future public street improvements where such private facilities are proposed. See the Town Design and Construction Standards Manual for illustrations of and design criteria for these private facilities.
3. Private streets, travelways and combined parking bays/travelways shall be designed based on the projected traffic demands for a given facility, and, further, shall comply with the standards and criteria of the Town's Construction and Design Standards Manual and the Town Subdivision Ordinance. The Engineer or Architect submitting a site plan shall provide a detailed traffic impact analysis and transportation improvements plan which provides analysis and specifications for pavement widths, street geometry, pavement design, signage, signalization, and private ingress/egress easement requirements.
4. Easements of ingress and egress shall be granted for public emergency vehicles and private maintenance vehicles.
5. No credit towards net developable area shall be given for planned public rights-of-way, private streets, travelways and combined travelways and parking bays within a lot or property to be developed or subdivided. Twenty percent (20%) shall be subtracted from the calculated net developable acreage to allow for street rights of way, unless it can be demonstrated by survey calculations to the satisfaction of the Planning Commission that

proposed street rights of way, private streets, travelways and combined travelways and parking bays in a subdivision will be less than 20% percent of the calculated net acreage.
(Ord. of 8-1-2001)

Article 9:

LANDSCAPE AND SCREENING REGULATIONS

Article 9:
Landscaping and Screening Regulations

A. Purpose and Intent:

The purpose of this section is to establish general standards and processes by which the Smithfield Comprehensive Plan's goals and objectives for landscape architecture, urban and waterfront design, site buffering, and transitional screening will be implemented. Pursuant to the intent of preserving and promoting the health, safety and general welfare of the community, these regulations are promulgated in order to:

1. Facilitate the protection, replenishment and maintenance of the existing environment,
2. Conserve and protect sensitive environmental resources and open spaces,
3. Preserve and enhance the aesthetic character of the community,
4. Protect and improve the quality of natural waters and wetlands,
5. Enhance erosion and sediment control practices through the use of plant materials and ground cover,
6. Improve the physical relationship between adjacent properties via sensitive screening and buffering,
7. Reduce potential deleterious relationships between pedestrian and vehicular land use patterns,
8. Preserve, rehabilitate and maintain existing water courses and stream valleys in high quality condition,
9. Provide adequate tree canopy and vegetative cover and
10. Introduce complementary landscaping to supplement Chesapeake Bay regulations, Best Management Practices, and stormwater management requirements.

B. General Standards:

The following general standards shall apply to the planning, design, installation and maintenance of all landscape improvements, urban design improvements, screening and buffering measures, and related site development practices required by this section:

1. A landscape plan meeting the requirements of this article shall be required for all subdivision, site plan, and other development plan applications. Landscaping, screening, and buffering for any subdivision and site development activity shall be guided by this Article as well as generally accepted landscape design principles.
2. Landscape design plans shall seek to maximize the preservation of existing trees and minimize the disruption of established landscape materials employing preservation and protection criteria provided in the Virginia Erosion and Sediment Control Manual and the State's Urban Best Management Practices Handbook.
3. The quality and type of all new plant materials installed on a site shall be in accord with the specifications of the American Association of Nurserymen, provided that the transplanting of trees and shrubs may be done in accordance with accepted horticultural and silvicultural practices. The planting and placement of trees shall be done in accord with the standardized landscape specifications of the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects.
4. The property owner, developer and or successor in title to a given property shall be responsible for the perpetual maintenance as well as timely repair and replacement of all landscaping, buffers and screening as required by this Article. In RPA buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying or dead plant materials shall be replaced during the next planting season. A failure to adequately maintain landscape improvements in a healthy state and to keep such improvements free of litter, refuse and debris shall be deemed a violation of this ordinance. Landscape planting, maintenance and repair regulations also shall apply to all land in common open space, active recreational areas, or other lands not in lots in residential subdivisions. Property owners' documents shall incorporate such requirements.
5. Landscape plans to accompany any site plan or plat shall be prepared by a qualified landscape designer, nurseryman, horticulturalist or a Certified Landscape Architect. Qualifications and/or certification shall be shown on the site plan or plat and must include the name, address and phone number of the person(s) that prepared the landscaping plan.

6. The landscaping and buffering standards hereinafter established provide minimum guidelines for landscape architecture of commercial, industrial, institutional and residential properties. Refer to Appendix C for graphic illustrations and design guidelines.
7. In addition to the provisions of this article, property which is situated within areas recognized by the Official Zoning Map as a HP-O, Historic Preservation Overlay District and/or a designated Chesapeake Bay Preservation Area shall be subject to additional regulations as provided for in the individual zoning districts, supplemental regulations and design guidelines related thereto.
8. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three (3) planted trees to one (1) removed. Replacement trees shall be a minimum three and one-half (3.5) inches diameter breast height (DBH) at the time of planting.
(Ord. of 8-1-2000; Ord. of 9-5-2000)

C. Site Landscaping, Canopy and Tree Preservation Standards:

1. The applicant shall preserve and protect existing trees in the design and development of projects requiring Town subdivision and/or site plan approval and to replace those trees necessarily removed during such development.
2. The subdivision plat or site plan for any subdivision or site development activity shall include the planting and/or replacement of trees on the site to the extent that, at twenty (20) years of growth, minimum tree canopies or tree covers will be provided in accord with the following standards: (Refer to Appendix C for graphic illustrations of canopy coverage ratios for commercial, industrial and residential land uses.)
 - a. Business, Commercial and Industrial Development: Ten percent (10%) of the total site area shall be covered in tree canopy.
 - b. Residential Development (20 DU/AC and greater): Ten percent (10%) of the total site area shall be covered in tree canopy.
 - c. Residential Development (Greater than 10 DU/AC and less than 20 DU/AC): Fifteen percent (15%) of the total site area shall be covered in tree canopy.
 - d. Residential Development (10 DU/AC and less): Twenty percent (20%) of the total site area shall be covered in tree canopy.

e. Off-Site Planting Option: If the full canopy requirement cannot be met by on-site plantings, the requirement may be satisfied by off-site plantings at the discretion of the Planning Commission.

(Ord. of 2025-10-08)

3. All landscape materials shall conform with the following minimum size or height (at date of planting) standards:

a. Deciduous shade trees:	2" caliper
b. Street trees:	2" caliper
c. Ornamental and understory trees:	6' height
d. Coniferous trees:	6' height
e. Evergreen shrubs:	18" spread or height
f. Deciduous shrubs:	24" spread or height
4. "Tree canopy" or "tree cover" shall include all areas of coverage by trees and plant materials, including street trees, provided that all such trees and plant materials exceed six (6) feet in height at date of planting.
5. All landscape materials shall be selected and sized in accordance with hardiness rating and growth habit appropriate for the intended placement of materials. All landscape materials shall be well branched and well formed, vigorous, healthy and free from disease, sun and wind damage and insect and shall have healthy and unbroken root systems.
6. Tree canopy requirements may be reduced on a case-by-case basis by waiver of the Planning Commission during the site plan and/or subdivision plat approval process where it can be clearly demonstrated by the applicant that either (a) the reduced canopy achieves the intended landscape design objective through a combination of alternative landscape architectural and landscaping techniques or (b) where the characteristics property is such that the canopy coverage would not be effective and other methods of landscaping provide equal and adequate design responses. The above stipulated sizes may be modified based on specific property conditions and site design requirements.
7. The removal of any trees which exceed 6" caliper (dbh, breast height) shall be fully justified by the applicant in cases where modifications to the layout and design elements of the site plan could protect such trees without impairing the function and economy of the intended use.

8. Existing trees, inclusive of wooded preserved areas, which are to be preserved may be included to meet all or part of the aforementioned canopy requirements; provided that the landscape plan identifies such existing trees and that these trees meet standards of desirability, hardiness and life expectancy as established by the Town.
9. In cases where the application of the screening and/or parking lot landscape requirements cited hereinafter exceed the above minimum canopy requirements, the final placement, type, and quantity of landscape materials shall be determined as a part of the Town's site plan or subdivision plat review process, provided that nothing herein shall restrict the applicant from exceeding the minimum canopy requirements, if desired.
10. No landscaping materials shall be installed which interfere with minimum transportation site distances for public and private streets. The landscape plan shall depict sight distance alignments and the location of sight easements.
11. The applicant's landscape architect or qualified landscape designer shall consult with the Planning and Zoning Administrator during the preliminary plan phase to determine the most appropriate layout and coordinated landscape design concepts, tree placement and suitable species of trees and ground cover to be incorporated into the site plan.

D. Parking Lot Landscaping:

1. Parking lots and private access adjacent to lot lines:
 - a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a property line not common with the right of way of a street, a landscaping strip of ten (10) feet in width shall be located between the parking lot and the abutting property line. Refer to Appendix C for graphic examples.
 - b. A minimum of one tree for each forty (40) feet of contiguous property line shall be planted in the landscaping strip. This planting shall be in addition to any planting within a required zoning district buffer yard and in addition to any planting within six (6) feet of a building or structure.
 - c. Where appropriate, shrubs and ground covers shall be provided within the landscaping strip to establish an enhanced low level visual buffer between the adjoining properties.

- d. At maturity, these shrubs and other ground covers shall be three (3) to five (5) feet in height. Landscape plans are encouraged to incorporate earth berms, where appropriate, into the buffer strips.
2. Parking lots and private access adjacent to public streets:
 - a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right of way for a Town street, a landscaping strip of ten (10) feet in width (not including sidewalk) shall be located between the parking lot or private driveway and the right of way line.
 - b. A minimum of one tree for each forty (40) feet of property line common with the public right of way shall be planted in the landscaping strip. This planting shall be in addition to any planting within a required zoning district buffer yard and in addition to any planting within six (6) feet of a building or structure.
 - c. Where appropriate, shrubs and ground covers shall be provided within the landscaping strip to establish an enhanced low level visual buffer between the parking lot and the public right-of-way.
 - d. At maturity, these shrubs and other ground covers shall be a minimum of three (3) to five (5) feet in height. The landscape design for such shrubs and ground covers shall also serve to direct and control pedestrian access into parking lots.
 - e. Landscape plans are encouraged to incorporate earth berms, where appropriate, into the right of way landscaped buffer strips.
3. All parking lots of twelve (12) or more spaces shall contain within the interior of the parking lot not less than one tree for every six (6) parking spaces or fraction thereof. Such trees shall be reasonably dispersed throughout interior of the parking lot in accord with good landscape and urban design practices. All plant materials shall be of a variety and size which can be used to meet the tree canopy cover requirements hereinabove outlined. Refer to Appendix C for graphic illustrations.
4. Landscaping located within the interior of parking lots shall be contained within "planting islands" with raised medians. Planting islands which are located parallel to the long dimension of a parking spaces shall have a minimum width of ten (10) feet and shall be designed to permit vehicular doors to open fully without impacting plant materials. A median (or island) shall be constructed to separate no more than twelve (12) contiguous perpendicular spaces for single-loading bays and twenty-four (24) for double-loading bays. A planting island with raised median (with curb and gutter) shall be constructed to

terminate the end of any perpendicular parking bay and to provide adequate separation from an adjacent to a private driveway or travelway.

5. Landscaped "planting islands" (located such that parking spaces are on opposing sides of the planting island) shall be developed in parking lots meeting the following criteria:
 - a. The total size of the parking lot exceeds one hundred fifty (150) total parking spaces,
 - b. Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other, and the requirements of Paragraph 4 above.
 - c. Planting islands which are designed to be perpendicular to the parking bay shall be constructed for every other parking bay.
 - d. Planting islands shall have a minimum width of six (6) feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.
6. The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubs and other live planting material must be used to complement the primary, tree landscaping, but shall not be the sole contribution to the landscaping.
7. The landscaping shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e. interior parking median) sufficient to protect and maintain all landscaping materials planted therein. See illustrative example in Appendix C.
8. The type and method of parking lot landscape irrigation shall be fully described in the site plan if any type and method is to be included in the design.
9. The applicant's landscape architect or landscape designer and project engineer shall consult with the Planning and Zoning Administrator during the sketch plan and preliminary plat phase to determine the most appropriate parking lot layout and coordinated landscape design concepts, tree placement, and suitable species of trees and ground cover to be used in parking lots.
10. The landscape provisions of this article are not intended to apply to off-street parking spaces or private driveway access to such off-street parking spaces for individual single family residential dwellings.

E. Transitional Screening and Buffer Yards:

1. Transitional screening and buffer yards shall be required between properties as designated by the Zoning Map for different land use categories. Screening and buffer yard requirements shall be imposed on the property of the more intensive zoning category. Buffer landscape yard geometry, plant types, plant quantities and related landscaping requirements between different land use categories shall be based on the screening and buffer yard standards in Appendix C of this ordinance.
2. Transitional screening shall be provided at the outer boundaries of a lot, except in locations where driveways, parking lots, utility easements and/or other openings are required. Where transitional screening and landscape buffer yards are required, evergreen trees and deciduous trees of size, type and canopy as approved by the Planning Commission, shall be employed for screening purposes.
3. Understory and shrubs, in the recommended size and quantities described in the graphic design standards in the appendix, may be incorporated into the buffer yard at the option of the applicant. Landscape plans are encouraged to incorporate earth berms, where physiographically feasible, and other creative landscape features into transitional screening and buffer yard designs. See illustrative examples in Appendix C for recommended landscape materials and placement.
4. Buffer yards and transitional screening may not be used for the storage of materials, buildings, parking or loading areas for motor vehicles or equipment or signs. Sidewalks and pedestrian trails may be incorporated into buffer yards.
5. All outdoor storage and loading areas shall be screened from all public streets and adjacent residential properties. An opaque screen with a minimum height of six (6) feet of landscape materials, architectural walls, opaque fencing or other opaque material shall be used.
6. Transitional screening may be waived or otherwise modified by the Planning Commission for any public use or utility when it can be demonstrated that such use has been specifically designed to minimize adverse impacts on adjacent properties.
7. No landscape materials or screening shall be installed which interfere with minimum transportation site distances. The landscape plan shall depict sight distance alignments and the location of sight easements in accord with transportation design standards.

8. Transitional screening requirements may be modified by the Planning and Zoning Administrator in cases where it can be clearly demonstrated by the applicant that either (a) the alternative landscape design minimizes any adverse impact through a combination of architectural and landscaping techniques or (b) where the topography of the property is such that transitional screening would not be effective and other methods of screening provide equal and adequate design responses.
9. The applicant's certified landscape architect or qualified landscape designer shall consult with the Planning and Zoning Administrator during the sketch plan and preliminary plat phase to determine the most appropriate buffer and screening design concepts, tree placement and suitable species of trees to be used for screening purposes.
10. Additional buffer requirements for major Town entrance streets and highways:
 - (a). In order to maintain and preserve the small town atmosphere of Smithfield and the desired landscape character for the major streets and highways, a minimum buffer yard measuring forty (40) feet in width shall be preserved on properties contiguous to the public right of way of all major arterial roads into the Town.
 - (b). The streets and highways designated for additional buffer requirements are:
 - (1). Benns Church Boulevard (Route 10),
 - (2). Route 10 Bypass,
 - (3). Battery Park Road (Route 704) and
 - (4). Courthouse Highway (Route 258).
 - (c). The buffer requirement for the major streets and highways leading into the Town shall be in addition to any other buffer yard requirements for the subject property.
 - (d). The buffer yard shall be left in an undisturbed state unless otherwise approved for modifications or recommended by the Planning Commission for improvement and enhancement. If improvements and enhancements are to be made within the buffer yard, new landscape materials and grading activities shall be designed to preserve and enhance the natural character of the buffer yard and its existing mature vegetation. Limited clearing of underbrush and removal of volunteer vegetative undergrowth is encouraged within the buffer yard to ensure that existing, mature vegetation can prosper.
 - (e). Supplemental plantings and ground cover within the major street and highway buffer yard may be required, subject to landscape plan review.

(f). Subject to site plan review by the Planning Commission, commercial and industrial properties fronting on the major entranceways to the Town shall be permitted to establish limited sight lines which allow indirect views of building but which shield the views of parking areas to the extent possible.

F. Subdivision Landscaping and Street Tree Requirements:

1. A street tree landscape plan shall be submitted with all residential subdivision plats and other development plans involving the construction, extension or widening of private or public streets.
2. The street tree landscape plan for residential subdivisions shall provide for the placement of street trees outside of and contiguous to the public right-of-way. A minimum of one street tree on each side of a given street shall be established for each forty (40) feet of right of way length.
3. Within residential subdivisions, the street tree landscape plan shall provide an integrated program of street tree plantings, residential subdivision lot landscaping, and tree preservation for all lots located within the subdivision.
4. Street trees shall be counted towards the landscape canopy requirement.
5. No street trees shall be installed which interfere with minimum transportation site distances for public and private streets. The landscape plan shall depict sight distance alignments and the location of sight easements.
6. The applicant's landscape architect or qualified landscape designer shall consult with the Planning and Zoning Administrator during the sketch plan and preliminary plat phase to determine the most appropriate species of street trees as well as suitable landscape design and placement concepts for use in a given subdivision or street development program. A list of candidate landscape materials and varieties for differing functions and applications is provided in the appendix of this ordinance.

G. Bonds and Maintenance:

1. No landscape plan required by this ordinance shall be approved until the applicant has posted a bond acceptable to the Town conditioned upon satisfactory installation of the landscaping proposed in the landscape plan. The bondable sum shall be established by

the Planning and Zoning Administrator upon receipt of the applicant's certified estimate of costs for the proposed landscape improvements.

2. At the discretion of the Planning and Zoning Administrator, the bond (or a portion thereof) for landscaping may be held in force for a period of not longer than eighteen (18) months from date of planting of materials, provided that landscape materials have been specified, planted and maintained pursuant to the requirements of this Article. During the period, plant materials shall be tended and maintained in a healthy growing condition and replaced if necessary.
3. Street trees shall be bonded along with other public improvements proposed for any Town residential subdivision, provided that single family residential subdivisions with fewer than five (5) lots shall be exempt from bonding requirements.
4. Upon written notice by the Planning and Zoning Administrator, the subdivider or developer shall repair or replace any landscape materials, seeding and ground cover, screening, fencing, fine grading and earthscaping, or other landscape elements which do not meet the requirements and intent of this Article within thirty (30) days of notification.
5. No Certificate of Occupancy shall be issued until required landscaping is completed in accordance with the approved landscape plan or as otherwise conditioned by the Planning and Zoning Administrator.

H. Landscape Plan Requirements

1. The landscape plan drawn on a site plan base map to the same scale as the accompanying site plan and/or subdivision plat.
2. Refer to the Town's Design and Construction Standards Manual and Appendix C of this ordinance for additional information related to landscape materials, installation standards, and design details.
3. The landscape plan shall include:
 - a. A tree survey depicting the location, size, description and number of existing trees with 6" or greater caliper. The tree survey shall include all trees which are proposed to be removed during the site development or subdivision process. This shall include the identification, classification and location of any diseased trees which should be removed during site development.

- b. Location, type, size, height, number and botanical name and construction details for proposed landscaping materials. Information is to be provided in graphic and tabular format.
- c. Canopy dimensions (at 20 year maturity), location, size or caliper (at time of planting), area of canopy coverage, description and the botanical name of proposed trees, landscape materials, ground covers and planting beds. A table shall address the calculations for open space, tree canopy, and number of plants (both required and provided).
- d. Planting specifications and installation details for proposed landscaping materials, including a schedule of recommended planting timeframes for specific plant materials and ground covers.
- e. Location, size, and botanical name of all existing landscape materials to be retained during the site development process as well as appropriate landscape protection measures to be implemented during the site construction process.
- f. Location, size and other related design details for all hardscape improvements, signage, recreational improvements and open space areas, fences, retaining walls, barriers and other elements related to transitional buffer yards.
- g. Designation of required setbacks, yards and screening areas.
- h. Location of other man-made site features, parking lots, hardscape improvements, overhead structures and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements.
- i. Limits of grading and site disturbing activities.
- j. Acreage of disturbed areas, computed by planimetric methods, to the nearest 0.1 acre.
- k. Acreage and location of proposed open spaces and recreation areas, computed to the nearest 0.1 acres.
- l. Acreage and location of total site tree cover of the projected ten year site landscape maturity timeframe, computed to the nearest 0.05 acres.
- m. Location, size and construction details for site lighting, special hardscape and landscape features, irrigation systems and exterior site furnishings.

- n. Methods and specifications for tree protection during clearing, grading, and all construction phases.
- o. Landscape preservation and maintenance program shall be provided, including recommended pruning techniques and fertilization applications and schedules.
- p. Landscape treatment of stormwater management improvements, Best Management Practices structures, and erosion and sediment controls.
- q. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area shall be shown on the landscaping plan. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and best management practices shall be shown on the plan. Vegetation to replace any existing trees within the buffer area shall also be shown on the landscaping plan.
- r. Trees to be removed for shoreline stabilization projects and any replacement vegetation shall be shown on the landscaping plan.
- s. The plan shall depict grade changes or other work adjacent to trees which will affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

(Ord. of 8-1-2000)

Article 10:
SIGN REGULATIONS

Article 10:
Sign Regulations

A. Purpose and Intent:

The purpose of this Article is to regulate through content-neutral and nondiscriminatory measures the size, location, height and construction of all signs for public observance; to protect the public health, safety, convenience, and general welfare; to facilitate the creation of a convenient, attractive, and harmonious community, to protect property values; and to further urban design and economic development objectives. To these ends, these regulations are intended to promote signs that are:

1. Compatible with the landscape, streetscape, and architecture of surrounding buildings, including historic buildings, sites, and structures;
2. Legible and appropriate to the activity to which they pertain;
3. Not distracting to motorists;
4. Constructed and maintained in a structurally sound and attractive condition; and
5. Pertaining to a use or business that is in operation on the premises.

(Ord. of 2020-08-04)

B. Sign Permit Requirement:

Except as provided hereinafter, no sign shall be erected, installed, used, altered, painted, relocated, replaced, or reconstructed until a sign permit has been issued by the Zoning Administrator and approved by the Board of Historic and Architectural Review (BHAR) and/or the Planning Commission, if applicable, and a building permit has been issued by Isle of Wight County, if necessary. For the purposes of this Ordinance, all signs are considered accessory uses, and, unless specifically qualified, shall be located on the same parcel as the principal use to which they pertain.

(Ord. of 2020-08-04; Ord of 2024-06-04)

C. Sign Permit Procedures:

1. **Applicability:** Unless otherwise noted, a sign permit shall be required for all signs.
2. **Filing of Application and Fees:** Applications for sign permits shall be filed on a form provided by the Zoning Administrator, contain the information required herein, and be accompanied by a fee to be established by the Town Council. A fee schedule for sign permits and special sign exceptions is on file in the Community Development and Planning Department.
3. **Information Required:** All applications for sign permits shall be submitted on standard

Town application forms, and the applicant shall provide additional written or graphic exhibits incorporating the following information:

- a. The names, addresses, email addresses, and telephone numbers of the sign erector, sign owner, and property owner.
- b. A site plan illustrating the position of the sign on the property, with distances in relation to adjacent lot lines, buildings, sidewalks, setbacks, streets, and intersections shown on a legal plat produced by a Virginia-licensed land surveyor and/or civil engineer.
- c. A landscaping plan and a landscaping cost estimate for proposed detached signs.
- d. The type of sign proposed, including a general description of structural design and construction materials to be used.
- e. The purpose of the proposed sign.
- f. Drawings of the proposed sign which shall contain specifications indicating the height, perimeter, and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
- g. Any other information requested by the Zoning Administrator in order to carry out the purpose and intent of these regulations.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

D. Sign Definitions:

For the purposes of this Article, certain terms and words pertaining to signs are hereby defined. The general rules of interpretation contained in this Article are applicable to these definitions.

1. The following definitions are intended to distinguish the most basic sign types:

Abandoned Sign: An existing sign that draws attention to a purpose that is no longer extant, or which has become neglected and dilapidated.

Awning Sign: A sign painted, printed, cut, or sewn onto a valance or awning.

Canopy Sign: A sign attached to or displayed on a canopy. For the purposes of this Article, a canopy is a permanent, roof-like structure of rigid materials either supported by and extending from a building or freestanding (i.e., marquees or porte-cochères).

Detached Sign: A sign not attached to a building, which is affixed to the ground. A sign permanently attached to a flat surface, such as a fence or wall that is not a part of a building, shall be considered a detached sign.

Directional Sign: A sign that draws attention to general site information, instructions, directives, or restrictions that are primarily oriented towards pedestrians and motor vehicle operators who have entered or are passing a property from the right-of-way (ROW). These signs shall not draw attention to any commercial purpose.

Flat Sign: A sign painted on or mounted to a wall or cornice on an exterior wall of a building

and supported throughout its length by such wall or building, not extending more than eighteen inches (18") from the building or wall.

General Advertising Sign: A sign which draws attention to a product, commodity, or service not necessarily available on the premises. Such a sign may be referred to as a billboard.

Projecting Sign: A sign which is attached to and projects more than eighteen inches (18") from the face of a wall of a building.

Roof Sign: A sign which is an integral part of the building design and is attached to, painted on, or supported by the roof of a building.

Temporary Sign: A sign which is not permanently attached to a building or the ground. A temporary sign typically draws attention to brief activities such as grand openings, promotions of products and services, special and seasonal sales, and special civic or cultural events such as fairs, plays, concerts, and meetings. Such a sign may be referred to as an A-frame, balloon, banner, feather, festoon, flag, inflatable, pennant, pinwheel, ribbon, streamer, tinsel, or yard sign. National and state flags, and flags belonging to any political subdivision thereof, are excluded from this definition.

Window Sign: A sign painted onto or physically affixed to the window of a building, including upper floor windows and the glazing of doors.

2. The following definitions are intended to distinguish features which may be present in multiple sign types:

Animation: Any form of movement, including (but not limited to) digital animation, revolution, and/or vertical or horizontal motion, through electrical, mechanical, and/or windblown means, or through changes in lighting.

Changeable Copy: A part of a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or surface of the sign.

Double-Faced: A sign with two (2) parallel or nearly parallel faces, oriented back to back, and located no more than two feet (2') from each other.

External Illumination: Artificial light originating from spotlights or floodlights not attached to the sign itself and directed towards the sign.

Internal Illumination: Artificial light originating from within the sign itself.

Opaque: Not transparent and unable to see through. When measured in percentage, 100% opaqueness is required.

3. The following definitions are general and technical in nature and apply to most (if not all) sign types:

Sign: Any device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message. This includes sign faces as well as any supporting structure.

Sign Area: The area which outlines the outer extremities of all letters, figures, characters, and delineations, or within an area including the outer extremities of the framework or background of the sign, whichever includes the larger area. The support for

the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area. Only one (1) side of a double-faced sign shall be included in the computation of sign area, but only if the faces are not more than two feet (2') apart. For other signs with more than one (1) face and which are more than two feet (2') apart, each side shall be included in the computation of the sign area. The area of a cylindrical or spherical sign shall be computed by multiplying one-half (1/2) of the circumference of the sign by its height.

Sign Height: The vertical distance from grade at the ROW, or the average lot grade at the front setback line, whichever produces the greater vertical distance, to the highest point of the sign.

Wall Area: The area of a vertical building plane, calculated by multiplying the width of the plane by its height. The height of this plane shall be measured from average finished grade to the highest soffit present. The roof of a structure, if on a different plane than the wall, shall not be included in the calculation of wall area.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

E. General Requirements for All Signs:

The following regulations shall apply generally to all signs and are in addition to the regulations that apply to signs in each district:

1. **Sign Information and Sign Erection:** All signs shall be erected within ninety (90) days from the date of issuance of the sign permit; otherwise, the sign permit shall become null and void and a new sign permit and sign permit fee shall be required. Each sign requiring a sign permit shall be clearly marked with the sign permit number and name of the person or firm placing the sign on the premises. Fees for sign permits shall be in accordance with this Article or as amended from time to time by the Town Council.
2. **Number of Signs:** Except as otherwise provided, these regulations shall be interpreted to permit one (1) sign of each permitted type, in accordance with applicable regulations, for each street frontage, for each permitted use on the premises. For the purpose of this regulation, sign types are flat, detached, roof, and projecting signs.
3. **Responsibility:** The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Administrator.
4. **Maintenance:** All signs shall be maintained in good working condition and appearance. Lights for illuminated signs shall be maintained in good working order.
5. **Removal:** The Administrator shall remove or cause to be removed any sign erected or

maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within thirty (30) days after receiving a written notice of violation from the Administrator. Removal of a sign by the Administrator shall not affect any proceedings instituted prior to the removal of such sign.

6. **Landscaping:** All landscaping plans for any proposed detached signs shall be prepared by a qualified landscape designer, nurseryman, horticulturalist, or Virginia Certified Landscape Architect. Qualifications and/or certification shall be shown on the site plan or plat and must include the name, address, and phone number of the person(s) who prepared the landscaping plan. The landscaping plan shall be submitted before any sign permit is issued. All landscaping shall be completed within sixty (60) days of the date of issuance of the sign permit. A landscaped planting area shall be provided around the base of any detached sign. The planting area shall contain a minimum of two (2) times the area of the sign, be a minimum of four feet (4') in width, be protected from vehicular encroachment, the detached sign shall be located approximately in the center of the planting area, and the detached sign must be landscaped with a combination of low-growing shrubs and groundcovers (other than grass), including a minimum of four (4) shrubs. The quality and type of all new plant materials installed on a site shall be in accordance with the specifications of the American Association of Nurserymen, provided that the transplanting of trees and shrubs may be done in accordance with accepted horticultural and silvicultural practices. The planting and placement of trees shall be done in accordance with the standardized landscape specifications of the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects. The landscaping shall be maintained in good condition and appearance.
7. **Changeable Message Signs:** For permanent signs with changeable message panels or zip tracks, the changeable message area of the sign shall not exceed twenty-five percent (25%) of the total sign area, except for gasoline price signs which shall not exceed seventy-five percent (75%) of the total sign area.
8. **Structural and Safety Characteristics:** Structural features, safety features, and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances. No sign shall be approved for use unless the structural plans have been reviewed, a permit has been issued, and the plans are in compliance with all applicable requirements of this Ordinance and related technical codes. All signs which are electrically illuminated shall require a separate electrical permit and inspection by the Isle of Wight County Building Official.
9. **Residential District Signage:** Non-illuminated signs permitted in all residential districts shall be permissible in any other zoning district, provided that signs drawing attention to uses which are permitted in the residential districts shall be subject to the regulations set forth in that Subsection. For the purposes of this regulation, the more restrictive language in the more intensive zoning district shall be applied.

10. **Window Signs:** Limited to ten percent (10%) of the total glass area of the window in/on which they are placed and shall not be illuminated internally or externally.
11. **External Illumination Standards:** External lighting shall be limited to light fixtures utilizing white, not colored, lighting and shall not be blinking, fluctuating, or moving. Concealed and/or screened spotlights or floodlights shall provide external lighting. Spotlighting of signs shall be restricted to no more than one (1) 2600 lumen rated light per sign faces up to forty (40) square feet and no more than two (2) 2600 lumen rated lights per sign faces over forty (40) square feet. Light fixtures shall be concealed, and in the case of detached signs, the sign base and/or proposed landscaping shall be designed to shield the light from on-coming motorists and to conceal the light fixture.
12. **Internal Illumination Standards:** Internal lighting shall be limited to an internal white light contained within translucent letters and internal illuminated sign boxes, provided the background or field on which the copy is placed, is opaque. The illuminated area shall be restricted to the sign face only.

(Ord. of 2020-08-04; Ord. 2024-06-04; Ord. of 2025-03-04)

F. **Exempt Signs:**

The following signs are exempt from the provisions of these regulations and may be erected or constructed without a sign permit but in accordance with the structural and safety requirements of the building code:

1. **Government Signs and Signals:** Signs erected and maintained pursuant to and in the discharge of any federal, state, county, or Town government function, or as may be required by law, ordinance, or governmental regulation, including official traffic signs and signals, warning devices, and other similar signs.
2. **Changing of Message Content:** Changing a copy on a bulletin board, poster board, display encasement, or changeable copy sign.
3. **Non-Illuminated Signs Warning Trespassers:** Non-illuminated signs drawing attention to the warning of trespassers or the posting of the property, without limitations on number or placement, limited in area to two (2) square feet.
4. **Signs Mounted or Painted on Vehicles:** Signs mounted or painted on trucks, buses, trailers, or other vehicles shall be permitted while in use in their normal courses of business and at the drivers' residences.
5. **Directional Signs:** Detached or flat signs located outside of the Downtown (D) district and designed as outdoor means of drawing attention to information concerning the location of individual establishments or offices within an office, retail, multifamily residential, or

industrial complex, provided that such signs do not exceed six (6) square feet in area.

6. **Operation Signs:** Any sign that is no larger than four (4) square feet in area, typically illuminated, for the purpose of indicating open or closed.
7. **Sign Collections:** Signs that are permanently installed, not visible from the ROW or adjacent properties, and are a part of a collection belonging to a sign collector.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

G. Temporary Signs:

1. With the exception of recurring signage, temporary sign permits are only required for signage that conflicts with the standards contained in this Section; the Administrator reserves the right to deny the applicant such permit if, in his opinion, the proposed signage may endanger private or public property, health, safety, welfare, and/or the character of the community. Temporary signs not visible from the ROW are exempt from this Section.
2. For the purposes of this Section, certain terms and words pertaining to temporary signs are hereby defined. The general rules of interpretation contained in this Section are applicable to these definitions. The definitions contained in Section D of this Article are also applicable to this Section.

A-Frame Signs: Signs consisting of two (2) faces that are joined at the top and typically installed in front of (or on the sidewalk in front of) businesses.

Agricultural Signs: Signs drawing attention to the seed company, variety, and/or dealer used in the raising of crops or to produce, utensils, or other agricultural products and services for sale.

Dealership Signs: Signs typically installed at automobile, boat, recreational vehicle and/or trailer dealerships, and drawing attention to the products and services offered on the premises.

Event Facility Signs: Signs installed at event facilities and which draw attention to events to be held on the premises such as fairs, plays, concerts, conferences, weddings, meetings, parties, and other similar events.

Personal Expression Signs: Signs that draw attention to an opinion, interest, position, or other non-commercial message.

Recurring Signs: Temporary signs erected periodically throughout the year and drawing attention to non-commercial purposes such as charities, heritage tours, humanitarian events, and other similar purposes.

Short-Term Sign: Signs permissible only on properties that are under construction and/or for sale or lease, and which draw attention to the construction activities taking place on the premises and/or the sale or leasing of the property on which they are located.

Temporary Window Signage: Papers, posters, and other forms of signage that are temporarily secured in/on a window.

3. The following regulations shall apply generally to all temporary signs and are in addition to the regulations that apply to specific temporary sign types:
 - a. Temporary signs shall not be internally or externally illuminated.
 - b. With the exception of A-frame signs and personal expression signs, temporary signs shall be placed a minimum of ten (10) feet from the right-of-way, outside any sight triangle, and shall not impair the visibility of any traffic control sign.
 - c. Temporary signs shall not be attached to trees, utility poles, road or highway signage, or any other unapproved supporting structure.
 - d. Unless otherwise noted, temporary signs may not be erected for a continuous or cumulative period of three (3) months in any calendar year.
 - e. Temporary signs on private property and not located in the right-of-way may be removed by the Administrator if the violation is not corrected within seven (7) days of the date of written notice sent to the violator.
4. The following sign regulations shall apply to the assorted temporary signs defined above:
 - a. A-Frame signs shall:
 - (1) Not exceed twelve (12) square feet in area.
 - (2) Not obstruct pedestrian travel on the sidewalk to such an extent that the Town Engineer shall find the sign's placement unsafe.
 - (3) Be located directly in front of the business to which they pertain.
 - (4) Be constructed of durable materials to prevent displacement by wind.
 - (5) Be removed from their positions at the conclusion of each business day.
 - (6) Be permissible off-premises following the sign owner's submittal to the Administrator written consent of the property owner on whose property they are placed. In the case where A-frame signs are placed on sidewalks in front of establishments other than those to which they belong/pertain, written consent of the owner/operator of that establishment must be submitted by the sign owner to the Administrator- however, the Administrator reserves the right to deny the sign owner the ability to place such sign on the sidewalk if he finds such sign's placement detrimental to public safety.
 - b. Agricultural signs shall:
 - (1) Not exceed thirty-two (32) square feet in area.
 - (2) Be located immediately adjacent to an active farming operation.
 - (3) Be located on or immediately adjacent to a farmers' market.
 - c. Dealership signs shall:
 - (1) Not exceed two-hundred (200) square feet of cumulative sign area.

- d. Event facility signs shall:
 - (1) Not exceed six (6) square feet in area.
 - (2) Be located on event facility property.
 - (3) Not exceed one (1) sign per road frontage, regardless of the number of events, and regardless of the event to which a sign pertains.
 - (4) Not be erected for a period earlier than six (6) days prior to the event to which they pertain, and must be removed within one (1) day following the event's conclusion- no sign may be erected for a period exceeding seven (7) days. The seven (7) day time period may be extended following a written request to the Administrator, showing reasonable cause.
 - (5) Be exempt from these standards if erected by event facilities operating on Town property.
- e. Personal expression signs shall:
 - (1) Not exceed thirty-two (32) square feet in area.
 - (2) Not be erected on vacant lots, without the property owner's consent and shall not be located in any right-of-way.
 - (3) (Repealed 2024-06-04)
- f. Recurring signs shall:
 - (1) Not exceed six (6) square feet in area.
 - (2) Be permitted following the issuance of a temporary sign permit, after the filing of a temporary sign permit application with the Administrator- such application shall include an illustration of the proposed signs, the proposed locations of all signs, the written consent and contact information of the owner(s) or their representatives of the properties on which they are to be located, and the dates the signs will be erected.
- g. Short-term signs shall:
 - (1) Be permissible only on properties that are under construction and/or for sale or lease.
 - (2) Not exceed thirty-two (32) square feet in area on commercial properties or residential subdivisions (exceeding nine (9) lots) for sale, and in such cases, shall not be erected for a period exceeding two (2) years.
 - (3) Not exceed ten (10) square feet in area for single-family residential lots under construction and/or for sale or lease.
 - (4) Not exceed one (1) sign per road frontage.
- h. Temporary window signage shall:
 - (1) Not obscure more than fifty percent (50%) of the total glass area of the window in/on which they are placed.
 - (2) Not cause the cumulative obscuration of the window to exceed fifty percent

(50%) in the case where permanent signage is already present in/on the window.

5. Temporary sign permits are required for the erection of temporary signs located off-premises from the purposes to which they pertain. Such permits must include written documentation that the property owner(s) has/have consented to the sign's placement on their property.

(Ord. of 2020-08-04; Ord. 2024-06-04)

H. Prohibited Signs:

1. Off-premises signs, including billboards, unless otherwise specified in this Ordinance.
2. Permanent signs attached to fences in private recreational areas are prohibited in all residential districts.
3. Roof and/or projecting signs which extend over or above the ridgeline, roof line, or parapet wall of a building.
4. No sign shall be constructed, erected, used, operated, or maintained which displays intermittent lights resembling, or seeming to resemble, the flashing lights customarily associated with danger or such as are customarily used by police, fire, or ambulance vehicles, or for navigation purposes.
5. No flashing signs shall be permitted in any district.
6. No sign shall be constructed, erected, operated, or maintained which is so located and so illuminated as to provide a background of colored lights blending with traffic signal lights, or which may confuse a motorist when viewed from a normal approaching position of a vehicle at a distance of twenty-five feet (25') to three-hundred feet (300').
7. No sign shall be attached to trees, utility poles, road or highway signage, or any other unapproved supporting structure.
8. Unless otherwise provided in this Article, no signs shall be located in or project over the ROW without the express permission of the Town Council, except for permitted flat signs, which may project no more than eighteen inches (18").
9. With the exception of outparcels depicted on approved shopping center site plans, separate detached signs for individual shopping center tenants within shopping centers of 25,000 square feet or more of gross leasable area shall not be permitted.
10. No window signage shall be internally or externally illuminated, except operational signs indicating open or closed.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

I. Nonconforming Signs:

Any sign which was lawfully in existence at the time of the effective date of this Ordinance which does not conform to the provisions herein, and any sign which is accessory to a lawful nonconforming principal use, shall be deemed a legal nonconforming sign, and may remain, subject to the following:

1. Permitted signs for a conforming business or industrial use in a residential district shall consist of those signs permitted in the Highway Retail Commercial (HRC) District.
2. A nonconforming sign must be kept in good repair and condition. However, any sign which is declared to be unsafe or unlawful by any authorized Town or County official because of its physical condition must be removed and may not be restored, repaired, or rebuilt.
3. In any zoning district where any sign does not comply with the provisions of this Article, such sign and any supporting structures may be maintained in their existing condition. Nonconforming signs in the HPO are still subject to review by the BHAR. Nonconforming signs may not be enlarged, extended, moved, modified, reconstructed, or structurally altered except in accordance with this Article. No nonconforming sign shall be enlarged, extended, moved, modified, or structurally altered without first obtaining a sign permit from the Town and County, if applicable.
4. A nonconforming sign must be removed if the structure, building, or use to which it is accessory is demolished to an extent exceeding fifty percent (50%) of the appraised value of the principal structure, building, or use.
5. A nonconforming sign which is damaged (and not willfully destroyed) to any extent may be repaired, replaced, or reinstalled to its identical preexisting nonconforming condition.
6. Applications for unusual signs or displays which give rise to questions related to the interpretation of these regulations may be referred by the Administrator to the Board of Zoning Appeals (BZA) for the purpose of interpretation by the BZA and recommendation for action on the application by the Administrator. If, in the opinion of the BZA, the application is not adequately covered by these regulations, the BZA may make recommendations on the amendment of this Article.
7. Supporting structures for nonconforming signs may continue in use for conforming signs if said supporting structures comply in all respects to the applicable requirements of this Ordinance and other Ordinances of the Town of Smithfield.
8. Nonconforming signs cannot be refaced and must be replaced and brought into compliance with this Article, unless approved on a case-by-case basis by a waiver of the Planning Commission.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

J. Abandoned Signs:

A sign, or message portion of the sign, including its supporting structure, anchors, brackets, or similar components, shall be removed (or replaced with a blank "shell" of the same material as the rest of the sign) by the owner of the property upon which the sign is located when the use affiliated with the sign is no longer on the premises. Such sign, if not removed or properly replaced with a blank "shell" within sixty (60) days of the termination of such use, shall be considered to be in violation of this Section, and the Administrator may cause the abandoned sign to be removed at the property owner's expense.

(Ord. of 2020-08-04)

K. Sign Requirements in Zoning Districts:

The following sign regulations shall apply to permitted signs in their respective zoning districts:

1. The following accessory non-illuminated or externally illuminated signs shall be permitted in the Town's residential districts (Attached Residential (AR), Community Conservation (CC), Downtown Neighborhood Residential (DNR), Multifamily Residential (MFR), Neighborhood Residential (NR), and Suburban Residential (SR) (including Suburban Residential Cluster (SR-C) developments):
 - a. Signs drawing attention to a church, school, park, playground, library, museum, or other permitted public or semi-public use, recreational use, or club are limited to thirty-two (32) square feet in area.
 - b. Detached signs shall be subject to the following standards:
 - (1) Signs shall be no taller than eight feet (8'), and shall not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.
 - (2) One (1) sign drawing attention to a residential subdivision or manufactured home park shall be permitted per ROW entrance, limited in area to eighteen (18) square feet. Two (2) of such signs are permitted if erected in conjunction with a formal gateway entrance and approved as a part of a subdivision plan.
 - (3) A name plate or directional sign shall be permitted, limited in area to two (2) square feet, and drawing attention to the owner or occupant of a dwelling, building, or permitted home occupation.
 - (4) One (1) sign not exceeding thirty-two (32) square feet in area and drawing attention to a multifamily development, single-family attached residential development, nursing home, daycare center, lodging house, or similar permitted uses in the districts shall be permitted.

- (5) An additional area not exceeding twenty-four (24) square feet may be devoted to architectural elements which serve as supports or bases for such sign and which are not a part of the message portion of the sign.
- c. One (1) flat sign attached to a principal building, not exceeding thirty-two (32) square feet in area, and drawing attention to a multifamily development, single-family attached residential development, nursing home, daycare center, lodging house, or similar permitted uses in the districts shall be permitted.
2. The following accessory illuminated or non-illuminated signs shall be permitted in the Residential Office (RO) district:
 - a. One (1) non-illuminated or externally illuminated detached sign drawing attention to a bank, office building (or occupants thereof), funeral home, studio, or similar uses permitted in the RO district shall be permitted. Such signs shall:
 - (1) Be limited in area to thirty-two (32) square feet.
 - (2) Not exceed a height of ten feet (10').
 - (3) Be located within the area of a lot comprised of thirty percent (30%) of the total width or depth of the lot, if such lot is adjacent to a residential use.
 - (4) Not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.
 - b. A group of two (2) or more contiguous stores or businesses per building shall combine permitted detached sign area to provide a single detached sign advertising the businesses. The combined sign shall:
 - (1) Not exceed an area of fifty (50) square feet, with a maximum area of thirty-two (32) square feet per business.
 - (2) Not exceed a height of ten feet (10').
 - (3) Be constructed of the same material for all businesses advertised.
 - (4) Not be within ten feet (10') of any ROW, property line, alley, or driveway intersecting a ROW.
 - c. Flat signs shall be limited to ten percent (10%) of the wall area on which the sign is located. No one (1) sign shall exceed an area of eighteen (18) square feet.
 - d. One (1) non-illuminated or externally illuminated projecting, awning, or canopy sign is permissible for each business on the premises, with sign area limited to twelve (12) square feet. No projecting sign may extend over a public ROW unless expressly permitted by the Town Council- such signs shall be limited to nine (9) square feet in area.

3. The following accessory illuminated or non-illuminated signs shall be permitted in the Downtown (D) district:
 - a. One (1) detached sign shall be permitted. Such sign shall:
 - (1) Have a maximum area of sixteen (16) square feet.
 - (2) Have a maximum height of eight feet (8').
 - (3) Not be located within five feet (5') of any ROW, property line, or driveway intersecting a ROW.
 - b. A group of two (2) or more contiguous stores or businesses per building shall combine permitted detached sign area to provide a single detached sign advertising the businesses. The combined sign shall:
 - (1) Have a maximum area of thirty-two (32) square feet.
 - (2) Have a maximum height of ten feet (10').
 - (3) Be constructed of the same material for all businesses advertised.
 - (4) Not be located within five feet (5') of any ROW, property line, or driveway intersecting a ROW.
 - c. Flat signs shall be limited to ten percent (10%) of the wall area on which the sign is located. No one (1) sign shall exceed seventy-two (72) square feet. Signs on residential buildings that have been rehabilitated for commercial purposes shall not exceed eighteen (18) square feet.
 - d. One (1) non-illuminated or externally illuminated projecting, awning, or canopy sign is permissible for each business on the premises, with sign area limited to twelve (12) square feet. Projecting signs no larger than nine (9) square feet in area may extend over a public sidewalk, so long as no part of the sign extends beyond the face of the curb, and the bottom of the sign is at least eight feet (8') above the surface of the sidewalk.
 - e. Detached or flat directional signs limited to four (4) square feet in area shall be permitted as accessory signs and not included in any computation of sign area. One (1) such sign no taller than three feet (3') is permissible per building or vehicle entrance and shall not be located within five feet (5') of any ROW, property line, or driveway intersecting a ROW.
4. The following accessory illuminated or non-illuminated signs shall be permitted in the Commercial/Industrial (CI), Highway Retail Commercial (HRC), and Planned Shopping Center (PSC) districts:
 - a. One (1) detached sign shall be permitted. Such sign shall:
 - (1) Have a maximum area of thirty-two (32) square feet.

- (2) Have a maximum height of fifteen feet (15').
- (3) Not be located within fifty feet (50') of any residential district.
- (4) Not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.

b. A group of two (2) or more contiguous stores or businesses per building shall combine permitted detached sign area to provide a single detached sign advertising the businesses. The combined sign shall:

- (1) Have a maximum area of one-hundred (100) square feet, or a maximum of thirty-two (32) square feet of area per business, whichever is less.
- (2) Have a maximum height of fifteen feet (15').
- (3) Be constructed of the same material for all businesses advertised.
- (4) Not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.

c. Flat signs, if there are no projecting signs, shall have a total area of not more than ten percent (10%) of the wall area on which the sign is located. No one (1) sign shall exceed 150 square feet. Painted signs located in/on windows shall be included in the computation of sign area and in addition, shall be limited to ten percent (10%) of the total glass area of the window in/on which they are placed.

d. One (1) projecting sign not exceeding sixteen (16) square feet in area is permissible for each business on the premises if there are no awning or canopy signs present. No projecting sign may extend over a public ROW unless expressly permitted by the Town Council- such signs shall be limited to nine (9) square feet in area.

e. One (1) canopy and/or awning sign not exceeding thirty-two (32) square feet in area is permissible for each business on the premises if there are no projecting signs present. No awning or canopy sign may extend over a public ROW unless expressly permitted by the Town Council.

f. The following are additional regulations for individual stores within shopping centers of 25,000 square feet or more of gross leasable area:

- (1) Individual tenants shall combine permitted detached signs to provide a single detached sign advertising the shopping center. The combined sign shall:
 - (a) Have a maximum area of 150 square feet, or a maximum of thirty-two (32) square feet of area per business, whichever is less.
 - (b) Have a maximum height of fifteen feet (15').

- (c) Be constructed of the same material for all businesses advertised.
- (d) Advertise the name of the shopping center.
- (e) Not be located within twenty feet (20') feet of any ROW, property line, or driveway intersecting a ROW.

- (2) Each individual tenant shall be permitted one (1) awning, canopy, or projecting sign, provided that such signs' areas shall not exceed six (6) square feet, and that all tenants utilize the same sign type.
- (3) Each individual tenant shall be permitted one (1) flat sign provided that the cumulative sign area shall not exceed the maximum flat sign area allowable in the CI, HRC, and PSC districts.

g. The following are additional regulations for gasoline sales establishments:

- (1) Pump islands may feature as many signs as deemed necessary by the Administrator, so long as none exceed three (3) square feet in area.
- (2) Two (2) canopy signs no larger than eighteen (18) square feet in area each shall be permitted.

5. The following accessory illuminated or non-illuminated signs shall be permitted in the Light Industrial (I1) district:

- a. One (1) detached sign shall be permitted. Such sign shall:
 - (1) Have a maximum area of fifty (50) square feet.
 - (2) Have a maximum height of twenty feet (20').
 - (3) Not be located within fifty feet (50') of any residential district.
 - (4) Not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.
- b. A group of two (2) or more contiguous stores or businesses per building shall combine permitted detached sign area to provide a single detached sign advertising the businesses. The combined sign shall:
 - (1) Have a maximum area of 150 square feet, or a maximum of fifty (50) square feet of area per business, whichever is less.
 - (2) Have a maximum height of twenty feet (20').
 - (3) Be constructed of the same material for all businesses advertised.
 - (4) Not be located within twenty feet (20') of any ROW, property line, or driveway intersecting a ROW.

- c. Flat signs, if there are no projecting signs, shall have a total area of not more than ten percent (10%) of the wall area on which the sign is located. No one (1) sign shall exceed 150 square feet. Painted signs located in/on windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent (10%) of the total glass area of the window in/on which they are placed.
- d. One (1) industrial subdivision sign with a maximum area of fifty (50) square feet and a maximum height of fifteen feet (15') and drawing attention to the name, address, and/or management of a planned industrial subdivision shall be permitted.

6. The following accessory illuminated or non-illuminated signs shall be permitted in the Heavy Industrial (I2) district:

- a. One (1) detached sign shall be permitted. Such sign shall:
 - (1) Have a maximum area of seventy-five (75) square feet.
 - (2) Have a maximum height of twenty feet (20').
 - (3) Not be located within fifty feet (50') of any residential district.
 - (4) Not be located within ten feet (10') of any ROW, property line, or driveway intersecting a ROW.
- b. A group of two (2) or more contiguous stores or businesses per building shall combine permitted detached sign area to provide a single detached sign advertising the businesses. The combined sign shall:
 - (1) A maximum area of 150 square feet, with a maximum of seventy-five (75) square feet of sign area per business, whichever is less.
 - (2) A maximum height of twenty feet (20').
 - (3) Be constructed of the same material for all businesses advertised.
 - (4) Not be located within twenty feet (20') of any ROW, property line, or driveway intersecting a ROW.
- c. Flat signs, if there are no projecting signs, shall have a total area of not more than ten percent (10%) of the wall area on which the sign is located. No one (1) sign shall exceed 150 square feet. Painted signs located in/on windows shall be included in the computation of sign area, and in addition, shall be limited to ten percent (10%) of the total glass area of the window in/on which they are placed.
- d. One (1) industrial subdivision sign with a maximum area of fifty (50) square feet and a maximum height of fifteen feet (15') and drawing attention to the name, address, and/or management of a planned industrial subdivision shall be permitted.

7. Accessory illuminated or non-illuminated signs in a Planned Mixed-Used Development (PMUD) shall meet the standards and guidelines set forth in Section K.1.a through Section K.1.c for residential uses and Section K.4.a through K.4.e for commercial uses of this Article.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

L. Sign Requirements in Zoning Overlays:

The following sign regulations shall apply to all signs in their respective zoning overlays:

1. In the Historic Preservation Overlay (HPO), the Administrator may permit any non-illuminated sign not exceeding four (4) square feet, if, in the opinion of the Administrator, such sign will not impair the character of the district. The BHAR shall approve the design compatibility of all illuminated signs, or any sign exceeding four (4) square feet in area. The Administrator reserves the right to refer any application for new signage to the BHAR for review and decision. All signs must meet the underlying zoning district sign regulations. The BHAR may authorize an alternative signage plan or additional requirements that do not strictly adhere to the area, number, height, and location criteria within the HPO if it is determined that the design is more consistent with the architectural character of the building to which it relates and other surrounding properties, as guided by the Smithfield Historic District Design Guidelines.
2. Accessory illuminated or non-illuminated signs in the Entrance Corridor Overlay (ECO) shall be subject to the following standards:
 - a. The Administrator may permit any sign permitted in a residential district, if, in the opinion of the Administrator, such sign will not impair the character of the district. The Planning Commission shall approve the design compatibility of all signs, as guided by the Smithfield Entrance Corridor Design Guidelines. The Administrator reserves the right to refer any application for new signage to the Planning Commission for review and decision. All signs must meet the underlying zoning district sign regulations.
 - b. Signs shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any building or structure.
 - c. No sign shall be higher than the roofline or parapet wall of any building for which the sign is proposed. A sign may be attached to the fascia of a pitched roof or structure, but may not be located so as to extend above the upper edge of the fascia of said roof. Also, a sign may be attached to the fascia (or located on the sloping roof of) a structure, but may not be located so as to extend more than four feet (4') above the lower edge of said sloping roof.

- d. Detached signs shall be encased within a structure that is architecturally related to and compatible with the primary building and overall architectural design of the development.
- e. A unified system of signage and graphics shall be required for each individual development within the ECO. The establishment of an integrated signage system for existing development within the ECO is strongly encouraged. These systems shall be reviewed for materials, colors, shapes, sizes, and compatibility with architecture, letter style, graphic display, and establishment of unity of design for the development.
- f. Materials, colors, and shapes of proposed signs shall be compatible with the related building(s) of the development in which they are located. Size and proportions shall not be a dominant feature of the site and shall be judged by sizes and proportions of signs on adjacent and nearby properties that are compatible with Town character.
- g. If applicable, prior to the erection of any sign, a comprehensive sign plan shall be submitted to the Administrator or the Planning Commission, for review and decision- the plan shall provide the location and size of all proposed signage within the development, as well as proposed colors, sizes, lighting, location, etc.

(Ord. of 2020-08-04; Ord of 2024-06-04)

M. Special Sign Exceptions:

1. **Cause for Exceptions:** In order to provide for adjustments in the relative locations of signs of the same or different classifications, to promote the usefulness of these regulations as instruments of fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to their efficient operation, Special Sign Exceptions (SSEs) may be granted by the Planning Commission, as permitted by the terms of these regulations, and after notice and a public hearing as provided for in this Ordinance.
2. **Consideration of Exceptions:** In considering an application for an SSE, the Planning Commission shall give due regard to the specific guidelines and standards of this Section and those listed elsewhere in this Ordinance, the general nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed SSE. The Planning Commission shall also take into account the special characteristics, design, location, construction, method of operation, effect on nearby properties, or any other aspects of the particular sign that may be proposed by the applicant.

3. **Adverse Effect:** If it should find, after the hearing, that the proposed sign will not adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, unreasonably impair the character of the district or adjacent districts, be incompatible with the general objectives of the Smithfield Comprehensive Plan, nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such sign will be in substantial accordance with the general purpose and objectives of this Ordinance, then the Planning Commission may grant the exception and authorize the issuance of an SSE sign permit.
4. **Conditions for Mitigation:** In those instances where the Planning Commission finds that the proposed sign may be likely to have an adverse effect as noted above, the Planning Commission shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance, or operation, in addition to those expressly stipulated in this Ordinance, and may grant an SSE subject to such reasonable conditions and limitations as the case may require, including but not limited to, limitations on size, type, color, location, or illumination.
5. **Application Fee:** A fee to be established by the Town Council shall be required of the applicant for an SSE.
6. **Appeal:** An appeal of any decision of the Planning Commission to the Town Council can be made by filing a written request to the Administrator within ten (10) days of the decision of the Planning Commission after which time the decision is final and unappealable. Such appeal shall not suspend the decision of the Planning Commission. An SSE appeal shall proceed to the Town Council under the same procedure as the original application to the Planning Commission with respect to public notice and the requirement of a public hearing.

(Ord. of 2020-08-04; Ord. of 2024-06-04)

Article 11:
SITE PLAN REQUIREMENTS

Article 11:
Site Plan Requirements

A. Purpose and Intent:

1. Title and Application:

The Town shall require submission and approval of a plan of development, hereinafter referred to as the "site plan", prior to the issuance of zoning permits and building permits to ensure the compliance with regulations contained in the Zoning Ordinance and, specifically, this article, which shall be hereinafter referred to as the "Site Plan Requirements" pursuant to Section 15.2-2286 of the Code of Virginia (1997).

2. Relationship to Comprehensive Plan:

The site plan requirements shall be employed to implement the Town's Comprehensive Plan, zoning ordinance, and its expressed growth management objectives. The Comprehensive Plan provides for a balanced development policy which accommodates and directs future growth in a manner sensitive to existing amenities, sensitive environmental areas, historic areas and significant cultural features. There is mutual responsibility between the Town and the developer to develop land within Smithfield in an orderly manner in accordance with the Town's Comprehensive Plan. Therefore, the Comprehensive Plan shall serve as a general guide to the developer in the land development process.

3. Site Plan Process: Major and Minor Site Plans:

The purpose of this article is to facilitate the utilization of the most advantageous site improvement techniques in the development of land within the Town. The site plan requirements promote contemporary standards in the siting, design, landscaping and implementation of development to ensure that land is used in a manner which is efficient and harmonious with neighboring properties.

Site improvements for a lot may be deemed as either (a) major or (b) minor. In this regard, the Town has separate requirements for the submission of either a major site plan and or a minor site plan, each of which is organized to respond to the unique impacts and scope of any given land development activity. This article also provides for requirements for residential lot development plans.

Site plans and related public improvements plans, landscape plans, plats, design calculations, construction specifications and architectural drawings, which are to be prepared and approved in accordance with the provisions of this Article, shall be required to be prepared and submitted in the review of site development applications. Site plans shall be prepared and submitted for development approvals to assure compliance with the adopted Comprehensive Plan, the Zoning Ordinance, related ordinances, and other adopted Town facilities plans including, but not limited to, transportation, sanitary sewer, drainage, stormwater management, water, recreation, lighting and open space.

Nothing herein shall require the approval of any development or land use, or any feature thereof, which shall be found by the Zoning Administrator to constitute a danger to the public health, safety or general welfare, or which shall be determined by the Zoning Administrator to be a departure from, or violation of, sound engineering design or standards.

No work or site preparation may begin before the applicant for a project has received an approved site plan and subdivision plat, if applicable.

(Ord. of 2025-10-08)

4. Non-Conforming Uses, Structures and Sites (General):

A change or addition to any non-conforming use, structure, or site subject to a major or minor site plan shall require that the entire use, structure, or site (including both the non-conforming and conforming improvements) be brought into full conformance with all of the requirements of this ordinance.

The Zoning Administrator may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations or additions to such nonconforming structures provided that any development or land disturbance exceeding an area of 2500 square feet complies with all erosion and sediment control requirement of this Ordinance.

(Ord. of 2025-10-08)

5. Costs of Development:

The developer shall be responsible for all costs incurred in planning, engineering, bonding, constructing, installing and testing of all public facilities and improvements required to complete the proposed project.

6. Fees:

The developer shall pay all applicable plan review fees at the time of submission of a site plan or plat, including pro-rata share fees for off-site improvements and cash proffers. Fees for site inspections and other aspects of the development process shall be due and payable in accord with the site development fee schedule. The site development fee schedule is available from the office of the Zoning Administrator.

(Ord. of 8-1-2000; Ord. of 2025-10-08)

B. Administration of this Article:**1. General:**

The Town Council designates the Zoning Administrator to review and act to approve or disapprove site plans within its jurisdiction. In the performance of its duties, the Zoning Administrator shall request and consider the review and comments of the Plan Review Committee, selected Town staff and other public agencies.

(Ord. of 2025-10-08)

2. Authority to Review and Approve Site Plans: Major and Minor Site Plans:

The Zoning Administrator, shall administer, review and provide final approval concerning any site plan submission.

The Town has two (2) site plan submission and review processes: the minor site plan and the major site plan. The scope and nature of the planned project determines which site plan of the two review processes will be required of the applicant. Unlike the major site plan, the minor site plan incorporates abbreviated submission requirements. In addition, there is a requirement for the submission of a separate lot development plan for subdivided lots in existing and proposed residential subdivisions.

- a. The Zoning Administrator shall be responsible for the receipt and processing of all site plan applications subject to the procedures as hereinafter provided.
- b. The Zoning Administrator may establish, from time to time, such proper and reasonable administrative procedures, in addition to those provided herein, as shall be necessary for the proper administration of this Article.
- c. Town staff and other designated public officials responsible for the supervision, inspection, testing and enforcement of this Article shall have the right to enter

upon any property subject to the provisions of this Article and the Zoning Ordinance at all reasonable times during the periods of plan review and construction for the purpose of ensuring compliance with this Article.

- d. It shall be the responsibility of the applicant, owner or developer to notify the Zoning Administrator when each stage of the development shall be ready for field inspection for compliance with the approved site development plan in accordance with testing and inspection schedules and regulations promulgated by this Article, the Zoning Ordinance and the Town Design and Construction Standards Manual.

(Ord. of 2025-10-08)

C. Uses Requiring a Minor Site Plan:

Minor site plan approval is required for the construction or expansion of all the following, provided that, if the development involves any of the elements which require the need for a major site plan, a major site plan must be submitted.

1. Residential dwellings or expansion thereof.
2. Residential accessory uses where the limits of impervious coverage allocated to the lot would be met within 200 square feet.
3. Residential accessory uses where, in the opinion of the Zoning Administrator, there is a possibility of encroachment into the setback.
2. All private single family residential uses related to the development of waterfront access, boat docks, piers, and boat storage for residential properties.
3. Remodeling of commercial structures may qualify as a minor site plan if in the opinion of the Zoning Administrator it is in conformance with the intent of this Article.

(Ord. of 2019-09-03; Ord. of 2025-10-08)

D. Minor Site Plan Requirements:

Minor site plans shall be drawn to scale, prepared and certified by a licensed engineer, architect, landscape architect or land surveyor, or other qualified individual experienced in site plan preparation, and shall include, as a minimum, the following information:

1. Name, address and phone number of owner and builder; name, address and phone number of preparer of plan.
2. Indicate scale (to be one inch equal fifty (50) feet or larger, maximum size sheets 24" x 36", and date of plan preparation). Site plans shall be legible regardless of scale.

Overall master plans, utility plans, drainage plans, etc. may be at a smaller scale as long as it is legible.

3. Site identification (Lot number, Tax Parcel Identification Number, Address, Streets)
4. Existing zoning of property (including conditional zoning and proffer agreements), zoning district boundaries, and proposed changes in zoning, if any.
5. Water Quality Impact Assessment (WQIA) when necessary (Refer to Article 3.P, Section 108).
6. Legend and north arrow.
7. Building envelopes and setbacks.
8. Existing and proposed impervious cover.
9. The location of the proposed and existing edge of pavement or curb line and other public improvements along the frontage of the property.
10. Size, location and use of existing buildings.
11. Location and design of proposed site improvements (including utilities, storm drainage conveyance, buildings, streets, driveways, parking areas, site lighting fixtures, off street parking, and site signage.)
12. The dimension, height and use of the proposed building improvements.
13. Easements, widths, and dedication information.
14. Existing topography, spot elevations of key features, and proposed site grading depicting finished contours, with contour intervals of two feet or less.
15. Proposed service utility lines for potable water, fire protection and sanitary sewer illustrating the water meter and sewer cleanout and distance between them and sidewalks, driveways, etc.
16. Erosion and sediment control plan and measures, identifying and labeling the disturbed area and limits of clearing and grading.
17. Location of Special flood hazard areas and impacts of the proposed development thereon.
18. Location of stormwater management facilities and BMP measures.
19. Location and boundaries of designated Chesapeake Bay Preservation Areas (RPAs and RMAs) and impacts of proposed development thereon.
20. Phasing plan, if the project is to be developed in more than one phase.
21. Include the following notes:
 - a. The Builder/ Contractor shall verify grades on site prior to construction.
 - b. The Builder/ Contractor shall provide for positive drainage without impacting adjacent properties.
 - c. The Builder/ Contractor shall execute an Agreement in Lieu of Erosion and Sediment Control Plan in conjunction with approval of this plan.

d. No trees and shrubs shall be planted in Town easements. Shrubs shall be a minimum of five (5) feet and trees a minimum of ten (10) feet from the center of water and sanitary sewer pipelines.

(Ord. of 8-1-2000; Ord. of 8-1-2001; Ord. of 5-4-2004; Ord. of 2025-10-08)

E. Uses Requiring a Major Site Plan:

Due to the scope and nature of the uses, the major site plan requires a more extensive submission process than the minor site plan. A major site plan for land development activities is required for projects involving the following:

1. All uses requiring new structures in any of the commercial zoning districts.
2. All proposed subdivisions with 3 lots or more.
3. Enlargement of a building which results in changes in on-site parking, provided that such enlargement exceeds twenty-five percent (25%) of the gross floor area of the original building or 1000 square feet, whichever is less.
4. All uses related to waterfront access, boat docks and boat storage for (a) public use, (b) which enable public access, or (c) related to uses other than private residential.
5. Installation, extension or change of a public water or sewer main or facility (storage, treatment, etc.).
6. Construction of a new street or extension of an existing street and related infrastructure.
7. Development of a road or street lying within a previously platted public right of way.
8. Any disturbed areas greater than 2,500 square feet in total land area, except single family homes and other uses that are exempted by E&S Control regulations.
9. Enlargement of a parking lot, increasing the number of parking spaces by more than ten (10) spaces.
10. Any development in which any required off-street parking space requiring more than ten (10) parking spaces which is to be used by more than one establishment.
11. Any change or use determined by the Zoning Administrator to qualify as a major site plan in conformance with the intent of this Article.

(Ord. of 2000-08-01; Ord. of 2019-09-03; Ord. of 2025-10-08)

F. Waiver of Requirement for a Site Plan:

No site plan (major or minor) shall be required for the following uses, when established that (1) the use will not require the improvements subject to review in this article, and (2) that waiving the requirement to submit a site plan will be in keeping with the intent of this article.

1. Where it can be clearly shown that the application for a zoning permit and building permit involves building and safety regulations which are not critical to the purpose and intent of the Zoning Ordinance.
2. Any change in, or expansion of, a use, provided that:
 - a. Such change or expansion does not occasion additional parking as required by this ordinance, and
 - b. No additional ingress/egress to a public road or change in ingress/egress is recommended by the Zoning Administrator based on intensification or use, and
 - c. No additional ingress/egress or alteration of existing ingress/ egress is proposed.
 - d. Disturbed area is less than 2500 square feet in area, and
 - e. It has been verified in writing by the Zoning Administrator that availability and connection to water and sewer are attainable.
 - f. The expansion is not within a Resource Protection Area.
3. School uses located in existing church facilities, if no changes to the footprint of the existing building are involved.
4. At the discretion of the Zoning Administrator provided that requested change or use is in conformance with the intent of this Article.
5. Notwithstanding the above exceptions, the applicant is required to show evidence of having obtained a building permit and zoning permit, and, upon completion of improvements, a certificate of occupancy.

(Ord. of 8-1-2000; Ord. of 2025-10-08)

G. Preliminary Plat Requirements for Major Site Plans:

Eight (8) copies of the preliminary site plan shall be submitted. Preliminary plat approval is mandatory for plats involving more than 50 lots, prior to the submission of site plans. Preliminary plat submission for plats with less than 50 lots is at the option of the landowner.

The preliminary plat shall comply with the checklist in Article 10 of the Subdivision Ordinance of the Town of Smithfield.

(Ord. of 5-4-2004; Ord. of 2025-10-08)

H. Major Site Plan Requirements:**1. Copies Required:**

Eight (8) hard sets of all major site plans and digital copies shall be submitted in clearly legible blue or black line copies and shall contain the information outlined in this section. A major site plan is hereinafter referred to as a "site plan" in this section. Site plans which lack information required by this section, and/or the Town Design and Construction Standards Manual shall be deemed to be incomplete and shall be rejected.

(Ord. of 20205-10-08)

2. Fee Required:

Payment of the site plan review fees per the fee schedule adopted by the Town Council for costs associated with the review of any site plan shall be required at the time of submission of the site plan.

3. Site Plan Certification:

Site plans or any portion thereof involving engineering, architecture, geology, environmental science, or land surveying shall be certified by an engineer, architect, land surveyor, or landscape architect who is duly qualified to practice and whose professional practice is duly registered by the State of Virginia.

No person shall prepare or certify design elements of site plans which are outside the limits of their professional expertise and license. All sheets and calculations submitted with any site plan shall bear the seal and signature of the respective design professional(s).

4. Information Required on Major Site Plan:

This section outlines the required information on site plans (major site plans). The applicant shall employ as many sheets as necessary to incorporate the following minimum requirements.

The sheet size shall be a maximum size of 24" x 36". Site plans shall be legible regardless of scale. Overall master plans, utility plans, drainage plans, etc. may be at a smaller scale as long as it is legible.

All site plans shall be prepared on a current base map which shows existing topography with contour intervals of two feet (2') or less, extending a minimum of twenty-five (25) feet minimum beyond property lines. Topographic mapping shall depict all natural and cultural features for the property, as well as supplemental existing spot elevations. A north arrow shall be included on all plan sheets.

All sheets shall be bound into a single document and each sheet shall bear the seal and signature of the design professional.

- a. Project Cover Sheet - The application shall prepare a cover sheet which clearly depicts the following:
 1. Title of project.
 2. Name, address, phone number and seal of preparer of plan, boundary survey, and topographic mapping.
 3. Name, address and phone number of owner and developer of property.
 4. Tax map number, parcel number, deed book reference and zoning classification for parcel.
 5. Existing and Proposed zoning classification.
 6. Description of planned land use, along with projected number of employees (for non-residential land uses) and other information related to the activities to be conducted on the property.
 7. Date of plan and mapping preparation.
 8. Vicinity map and location of zoning district boundaries.
 9. Gross acreage (and square footage) of property.
 10. Net developable area of property and supporting calculations in accordance with Article 14.A.
 11. Tree Canopy Calculations and open space.
 12. Density.
 13. Parking regulations.
 14. Height and setbacks.

15. Responsible Land Disturber.
16. Town of Smithfield contact information for Planning and Public Works and Utilities.
Copy of rezoning proffers, special use permit conditions, and waivers or variances granted.
17. A blank space, sized 4" x 4", for Town review and approval notations.

(Ord. of 2025-10-08)

b. Boundary Survey Information: A current certified boundary survey of the property prepared to National Mapping Standards accuracy shall be submitted with the site plan in both paper and digital form and shall include the following:

1. Title, title source, and name of owner of lot and subdivision names and/or lot owners for surrounding lots.
2. Metes and bounds of property.
3. Location and metes and bounds of all existing property lines, rights of way and easements.
4. Names of existing streets in and adjoining the development.
5. Location of Chesapeake Bay Preservation Area boundaries.
6. Reference to survey datum. Horizontal control shall be based on Virginia State Plane Coordinate System, Zone 5576 in a North American Datum 1983 coordinate system.

c. Minimum Information to be included in Site Plans:

1. Location, dimensions, design sections and construction specifications of all site improvements, including, but not limited to, existing and proposed streets, travelways, alleys, curb and gutter, sidewalk and driveways, including proposed street names and locations for street lights, street signs, and traffic signals.
2. Location and size of existing and proposed buildings and accessory structures, including land area coverage and floor elevations of proposed use.

3. Location of existing utilities within and adjacent to the development including size and elevation. Provide elevation profile where grading is proposed above utility or within easement limits.
4. Site plan and design profiles of proposed public streets and shall conform to the current Virginia Department of Transportation Road and Bridge Specifications and Standards.
Site plan and design profiles of proposed private streets and travelways should meet the minimum current Virginia Department of Transportation Road and Bridge Specifications and Standards.
5. Site plan location and design specifications for off-street parking, travelways, parking lots, sidewalks, and loading areas, including:
 - (a) building square footage / use class unit.
 - (b) site access plan for internal traffic and pedestrian circulation, including handicap access.
 - (c) size of parking spaces, angle of stalls, width of aisles.
 - (d) travelway and parking lot pavement sections.
 - (e) pavement design calculations, CBR test reports, and location map.
 - (f) parking calculations, including ADA requirements.
 - (g) provisions for emergency access / fire protection.
 - (h) location and marking of permanent fire lanes, if required.
 - (i) pavement striping and marking.
 - (j) finished grades and spot elevations at critical design points.
6. Location, size, and characteristics of geophysical and environmental features (such as wetlands, ponds, springs, streams, watercourses, high shrink/swell soils, adverse soils conditions, etc.) and other conditions which impact the calculation of net developable area, as defined. The site plan shall graphically depict the location and calculations of net developable area shall be provided for the site's physical land units (to the nearest 0.1 acre) as outlined in Article 14.A.
7. Location, size, design profiles and design calculations for proposed domestic water service and sanitary sewer mains and laterals. Invert elevations shall be shown to the nearest 0.01' accuracy. Location of gas, telephone, electric and other utility lines and other underground or overhead structures in or affecting the project. Plans shall include detail

of utility appurtenances and construction procedures. If irrigation wells are proposed, well locations are to be designated.

8. Site plans for projects which require utility pumping storage or treatment facilities shall be supported by appropriate structural, hydraulic, electrical and mechanical plans and construction specifications.
9. Detailed site grading plan depicting finished contours, to be prepared at a minimum two (2) foot contour interval, with spot elevations, as required, at key locations of paving, sidewalks, curb and gutter, and other proposed surface improvements.
10. Site plan and design profiles for storm water drainage improvements, including locations of existing and proposed stormwater drainage conveyance pipes, culverts, channels and drop inlets, indicating size, type and grade of all proposed improvements. Typical sections and linings for all channels shall be included. Invert elevations and other design details for all drainage improvements shall be shown to the nearest 0.01' accuracy. Energy grade lines shall be shown on profiles. A drainage delineation map, prepared at the same scale as the site plan, shall include drainage divides and areas of contributing runoff to proposed improvements.
11. Site plan and design profiles for stormwater management (SWM) and Best Management Practices (BMP) structures, including detailed plan and section views of retention/detention ponds, underground storage structures, and other SWM/BMP facilities. Elevations for the calculated 2-, 10-, and 100-year post-development water surface elevations shall be shown with water quality calculations demonstrating compliance with Article 3.P.
12. Location, width and purpose of all existing and proposed utility right-of-ways and easements with dedication information.
13. Location and boundaries of existing water courses and special flood hazard areas.
14. Location of tidal and non-tidal wetlands, including location and characterization of Chesapeake Bay Preservation Areas.

15. Erosion and sediment control plan and narrative report.
16. Site plan location and design criteria for the following:
 - (a) site amenities and recreation areas (including playgrounds, courts, fields, pedestrian walkways, bike paths, etc.)
 - (b) open space, including required land area calculations.
 - (c) retaining walls (include calculations).
 - (d) site and building signage, including street and advertising signs
 - (e) site lighting (exterior and building mounted), including height, illumination intensity, foot-candle distributions, and fixture type and shielding, as required).
 - (f) provisions and location for public trash pick-up.
 - (g) refuse collection and dumpster locations, including access and screening.
 - (h) locations and design for traffic control devices and signalization.
 - (i) building and structural footings.
 - (j) setbacks.
17. Landscape and screening plan, to be prepared in accord with Article 9 of this ordinance.
18. Water quality impact assessment, pursuant to Article 3.P, Section 108.
(Ord. of 2025-10-08)
 - d. Additional Required Supporting Information:
 1. Storm drainage and stormwater management engineering report, to include:
 - (a) hydrologic calculations and hydraulic modeling of the contributing drainage basin.
 - (b) energy grade line calculations for all enclosed pipe systems.
 - (c) storm runoff for pre-development and post-development characteristics, based on TR-55, the Modified Rational Formula or other appropriate modeling techniques as approved by the Department of Environmental Quality.
 - (d) analysis and verification of receiving channel capacity.
 - (e) stormwater management pond or retention/detention structure routing and performance analysis, and

(f) storm culvert, pipe, and inlet (street and yard) design loading and sizing calculations.

2. Geotechnical report for proposed buildings, structures, streets, pavements, and other infrastructure, as required.
3. Foundation design calculations and construction criteria, where required.
4. Pavement design calculations for all streets and travelways.
5. A phasing plan, if the development is to be constructed in more than one phase. The phasing plan shall clearly indicate by phase lines, notes or other methods which facilities are to be constructed under each phase. Plans shall indicate locations of contour tie-ins for each phase and specific measures for phased termination of all water, sewer, storm drainage, streets and other public improvements. Plans for erosion control and drainage facilities shall be designed and displayed independently for each phase.
6. Statement of facility and land use operations and activities, including hours of operation, number of employees and number of work shifts.
7. Site plan check list, certified by preparer of plan.

(Ord. of 2025-10-08)

e. Provisional Information on Major Site Plans:

The Zoning Administrator may require any or all of the following information and any other materials as may be deemed necessary for its review:

1. Statement of estimated construction time.
2. Photographs and maps relating proposed use to surrounding properties.
3. Site design drawings, showing building configuration, topography and relationship to site improvements, color and building materials.
4. Architectural drawings showing plan and elevations of new planned construction or renovations, including drawings of the original building.
5. Traffic impact assessment in accordance with criteria provided in the Town's Design and Construction Standards Manual and Article 14.B.

6. Articles of incorporation, covenants and property maintenance documents related to the ownership, management, and maintenance functions for any condominium development or other property wherein common ownership agreements exist or as otherwise required by this ordinance.

(Ord. of 8-1-2000; Ord. of 8-1-2001; Ord. of 5-4-2004; Ord. of 2025-10-08)

I. Minimum Design and Construction Standards:

In furtherance of the purposes of this article and to assure the public safety and general welfare, no site plan shall be approved unless and until the Town is assured that the following improvements and minimum design criteria will be implemented as required. In addition to requirements outlined herein, all site improvements are to be provided in accord with the Town's Design and Construction Standards Manual, Article 3.P, and Article 11.A, Erosion and Sediment Control.

1. Street Construction and Design Standards:

All street and highway construction and geometric design standards shall be in accord with the Town Design and Construction Standards Manual and all applicable VDOT design and construction standards.

- a. All development in all zoning districts must have direct access to public dedicated and Town maintained roads. Such developments are to be designed so that sites or lots will not have direct access to any arterial road unless the physiography, shape or size of the tract would preclude other methods of providing access.
- b. Where traffic generated from any entire development exceeds 150 vehicle trips per day, or when a residential subdivision contains 150 or more dwelling units (whichever is less), such development or subdivision shall provide connectors to any existing public road at two locations. Where only one connection is physically achievable, the connecting portion of the entrance roadway must be of a four-lane divided standard extending into the development for a length of not less than 250 feet or as otherwise determined by the Zoning Administrator. No internal vehicular connections shall be permitted to this entrance section.

- c. Streets and rights-of-way shall be provided and designed to permit access to adjoining acreage in conformance with the Comprehensive Plan and other transportation plans and to the satisfaction of the Zoning.
- d. Curb and gutter shall be required on all new public and private streets. The minimum roadway width shall be twenty-nine (29) feet from the face of curb to the face of curb.
- e. Where public or private streets are to be constructed in phases, such streets shall be terminated with a temporary cul-de-sac or other temporary turn-around acceptable to the Zoning Administrator. Where temporary turn-arounds are provided, adequate rights of way and/or temporary access and construction easements shall be designated on site plans and subdivision plats.

(Ord. of 2025-10-08)

2. Parking, Loading and Site Access:

- a. For all residential, institutional and commercial uses, other than single family homes, all required off-street parking spaces, parking lots, loading spaces, and on-site vehicular access shall be constructed of a permanent all weather, stabilized, dust free surface (such as concrete or asphalt) with curb and gutter and in accordance with the Town's Design and Construction Standards Manual. Except, improvements to existing gravel or other similar materials are permissible; however, the parcel is required to be in compliance and remain in compliance with the landscaping and paving requirements of this Ordinance once improvements, other than landscaping and interior renovation, made during a rolling 5-year period constitute 50% or more of the structure's assed value.
- b. For industrial uses, all employee and customer parking, as well as all entrances into parking areas, shall be constructed of an all weather, stabilized, dust free surface which is clearly defined from adjoining on-site improvements and in accordance with the Town Design and Construction Standards Manual. Except, improvements to existing gravel or other similar materials are permissible; however, the parcel is required to be in compliance and remain in compliance with the landscaping and paving requirements of this Ordinance once improvements, other than landscaping and interior renovation, made during a rolling 5-year period constitute 50% or more of the structure's assed value.
- c. For industrial uses, surfacing may be waived only for areas used for heavy equipment parking and loading areas.

- d. Surfacing requirements may also be waived for uses in the HP-O District.
- e. Curb and gutter shall be required on all new private travelways, private streets, and travelways, loading areas and parking lots within a lot.
- f. Parking lots shall be adequately illuminated during non-daylight hours. Lighting shall be designed, shielded, and otherwise arranged to direct light and glare away from abutting properties and adjacent rights of way. Lighting fixtures in parking lots should be compatible with the architectural characteristics of the development. A lighting study may be required with the submission of a site plan.
- g. Dimensional requirements and design criteria for parking spaces, parking lots and loading areas shall be in accord with the Town Design and Construction Standards Manual.
- h. Refer to Landscaping and Screening, Article 9, for parking lot landscaping requirements.

(Ord. of 2025-10-08)

3. Sidewalks and Pedestrian Walkways:

- a. Sidewalks within public rights of way shall be required on all new public streets or other areas of a site where in keeping with the Comprehensive Plan and other Town public improvements plans. Sidewalks shall be constructed of concrete and otherwise in accord with the Town Design and Construction Standards Manual, except in cases where other materials may be approved by the Planning Commission based on their suitability to its' environment and its' natural setting. In such cases, materials to be considered may include asphalt, concrete, brick, etc.
- b. Construction of bicycle facilities on new public streets or other areas of a site in accordance with the Comprehensive Plan and the Town's bicycle and pedestrian plans shall be provided as recommended by those plans. When an individual lot which does not involve a public street is developed, additional right-of-way to provide for future bicycle facilities shall be dedicated as recommended by the Zoning Administrator.

(Ord. of 2025-10-08)

4. Repealed (Ord. of 2024-06-04)

5. Easement Widths:

Minimum easement width shall be established as required in the Town Design and Construction Standards Manual.

6. Hydrologic and Hydraulic Analysis:

Engineering documentation shall be provided for all storm drainage improvements, stormwater management facilities, and BMP facilities. Floodplain studies may be required at the option of the Zoning Administrator. Analysis and design recommendations shall take into consideration the impact of 2-, 10-, and 100-year storm intensities, both pre- and post-development.

(Ord. of 2025-10-08)

7. Storm Drainage Systems and Stormwater Management:

The policies for drainage systems and stormwater management are to be in accord with the Town Design and Construction Standards Manual and Article 3.P. In general, on-site storm drainage and stormwater management structures shall be constructed in concert with all site development activities and post-development runoff volumes and velocities shall not exceed pre-development levels. Analysis and design recommendations shall take into consideration the impact of 2-, 10-, and 100-year storm intensities, both pre- and post-development. The water quality requirements of Article 3.P Section 108 and resiliency assessment of Section 109 shall be accommodated.

(Ord. of 2025-10-08)

8. Water Systems:

Water distribution systems shall be designed and constructed to adequately supply both peak load demands for domestic and commercial service and fire flow requirements for the intended development, and meet all requirements of the Town's Design and Construction Standards Manual.

9. Sewer Systems:

- a. Sewer systems shall be designed and constructed on the basis of average daily per capita flows of not less than those set forth by sewerage regulations of the State Department of Health and the Town Design and Construction Standards Manual.

- b. All on-site sewage disposal systems not requiring Virginia Pollutant Discharge Elimination System permit shall be pumped out at least once every five years, in accordance with the provisions of the State Health Code, the Chesapeake Bay Act and the Chesapeake Bay Preservation Overlay District ordinance. (Refer to Article 3.P, Section 106)
- c. For new construction not served by public sewer or other system requiring VPDES permit, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Western Tidewater Health District. Building or construction of any impervious cover shall be prohibited on the area of all sewage disposal sites, including reserve sewage disposal sites, until the property is served by public sewer or an on-site sewage treatment system operating under a VPDES permit. All sewage disposal site records shall be administered to provide adequate notice and enforcement. As an alternative to the reserve sewage disposal site, the owners of such systems may install an alternative drainfield system meeting the following conditions:
 1. Each of the two (2) alternating drain fields in the system shall have at a minimum, an area not less than fifty (50) percent of the area that would otherwise be required if a single primary drainfield were constructed.
 2. An area equal to fifty (50) percent of the area that would otherwise be required for the primary drainfield site shall be reserved for subsurface absorption systems that utilize a flow diversion device, to provide for future replacement or repair to meet the requirements for a sewage disposal system. Expansion of the primary system shall require an expansion of the reserve system.
 3. The two (2) alternating drain fields shall be connected by a diversion valve, approved by the Western Tidewater Health District, located in the pipe between the septic tank and the distribution boxes. The diversion valve shall be used to alternate the direction of effluent flow to one (1) drainfield or the other at a time. Diversion valves shall not be used for the following types of treatment systems:
 - a. Sand mounds.
 - b. Low pressure distribution systems.
 - c. Repair situations when installation of a valve is not feasible.
 - d. Any other approved system for which the use of a valve would adversely affect the design of the system, as determined by the Western Tidewater Health District.

4. The diversion valve shall be a three-port, two-way valve of approved materials (i.e., resistant to sewage, leak-proof and designed so that the effluent from the tank can be directed to flow into either one (1) of the two (2) distribution boxes).
5. There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.
6. The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds or other structures.
7. In lieu of a diversion valve, any device that can be designed and constructed to direct the flow of effluent from the tank into either one (1) of the two (2) distribution boxes may be approved if plans are submitted to the Western Tidewater Health District and determined to be satisfactory.
8. Owners shall alternate using the drain fields every 12 months to permit the yearly resting of half of the absorption system.
9. The Town of Smithfield Administrator shall ensure that the owners are notified annually of the requirement to switch the valve to the opposite drainfield.

(Ord. of 2025-10-08)

10. Street Lights, Site Lighting and Electrical Facilities:

Provisions for street lights, parking lot lighting and other site lighting shall be shown on site plans, as required by the Town Design and Construction Standards Manual. Locations of street and parking lot light poles, fixtures, conduits, transformers, wires and easements shall be coordinated with the Town and local electric company and shall be shown on the site plans. Conduits of a size and location satisfactory to the Town and local electric company shall be located under street pavements at all proposed major intersections for the future installation of traffic control signals as required by the Town.

(Ord. of 2025-10-08)

11. Best Management Practices and Erosion and Sedimentation Control Measures:

Installation of adequate temporary and permanent erosion and sedimentation control measures, as required by the Town's Design and Construction Standards Manual and Article 11.A, Erosion and Sediment Control. Installation of Best Management Practices and other measures related to water quality and runoff protection shall be in accord with Article 3.P.

12. Other Design Criteria:

All other design criteria and construction standards shall be in accordance with the Town's Design and Construction Standards Manual and other applicable regional, state and federal requirements, including those of the Virginia Department of Transportation and HRPDC. Where standards and criteria are not provided therein for a particular site development component, the Zoning Administrator either shall provide the governing standards or shall approve a proposed standard as prepared by the applicant's engineer. (ord. of 2025-10-08)

13. Construction Standards, Inspection, and Supervision:

- a. Unless otherwise specifically provided in this ordinance, the construction standards for all required on-site and off-site improvements shall conform to the provisions of this article and the Town's Design and Construction Standards Manual and all applicable VDOT design manuals, along with HRPDC. The Zoning Administrator shall provide written approval of the plans, details, and specifications for all required improvements prior to commencement of construction.
- b. Inspections during the installation of the required on-site improvements shall be made by the Zoning Administrator or other Town personnel, as applicable, as required to monitor compliance with the approved site plan and applicable Town Design and Construction Standards.
- c. The owner or developer shall notify the Zoning Administrator in writing forty eight (48) hours prior to the beginning of any work shown to be constructed on an approved major or minor site plan.
- d. The owner or developer shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one set of approved plans, profiles and specifications available at the site at all times when work is being performed.
- e. The installation of improvements, as required by this article, shall in no case serve to bind the Town to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

- f. The applicant's contractor shall be responsible for the location of all utilities and underground infrastructure in accord with VA 811 (MISS UTILITY) practices prior to land disturbance.

- i. Prior to issuance of an occupancy permit, a certified as-built survey shall be provided the Town upon completion of site improvements. Variations in the as-built conditions shall be noted. The as-built survey shall be provided in AutoCAD, PDF, and five (5) hard copies.

(Ord. of 8-1-2000; Ord. of 4-6-2004; Ord. of 5-4-2004; Ord. of 7-1-2008; Ord. of 2025-10-08)

J. Site Plan Review and Approval Procedures:

1. Site Plan Submittal and Compliance Procedures (Major and Minor):

- a. Major site plan submission requirements: Eight (8) copies of the major site plan shall be submitted to the Zoning Administrator. The site plan shall be accompanied by payment of fees for review and processing. The fee shall be based on a fee schedule as may be adopted and modified by the Town Council.

- b. Minor site plan submission requirements: Two (2) copies of the minor site plan shall be submitted to the Zoning Administrator. The minor site plan shall be accompanied by payment of fees for review and processing. The fee shall be based on a fee schedule as may be adopted and modified by the Town Council.

(Ord. of 2025-10-08)

2. Initial Site Plan Compliance Requirements (Major and Minor):

- a. An initial review of the applicant's site plan (major and minor) and site plan check list will be made by the Zoning Administrator to determine the completeness and general compliance with the information requirements of this ordinance.

- b. Site plans (major and minor) which contain information required by this article, and the site plan check list shall be deemed to be complete and shall be forwarded to all necessary reviewing agencies and staff within five (5) working days of submittal, at which time the applicant's submittal shall be deemed "substantially complete and accepted for review."

- c. Site plans (major and minor) which lack any information required by this article, the Town Design and Construction Standards Manual, and the Site Plan Checklist, shall be deemed to be incomplete and shall be rejected by the Zoning Administrator within forty (40) days of submittal, at which time the applicant's

submittal shall be deemed "incomplete and rejected" and the reasons for rejection clearly provided. Further review of the submission shall be suspended. The applicant shall be notified of this finding in writing.

(Ord. of 2025-10-08)

3. Review Procedures for Site Plans (Major and Minor):

a. Review process, general:

The site plan review process shall include participation by the Town's Plan Review Committee, Town staff and other reviewing agencies as determined by the Zoning Administrator. Final approval of any site plan shall be granted by the Zoning Administrator.

b. The Plan Review Committee, Town staff and other reviewing agencies:

All site plans (major and minor) shall be reviewed by certain Town, State or local agencies or their delegated agents who are qualified to determine compliance with applicable laws and regulations in relation to proposed development. The Plan Review Committee may include any or all of the following (not limited to):

- (1) Planning Commission
- (2) Town Manager or Assistant Town Manager
- (3) Planning and Zoning Administrator or Staff
- (4) Virginia Department of Health
- (5) Fire Chief
- (6) Virginia Power
- (7) Town Engineer
- (8) Regional Sewer Authority
- (9) Virginia Department of Environmental Quality
- (10) Town Council
- (11) Public Works & Utilities
- (12) Virginia Department of Transportation
- (13) Police Department
- (14) IOW County
- (15) Museum
- (16) Schools
- (17) Other Utilities

c. Site plan review and notification process:

- (1) Distribution of the Site Plan to the Plan Review Committee, staff and agency review: Within five (5) business days after acceptance of a site plan which has been determined to be "substantially complete and accepted for review", the reviewing staff and agencies will be issued a copy of the site plan for review and comment on the technical compliance with this ordinance and all applicable standards, provided that the site plan has been found to be in initial compliance as hereinabove stated.
- (2) Administrative site plan review: All Plan Review Committee, staff and agency review and comments shall be completed within forty (40) calendar days from the date of issuance of the site plan for review. Plan Review Committee, staff and agency comments shall be provided in writing to the Zoning Administrator, who shall be responsible for preparing a final site plan review report with recommendations for approval, approval with conditions, or disapproval within twenty (20) calendar days after receipt of all staff and agency comments.
- (3) Notice to applicant: Upon receipt by the Zoning Administrator, the applicant shall be provided with all Plan Review Committee, staff and agency review comments and recommendations.
- (4) Revisions by applicant: Upon receipt of staff and agency comments, the site plan shall be revised by the applicant to comply with all requirements of the Plan Review Committee and other staff and reviewing agencies and shall submit such revisions together with any required re-submittal fee. Where the revised site plan does not include all requested or required revisions, the applicant will be notified that the site plan review process shall not proceed until the requested or required revisions are complete. Site plans requiring only minor revisions will be reviewed within seven (7) calendar days upon resubmission. Plans requiring substantial revisions will be reviewed and comments shall be completed within thirty (30) calendar days. Third and additional resubmissions will be reviewed, and comments shall be completed within fourteen (14) calendar days.
- (5) Action by Zoning Administrator: Within twenty (20) days of receipt of approval from agencies, the Zoning Administrator shall act on the

application and shall render a decision to approve, approve with conditions, defer or disapprove the site plan.

(Ord. of 2025-10-08)

4. Approval / Denial Process:

- a. Site plans (major and minor) will be approved by the Zoning Administrator if they demonstrate substantial compliance with this ordinance, as well as the site design criteria set forth in this article and the Town Design and Construction Standards Manual and if the public facilities, utilities and site designs as designed will be able to function in a manner beneficial to the health, safety and general welfare of the public.
- b. Under certain conditions, approval by other agencies not specifically referred to hereinabove shall be a prerequisite to approval by the Town.
- c. In denying a site plan, specific reasons shall be provided by the Zoning Administrator. Reasons for denial shall relate in general terms to such modifications or corrections as will permit approval of the site plan.
- c. Appeals of a decision of the Zoning Administrator in the administration of this article shall be to the Board of Zoning Appeals as provided in Section 15.2-2311 (1997) of the Code of Virginia.
- d. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, Commission, Board, or agency of the Town, may present to the Circuit Court of Isle of Wight County a petition specifying the ground on which aggrieved within thirty days after the filing of the decision in the office of the Board. The proceedings before the Circuit Court shall be in accordance with applicable state law.

(Ord. of 2025-10-08)

5. Expiration of Approval:

Final approval of any site plan (with the exception of erosion and sediment control plans) submitted under the provisions of this ordinance shall expire five (5) years after the date of such approval in accordance with the Code of Virginia, 1950, as amended, thereafter requiring re-submittal for approval. Erosion and sediment control plans expire in accordance with applicable sections of the Town Code.

6. Fees:**a. Payment of Fee:**

The developer shall pay fees to the Town for the examination and review of a site plan submitted pursuant to this ordinance.

b Site Development Fee Schedule:

A schedule of fees for the examination of plans and the inspection of all required improvements in such plans shall be determined by a Town Council resolution, which schedule may be changed from time to time. Before approval of any site plan, such fee shall be made payable to the Town of Smithfield and deposited into the credit of the general fund.

(Ord. of 8-1-2000; Ord. of 5-4-2004; Ord. of 2-1-2005)

K. Site Construction Permits and Bonding of Improvements:**1. Prerequisites for Site Improvement Activities:**

No site improvement activities may occur unless all of the following requirements are met:

- a. Approval of site plan.
- b. Approval of final subdivision plat, if required.
- c. Approval of erosion and sediment control plan, if required.
- d. Approval of an erosion and sediment control bond, if applicable.
- e. Installation of adequate erosion and sediment control measures in accord with the plan.
- f. Approval of a performance bond or other surety to ensure the completion of public infrastructure facilities within a specified time frame.
- g. Issuance of a zoning permit.
- g. Approval of availability and capacity of all necessary utilities.

(Ord. of 2025-10-08)

2. Improvements Costs:

All improvements required by this ordinance shall be installed at the cost of the owner or developer, except where cost sharing or reimbursement agreements between the Town of Smithfield and the applicant are appropriate, the same to be recognized by formal written agreement prior to site development plan approval.

3. Acceptance of Site Improvements:

The approval of a site development plan or the installation of the improvements as required by this ordinance, shall not obligate the Town to accept the improvements for maintenance, repair or operation. Acceptance shall be subject to Town and/or State regulations, where applicable, concerning the acceptance of each type of improvement.

4. Bonding of Improvements:

a. Performance (surety) bond required for improvements:

1. A bond shall be required prior to commencement of construction to guarantee the successful completion, function, and operation of certain improvements which are to be accepted for dedication, maintenance and/or operation by the Town and as otherwise required by this ordinance and the subdivision ordinance (where applicable.)
2. Before the final site plan will be approved by the Zoning Administrator for the owner to commence work and before issuance of a zoning permit for any project, the owner or his designated agent shall submit a bond or other surety acceptable to the Town Attorney to ensure that measures could be taken by the Town at the owner's expense should owner fail to complete the public utilities, infrastructure, facilities and erosion control measures required for the project within the specified time frame.
3. The period of the initial bond (surety) agreement shall be not less than twelve (12) months from its effective date. The bond shall be of a form which automatically renews itself unless and until the issuing guarantor shall give ninety (90) days prior written notice to the Town of its intent to terminate the bond.

4. Appropriate personnel and agencies of the Town may make inspections of the improvements subject to bonding at any time during the progress of the work. The owner or developer shall be required to notify the Town of progress on a periodic basis in accord with the Town's published inspection timeframes and procedures.

5. A decision by the Town to draw upon the bond to ensure compliance with bonding requirements may be made at any point during the life of the bond at the sole discretion of the Town.

b. Bond cost estimate required by applicant:

1. The developer or his agent shall submit a detailed, itemized cost estimate of (a) public utilities, infrastructure and/or facilities, (b) erosion control and public facilities, and (c) other bondable improvements related to the public health, safety and general welfare as determined and required for the proposed project to the Zoning Administrator.

2. A cost estimate for improvements to be covered by bonding shall be submitted for approval prior to site plan approval, with said estimate based upon standard unit prices within the region and shall be prepared by a registered professional engineer or licensed general contractor qualified to perform the work subject to the bond.

3. The Town Attorney with recommendation from the Zoning Administrator shall employ the original bond cost estimate in setting the bondable amount for any project.

c. Notification of expiration and extension of bond:

1. If prior to sixty (60) days from the expiration date of the bond the applicant has not taken steps to gain approval of improvements, release of the bond, and/or extension of the bond, the applicant and surety will be notified by the Town by certified mail within forty-five (45) calendar days prior to that expiration date that a bond extension or new bond will be required.

2. If an extension or new bond is not received by the Zoning Administrator within twenty-five (25) calendar days of the original bond's expiration date, action will be taken to draw upon the original to allow the Town to

complete the installation of public improvements, other site improvements and erosion control and public works facilities. At that time, all construction permits will be revoked and continued work at the project will place the developer, the contractor, and/or other associated parties in violation of this ordinance.

d. Forms of bond and surety guarantees:

Forms of surety guarantees, all of which shall be subject to the approval of the Town Attorney, shall be limited to the following:

1. Corporate surety bond from an insurance corporation licensed in Virginia.
2. Cash escrows and set-asides from an insured lending institution.
3. Irrevocable letters of credit from an insured lending institution.
4. Cashier's check.
5. Other surety as approved by the Town Attorney.
6. The bond may be released by the Town in full or in part only upon the satisfactory completion of applicable improvements and the permanent stabilization of the site against erosion and sedimentation in accordance with the Subdivision Ordinance.

e. Maintenance (defect) bonds:

1. Prior to the release of the performance bond and the acceptance of public facilities by the Town, the owner shall submit a maintenance (defect) bond for any improvement to be accepted for dedication, maintenance, and/or operation by the Town.
2. The maintenance (defect) shall be in an amount and form satisfactory to the Town Attorney but in no instance shall be less than twenty (20) percent of the total construction cost of the improvements subject to the bond.
3. The maintenance bond may be released at the end of two (2) years from the date of Town acceptance of responsibility. Such bond shall be released in full if no defects have been found to exist, or if defects are found to exist, they have been corrected by the owner or development to the satisfaction of the Town. If defects found to exist have been corrected by action of the Town, the costs of such action shall be deducted from the amount of the maintenance bond.

f. As-built construction drawings:

As-built construction drawings for all improvements subject to bonding shall be provided to the Town in AutoCAD, PDF, and five (5) hard copies prior to the release of any bond amounts. The as-built drawings shall fully document the accuracy of improvements and update all information shown on the original site plan.

(Ord. of 2025-10-08)

5. Foundation Survey:

No work on a new building or addition that is required to have either a minor or major site plan and is located within five (5) feet of any required setback shall be approved to proceed above the foundation or slab until the building inspections office has received a survey prepared by a certified land surveyor licensed to practice in Virginia, showing that the foundation or slab, as constructed, is located in accordance with the approved site plan and other applicable ordinances. This requirement is supplemental to, and does not negate the requirement for, submission of application for building permits prior to commencing any construction activity.

(Ord. of 5-4-2004)

L. Requests for Waivers, Variations or Substitutions:

1. An applicant or owner may request a waiver, variation or substitution pursuant to the requirements and application of this article. A written request for a waiver, variation or substitution shall state the rationale and justification for such request together with such alternatives as may be proposed by the applicant or owner.
2. Such request shall be submitted to the Zoning Administrator with the filing of a preliminary or final site plan.
3. The Planning Commission, at its sole discretion, may accept the request for waiver, variation or substitution for any requirement in a particular case upon a finding that the waiver, variation or subdivision of such requirement would advance the purposes of this ordinance and otherwise serve the public interest in a manner equal to or exceeding the desired effects of the requirements of the ordinance. Alternately, the Planning Commission may recommend a conditional modification to the request or the Planning Commission may deny the request.

4. Approval or conditional approval of a waiver, variation, or substitution shall be accompanied by a statement from the Planning Commission as to the public purpose served by such waiver, variation, or substitution, particularly in regard to the purpose and intent of this article, this ordinance, the subdivision ordinance, and the Comprehensive Plan.
5. No such waiver, variation, or substitution shall be detrimental to the public health, safety or welfare, orderly development of the area, sound engineering practice, or to properties located within the project impact area.
6. The Planning Commission, in its deliberation on the request, may require the submission of a formal engineering report or other related technical documentation or graphic exhibits to support the applicant's request for waiver, variation, or substitution.
7. The Zoning Administrator may waive individual requirements for information to be contained on the Single-Family Residential Lot Plan.
(Ord. of 8-1-2000; Ord. of 5-4-2004; Ord. of 2025-10-08)

M. Revisions to Approved Site Plans:

1. Any revision or deviation from approved plans and specifications must be submitted in writing with related site plan documentation to the Zoning Administrator.
2. The Zoning Administrator shall determine which staff and agencies are required to review the requested modifications and will oversee the implementation of this process.
3. The Zoning Administrator may grant approval of revisions to previously approved site plans, provided that the Zoning Administrator determines that the proposed revisions do not substantially alter the site plan and thus does not warrant another public hearing at Planning Commission. If it is determined that the revisions to the site plan is of such a magnitude and impact that a decision on the revision should be reached only after a public hearing thereon, then a meeting before the Planning Commission to act on such revision shall be scheduled in a fashion similar to an original site plan submission.
(Ord. of 5-4-2004; Ord. of 2025-10-08)

N. Single Family Residential Lot Plans:

To ensure that proposed single family uses and related lot development activities are compatible with approved subdivision plats and public improvements plans and to ensure consistency with the underlying residential zoning district regulations, a single family lot plan shall be required to

accompany zoning permit, and/or use applications for single family residences, accessory buildings, accessory uses, private garages, rental uses of a portions of a single family dwelling, on-site parking areas or other lot improvements which are to be constructed, reconstructed, rehabilitated, or otherwise expanded. The single-family lot plan, or survey, shall be prepared by a certified land surveyor.

The single-family residential lot plan shall be reviewed and acted upon by the Zoning Administrator within ten (10) working days upon receipt and application for a zoning permit. In the event of denial of approval by the Zoning Administrator, the applicant may petition the matter to be heard at a scheduled public hearing for the Board of Zoning Appeals.

The single-family residential lot plan shall include the following:

1. Address and tax map reference number of lot; name of subdivision and deed reference.
2. North arrow; dimensions of the lot drawn to scale, with metes and bounds of lot.
3. Location and dimensions of both the existing structure(s) and the structure(s) to be erected on the lot.
4. Geotechnical evaluation and certified engineering design for building foundation for lots which contain shrink/swell soils.
5. Dimensional setbacks from property lines to any structure or improvement, including covered porches, decks, stairwells, garages, swimming pools, accessory uses, etc.
6. Square footage of lot per recorded subdivision plat.
7. Easements contained within the lot or across the lot line.
8. Proposed finished lot grading shown with two foot (2') contour intervals.
9. Location of all required off-street parking.
10. Location of all existing natural or man-made drainage channels and storm sewer facilities, as well as location of proposed drainage improvements, to ensure the adequate conveyance of stormwater on and through the property.
11. Location and boundaries of 100 year floodplain. The developer(s) are required to establish base flood elevation (BFE) for new development greater than 50 lots or 5 acres.

For approximated area, the developer(s) shall use the BFE and floodway data from other sources.

12. Location and boundaries of Chesapeake Bay Preservation Areas.
13. Location of service connections to public water and sewer.
14. Location and design of waterfront improvements, including boat ramps and docks.
15. Limits of clearing, including trees in excess of 6" in diameter which are proposed to be removed outside the construction footprint.
16. Erosion and sediment control measures including the location of the construction entrance.
17. Include the following notes:
 - a. The Builder/ Contractor shall verify grades on site prior to construction.
 - b. The Builder/ Contractor shall provide for positive drainage without impacting adjacent properties.
 - c. The Builder/ Contractor shall execute an Agreement in Lieu of Erosion and Sediment Control Plan in conjunction with approval of this plan.
 - d. No trees and shrubs shall be planted in Town easements. Shrubs shall be a minimum of five (5) feet and trees a minimum of ten (10) feet from the center of water and sanitary sewer pipelines.

(Ord. of 9-3-2002; Ord. of 5-4-2004; Ord. of 2025-10-08)

O. Acceptance of Public Facilities:

Within thirty (30) days following satisfactory completion, inspection and approval of the installation of all required improvements, and upon the satisfactory compliance with the provisions of this ordinance and the Town's Design and Construction Standards Manual, a "Certificate of Substantial Completion" shall be issued as cited in the Town Design and Construction Standards Manual. The Town will accept ownership of maintenance responsibilities for such facilities on the effective date of said letter.

P. Appeals:

1. Appeals of a decision of the Zoning Administrator in the administration of this article shall be to the Board of Zoning Appeals as provided in Section 15.2-2311 (1997) of the Code of Virginia.
2. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, Commission, Board, or agency of the Town, may present to the Circuit Court of Isle of Wight County a petition specifying the ground on which aggrieved within thirty days after the filing of the decision in the office of the Board. The proceedings before the Circuit Court shall be in accordance with applicable state law.

(Ord. of 8-1-2000; Ord. of 2025-10-08)

Q. Violations and Penalties:

1. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ordinance, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or uses any land in violation of any detailed or proffered statement or plan submitted by him and approved under the provisions of this ordinance shall be guilty of a Class I misdemeanor and, upon conviction thereof, shall be subject to punishment as provided by law. Each day that a violation continues shall be deemed a separate offense.
2. Any building erected or improvements constructed contrary to any of the provisions of this Ordinance or to the approved plans, and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance shall be, and the same is hereby declared to be, unlawful.
3. The Town may initiate injunction, mandamus, or any other action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this Ordinance.
4. Upon becoming aware of any violation of a provision of this ordinance, the Zoning Administrator, Town Manager, or Town Attorney shall serve notice of such violation on the person committing or permitting the same. If such violation has not ceased within a reasonable time as specified in the notice, action as may be necessary to terminate the violation shall be initiated.

5. The remedies provided for in this article are cumulative and not exclusive and shall be in addition to any other remedies provided by law.
6. In addition to any other remedies which may be obtained under this ordinance, any person who: (i) violates any provision of any this ordinance or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition authorized or issued by the Zoning Administrator or the Town Council under this ordinance shall, upon such finding by the circuit court, be assessed a civil penalty not to exceed \$5,000 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order.
7. With the consent of any person who: (i) violates any provision of this ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any order, rule, regulation, or variance or permit condition authorized or issued by the Zoning Administrator or the Town Council under this ordinance, the Town Council may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the Town of Smithfield for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under Paragraph 6 immediately hereinabove. Civil charges may be in addition to the cost of any restoration required or ordered by the Zoning Administrator or the Town Council.

(Ord. of 8-1-2000; Ord. of 2025-10-08)

Article 11.A:
EROSION AND SEDIMENT CONTROL

Article 11.A:
Erosion and Sediment Control

A. Purpose of this Chapter

This chapter shall provide for, both during and following development, the effective control of erosion and sedimentation by the enforcement of the Virginia Erosion and Sediment Control Law and the minimum standards promulgated by the Virginia Soil and Water Conservation Board and known as the Virginia Erosion & Sediment Control Regulations.

B. Regulations

The erosion and sediment control program of the Town of Smithfield shall consist of the state program and regulations for erosion and sediment control. The Town of Smithfield shall exercise the responsibilities of the program authority, as provided by state law and by this Ordinance.

C. Designation of Plan Approving Authority

The Director of Planning, Zoning and Development is designated as the erosion and sediment control plan-approving authority in Town.

D. Designation of Enforcement Authority

The office of the Director of Planning, Zoning and Development is designated as the enforcement authority in the Town and shall have the power and authority to inspect, monitor, report and ensure compliance with the erosion and sediment control program of the Town. The enforcement authority is also referred to as the designated enforcement officer and the permit issuing authority.

E. Approval of Plans and Issuance of Permit

Erosion and sediment control plans submitted to the Town shall be reviewed and acted upon by the plan-approving authority or his designee. Upon approval of such plan, the applicant may seek a Land Disturbing-Permit from the permit-issuing authority. Plans shall be approved and permits shall be issued pursuant to the state law and applicable regulations of the Virginia Soil and Water Conservation Board or its successor board.

F. Fees Required

Applicants shall pay to the Town a fee to defray the cost of program administration, including costs associated with plan review, issuance of land disturbing permits, periodic inspection and enforcement. The fee shall be based on the following schedule:

1. Minimum fee applicable to all applications – (\$70.00)
2. Additional fee per acre of disturbed land -- (\$10.00 per acre)

G. Review by Town Council

1. Any person aggrieved by any action or the plan-approving authority or the enforcement authority shall have the right to apply for and receive a review of such action by the Town Council.
2. In reviewing the action of the plan-approving authority or the enforcement authority, the Council shall consider evidence and opinion presented by the aggrieved person, the plan-approving authority or the enforcement authority, and such other persons as shall be deemed by the authority, and such other persons as shall be deemed by the Council necessary for a complete review of the matter.
3. The Council may affirm, reverse or modify the action of the plan-approving authority or the enforcement authority, and the Council's decision shall be final, subject only to review by the circuit court of the County by appeal taken pursuant to applicable law.
4. For purposes of this section, the term "person aggrieved" shall be limited to the applicant or permit holder, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

H. Peanut Soil and Water Conservation District

The Peanut Soil and Water Conservation District by joint resolution with the Council may exercise the responsibilities of the enforcement authority with respect to monitoring, reports and inspections.

I. Bonds and Maintenance

All control measures required by this Ordinance shall be undertaken at the expense of the owner or his agent, and pending such actual provision thereof, the owner or his agent shall execute and

file with the Zoning Administrator, prior to issuance of the land disturbing permit, an agreement and bond or agreements and bonds in an amount determined by the Zoning Administrator equal to the approximate total cost of providing erosion and sedimentation control improvements, with surety approved by the Town Attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken.

Within sixty (60) days of the adequate stabilization of the land-disturbing activity, as determined by the Town, such bond, cash escrow, letter of credit or other legal arrangement or the unexpended or unobligated portion thereof shall be refunded to the owner or his agent or terminated, as the case may be.

Should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by the approved plan as a result of his land-disturbing activity, the Town may take such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

(Ord. of 5-2-2000)

Article 12:
BOARD OF ZONING APPEALS

Article 12:
Board of Zoning Appeals

A. Composition:

1. There shall be a Board of Zoning Appeals (hereinafter called the "Board") which shall consist of five (5) members, each to be a resident of the Town and each to be appointed by the Circuit Court of Isle of Wight County for terms of five (5) years, except the original appointments shall be made for such terms that the term of one member shall expire each year. Members shall hold no other public office except that one member may be a member of the Town's Planning Commission.
2. A member whose term expires shall continue to serve until a successor is appointed and qualifies.
3. Vacancies to the Board shall be filled by such Circuit Court for the unexpired portion of the term.
4. A member may be removed by such Circuit Court for cause, upon written charges and after a public hearing.
5. Each member shall receive such compensation as the Town Council may authorize for attendance at each regular or called meeting of the Board held at least fifteen (15) days after proper public notice.
6. Within the limits of funds appropriated by the Town Council via its annual budgeting process, the Board may employ or contract for legal services, technical services, secretaries, clerks and other advisory services.

B. Organization:

1. The Board shall elect one of its members as chairman and one of its members as vice-chairman who shall serve annual terms as such and may succeed themselves. The chairman shall preside at all meetings of the Board and in the chairman's absence the vice-chairman shall preside.

2. The Board shall appoint a recording secretary whose duty it shall be to keep the minutes and other record of the actions and deliberations of the Board and perform such other ministerial duties as the Board shall direct. A secretary who is not a member of the Board shall not be entitled to vote on matters before the Board. The recording secretary may receive such compensation as the Town Council may authorize for attendance at each regular or called meeting of the Board.

C. Procedure:

1. The Board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the Town and general laws of the state as it may deem necessary in order to carry into effect the provisions of this chapter, said rules to be in writing and copies available to the public at the office of the Planning and Zoning Administrator and the recording secretary of the Board.
2. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in the chairman's absence the vice-chairman.
3. A regular member when he knows he will be absent from a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact.
4. All meetings of the Board shall be open to the public.
5. The recording secretary shall keep minutes of the Board's proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of the Board's examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
6. A quorum of the Board shall consist of three (3) Board members, one of which shall be either the chairman or the vice-chairman.
7. The Board shall keep a full public record of its proceedings and other official actions and shall submit a report of its activities to the Town Council at least one each year.

D. Powers of Board of Zoning Appeals:

The Board of Zoning Appeals shall have the following powers and duties:

1. **Variances:** To authorize upon appeal or original application in specific cases a variance from the application of the strict terms of this ordinance, provided that such variance will not be contrary to the public interest, when owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and that substantial justice done as hereinafter specified.
2. **Special Exceptions:** To hear and decide applications for special exceptions for uses, yards and heights as may be specifically authorized in this article. The Board may impose such conditions relating to the use, yard or height for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be in compliance. No special exception may be granted except after a public hearing in accordance with section "J." of this ordinance.
3. **Administrative Appeals:** To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this Article or of any ordinance adopted pursuant thereto.
4. **Zoning Map Interpretation:** To hear and decide applications for interpretation of the zoning district map where there is any uncertainty as to the location of a district boundary.
5. **Appeals of Planning and Zoning Administrator Decisions:** To hear and decide appeals from the decision of the Planning and Zoning Administrator. No such appeal shall be heard except after a public hearing in accordance with this ordinance.
6. **No Power to Rezone:** No provision of this section shall be construed as granting any Board the power to rezone property.
7. **Revocation of Permit:** To revoke a special exception if the Board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after a public hearing in accordance with section "J." of this ordinance.

E. Variances:

The Board shall have the power in specific cases to grant a variance from the application of the strict application of the terms of this ordinance under the following provisions:

1. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.
2. No such variance shall be authorized by the Board unless it finds:
 - a. That the strict application of the ordinance would produce undue hardship.
 - b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - d. That the condition or situation of the property concerned is not of so general or recurring in nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
3. No such variance shall be authorized except after a public hearing in accordance with section "J." of this ordinance.
4. In authorizing a variance the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or performance bond to ensure that the conditions imposed are being and will continue to be complied with.

5. After the Board has approved a variance, the variance so approved or granted shall lapse after one year period or such longer period of time as may be approved for "good cause" by the Board, provided that no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted.
6. The procedure for amendment of a variance already approved, or the request for a change of conditions attached to an approval, shall be the same as for the new application, except that, where the administrator determines the change to be minor relative to the original approval, the administrator may transmit the same to the Board with the original record without requiring that a new application be filed.

F. Special Exceptions:

1. The Board shall have the power in specific cases to grant a special exception for special use, area, and yard exceptions from the application of the terms of this ordinance under the following provisions:
 - a. to provide for adjustments in the relative locations of uses and buildings of the same or different classifications,
 - b. to promote the usefulness of these regulations as instruments for fact finding, interpretations, application and adjustment, and
 - c. to supply the necessary elasticity to efficiently administer these regulations.
2. In considering an application for a special exception, the Board shall give due regard to the specific guidelines and standards of this ordinance, and to the nature and conditions of adjacent uses and structures as well as the probable effect upon them of the proposed special exception.
3. The Board shall take into account the special characteristics, design, location, construction, method of operations, effect on traffic conditions or any other aspects of the particular use or structure, that may be proposed by the applicant.
4. If the Board finds that the proposed establishment or use will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the streets, nor increase public danger from

fire or otherwise unreasonably affect public safety, nor impair the character of the district or adjacent districts, nor be incompatible with the general plans and objectives of the Town's Comprehensive Plan, nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this ordinance, the Board shall grant the exception and authorize the issuance of a special exception permit.

5. In those instances where the Board finds that the proposed use may be likely to have an adverse effect as above, the Board shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction equipment, maintenance, or operation, in addition to those expressly stipulated in this ordinance.
6. Special exception uses: The following buildings and uses are permitted as special exceptions under the terms and conditions specified hereinabove:
 - a. A garage or other building accessory to a single family dwelling which building does not comply with the regulations of the district in which it is located.
 - b. Extension of a nonconforming use in a building so as to increase floor area by not more than twenty-five (25) percent.
 - c. Restoration, repair or replacement of a nonconforming use damaged by more than fifty (50) percent of the fair market value of the building immediately prior to its damage.
 - d. Temporary uses and structures in any district not specifically listed in the regulations and determined by the Board to be in the public interest for the district in which located; provided that such uses be of a temporary nature and do not involve the erection of substantial buildings. Such use or structures shall be authorized by the issuance of a temporary and revocable permit for not more than a twenty-four month period subject to such conditions as will safeguard the public health, safety and welfare.
7. Special exceptions for uses: The following yard conditions are permitted as special exceptions under the terms and conditions specified hereinabove:
 - a. An exception in the yard regulation on a lot where on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations in a way

similar to the exception applied for, provided that the granting of such an exception will not cause the yard or use to encroach upon an existing or proposed right of way.

- b. An exception in the depth or a rear yard on a lot, in a block where there are nonconforming rear yards.
- c. An exception to a yard where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersection streets, so that any one of the existing depths shall, for a building hereafter constructed or extended be the required minimum front yard depth.
- d. Construction of a single family dwelling with reduced yard spaces on a legal nonconforming lot.

8. After the Board has approved a special exception, the special exception so approved or granted shall lapse after a one year period or such longer period of time as may be approved for "good cause" by the Board, provided that no substantial construction or change of use has taken place in accordance with the plans for which such variance was granted.
9. The procedure for amendment of a special exception already approved, or the request for a change of conditions attached to an approval, shall be the same as for the new application, except that, where the administrator determines the change to be minor relative to the original approval, the administrator may transmit the same to the Board with the original record without requiring that a new application be filed.

G. Conditions of Approvals:

The Board may attach conditions to the granting of a variance or the approval of a special exception. In establishing adequate and necessary conditions, the Board may consider, among others, the following elements with respect to potential inclusion, modification, exclusion or limitation:

1. Placement of signs and advertising structures.
2. Signs: size, number, type, color, location or illumination.

3. Outdoor lighting: illumination intensity, direction, location, shielding.
4. Parking and loading: location, size, number.
5. Cleaning and painting.
6. Roof type.
7. Construction materials.
8. Construction phasing.
9. Exits, entrances, doors and windows.
10. Landscaping and screening.
11. Paving and site improvements.
12. Operating times.
13. Architectural facades.
14. Structural changes.
15. Smoke, dust, gas, noise and vibrations.
16. Termination of use due to use lapse or other conditions.

H. Procedure on Applications and Appeals:

1. Application for Special Exceptions and Variances

- a. Applications to the Board for special exceptions and variances in which the Board has original jurisdiction under this chapter may be made by any property owner, tenant, government official, department, Board or agency. Such application shall be made to the Board of Zoning Appeals on forms which shall be provided for the purpose in accordance with rules which shall be adopted by the Board.

- b. All information, including maps and plans required by such forms, or otherwise required by the Board in order that it might be fully informed, shall be furnished by the applicant.
- c. It shall be the responsibility of the recording secretary of the Board to place the matter on the Board meeting agenda.
- d. The Planning and Zoning Administrator shall also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board or appear as a party at the hearing.
- e. If a request for a variance or special exception has been denied by the Board, a request in substantially the same form shall not be considered by the Board within one (1) year of the date of denial.
- f. The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Planning and Zoning Administrator determines the change to be minor relative to the original approval, the Planning and Zoning Administrator may transmit the same to the Board with the original record without requiring that a new application be filed.

2. **Appeals:**

- a. An appeal may be taken to the Board by any person aggrieved or by any officer, department, Commission, Board or agency of the Town affected by any decision of the Planning and Zoning Administrator, or from any order, requirement, decision or determination made by any other officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto.
- b. Any written notice of a zoning violation or a written order of the Planning and Zoning Administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The appeal period shall not commence until the statement is given to the recipient.

c. An appeal shall be taken within thirty (30) days after the decision appealed by filing with the administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Planning and Zoning Administrator shall forthwith transmit to the recording secretary of the Board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in the furtherance of the action appealed from unless the administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a Court of record, on application and on notice to the Planning and Zoning Administrator for good cause shown.

3. Hearing and Decision:

- a. The Board shall fix a reasonable time for a public hearing on an application or appeal. The Board shall decide upon the application or appeal within 90 days of its filing.
- b. Upon the hearing any party may appear in person, or by agent, or by attorney, before the Board. In exercising its powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- c. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance from this article.

4. Proceedings to Prevent Construction of Building in Violation of Zoning Ordinance:

In any case where the administrator has certified conformity with the provisions of this chapter and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, suit may be filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of such permit.

The Circuit Court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the administrator to the Board of Zoning Appeals.

5. Filing Fees:

- a. All persons, firms or corporations appealing to the Board of Zoning Appeals necessitating the publication of notices in the newspaper shall be required to pay, at the time the application is submitted, a fee as established by Town Council for expenses relative thereto.
- b. All persons, firms or corporation applying for variances under the provisions of this chapter or applying for an amendment or a variance already approved necessitating the publication of notices in the newspaper shall be required to pay, at the time the application is submitted, a fee as established by Town Council for expenses relative thereto.
- c. The payment of such money in advance to the office of the administrator as specified shall be deemed a condition precedent to the consideration of such appeal, variance request or requested amendment to a variance already approved.

I. Appeals to Circuit Courts:

Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, Commission, Board, or agency of the Town, may present to the Circuit Court of Isle of Wight County a petition specifying the ground on which aggrieved within thirty days after the filing of the decision in the office of the Board. The proceedings before the Circuit Court shall be in accordance with applicable state law.

J. Notice and Hearing Requirements:

No variance or special exception may be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia. This same notification and hearing requirement applies to the revocation of a special exception, the appeal of decisions made by the Planning and Zoning Administrator and the application for interpretation of the Town Zoning District Map where there is any uncertainty as to the location of a district boundary. As is stated in 15.2-2204

of the Code of Virginia, each of these planning actions listed above need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The Planning Commission shall not recommend nor the Town Council authorize any such variance, special exception or other amendment thereof until notice of intention to do so has been published once a week or two successive weeks in some newspaper published or having general circulation in the locality; however, the notice of both the Planning Commission and the Town Council may be published concurrently. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than six days nor more than twenty-one days after the second advertisement appears in such newspaper. The Planning Commission and the Town Council may hold a joint public hearing after public notice as set forth hereinabove.

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.

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: 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, 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.

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 my 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)

Article 14, Appendix A:
**DEFINITIONS, CRITERIA AND DESIGN GUIDELINES
FOR CALCULATION OF LAND HOLDING CAPACITY
AND NET DEVELOPABLE AREAS**

Article 14, Appendix A:
**Definitions, Criteria and Design Guidelines for Calculation of
Land Holding Capacity and Net Developable Areas**

1. Introduction to Environmental Performance Standards

The Town's revised zoning ordinances incorporates contemporary land evaluation and environmental analysis techniques into the determination of appropriate land holding capacities and land use densities for new development and redevelopment in Smithfield. These techniques have been used throughout Virginia and allow for both property owners and public officials to better evaluate the development potential of urban real estate.

This Appendix provides the rationale and recommended methodology to be used in calculating the *"net developable area"* and *"land holding capacities"* for the Town's zoning districts. The use of this environmental planning process will promote sound land use planning principles and facilitate compliance with the environmental and natural resource goals and objectives which are fundamental to Smithfield's Comprehensive Plan and growth management program.

2. Land Holding Capacities: Zoning Ordinance Concepts for New Development

A Comprehensive Plan, by definition, is a locality's effort to do what is right, or most suitable, for the land. In turn, the Plan is translated into reality via the zoning and subdivision ordinances. In contemporary ordinances, environmental performance standards are employed as a quantitative criteria to establish the suitability of land for new development. The recommended process to be incorporated into the Town's zoning ordinance allows for the actual physical characteristics of the land to determine its inherent *"holding capacities."* Virginia's enabling statutes for planning and zoning support an environmental performance standards as a basis for undergirding the development suitability process. This process presents a more logical approach to define and allocate land holding capacities and development densities to individual properties.

"Land holding capacities" are normally viewed in terms of land use density and intensity. While most traditional zoning and comprehensive planning practices in Virginia allocate land use densities to the land with little regard for the slope, soil type, vegetation, floodplains, wetlands, geology and existing development, the recommended development suitability process allows land use decisions related to density and specific use to be determined by the character of the land and its underlying physical, environmental, and geological influences.

From a general land planning perspective, more intelligent future land use decisions can be made from this form of analysis. However, land use decisions also must be tempered by Smithfield's open space, public recreation, and environmental conservation objectives. For instance, gently sloping or perfectly flat land is normally judged as being more "suitable" than steeply sloped land for commercial development via the application of typical environmental performance standards. However, the Comprehensive Plan may view the same flat land as being more appropriately allocated to long-term public park or recreational use because of the environmental attractiveness of the particular property.

Thus, a property's environmental-based "*holding capacities*," in and of itself, does not specifically point to the optimal land use for a given property, but, rather, it prescribes the land use density (or intensity) which is considered most appropriate by the provisions of the particular zoning district for which the property is mapped.

3. General Criteria for Environmental Performance Standards

The criteria for environmental performance standards serve to identify the most relevant and significant land units to be included in the calculation of land holding capacities. This process would be initiated in the early stages of the land development process by the developer or subdivider during the preparation of plats and plans for cluster residential developments as well as attached and multi-family projects.

Because land units containing critical environmental areas oftentimes pose significant site development constraints, the zoning ordinance should require that the following critical environmental characteristics be identified, mapped and fully considered in any subdivision proposal:

1. *Slopes less than 10% are generally suitable for most land development, including agricultural and forestry. In this slope range, a physical rational cannot be used to justify one use over another.*
2. *Slopes in the 10%-20% range begin to restrict more intensive development, certain land uses and the overall physical capacities of a project.*
3. *Slopes in the 20%-30% percent range significantly constrain most types of development and should be restricted.*

4. *Slopes greater than 30% severely limit most development on the Town's critical hillsides and should be greatly restricted and avoided to the extent possible.*
5. *Floodplains, wetlands, tributary streams, lakes, and major drainage channels are physical systems necessary to maintain hydrologic balance in a watershed and development in those areas should be avoided.*
6. *Soils with low bearing capacities and high permeability have restricted suitability for non-agricultural development, and the total permissible density should be reduced.*
7. *Soils with shrink/swell soil characteristics pose severe hazards for land development, including increasing the potential for foundation settlement. Residential development on lands identifying as having shrink/swell soil characteristics should only be permitted after a geotechnical and foundation design report has been prepared for each proposed lot. Such report shall be prepared by a professional engineer and shall address soils preparation and foundation design recommendations for the intended structure(s). No plat or site plan shall be approved for recordation until a foundation engineering report has been reviewed and approved by the Town .*
8. *Highly erodable soils pose limitations for urban uses, and the scale, density and character of development should limit adverse environmental impacts.*
9. *Significant vegetative cover is a valued element of the Town's natural system because of its ability to protect state water quality by natural means. The development of non-agricultural uses must respect its maintenance and conservation.*
10. *Land areas for major public rights-of-way and easements to accommodate public infrastructure should be reserved as a part of private development proposals.*

The Planning Commission and Town Planners will carefully consider these land characteristics and apply them in evaluating all land development proposals, not just residential projects. However, for the purposes of providing for an example of the calculation of net developable areas, a project to be developed under the Town's A-R, Attached Residential (Townhouse) District is employed. From the above information conclusions should be drawn by the applicant and the Town with respect to the following key aspects of a property's development potential:

- (1) *the overall suitability of an site for development;*
- (2) *the prime areas for the siting of appropriate (zoned) uses for an area;*
- (3) *the land use carrying capacities;*
- (4) *environmentally sensitive land units where urban uses should be restricted; and*
- (5) *specific areas of a property that should be reserved for facilities and infrastructure.*

4. Environmental Performance Standards for New Residential Development: Criteria for "Net Developable Areas"

Simply stated, the ability of land to "hold" or "absorb" development is directly correlated to its capacity to be put to good use, i.e. good land "holds more" than bad land. In other words, Mother Nature has given each tract of land certain physical and environmental attributes which are unique to any other piece of property. Zoning law enables a locale to assess these distinguishing attributes in assessing the physical development potentials of a given property. Environmental performance standards are a means by which the Town's zoning ordinance designates the process by which "holding capacity" is determined. These standards recognize that the maximum density or yield of proposed developments and subdivisions should be assessed by calculating the "net developable area" of the land on which a project is proposed.

In order to establish a realistic measure of land holding capacity for an area or parcel in the Town, "effective capacity ratings" are to be assigned to the critical physical and environmental land units contained within a given property proposed for development. Critical physical and environmental land units include *shrink/swell soils, floodplains, wetlands, steep slopes, rights-of-way and other sensitive ecological characteristics* of a property. This concept enables the Town and the developer's site planner or engineer to critically assess the site's land carrying capacity based on the environmental limitations of the particular property.

The product of the "effective capacity rating" multiplied by the area of the land unit yields the available net acreage which qualifies for development density. In other words, the "effective capacity rating" is a ratio that establishes the percentage of the land qualifying for an allocable density credit. After determining the permitted land use (as provided for by zoning), the total development yield is based on the available net acreage multiplied by the density credit for that use as cited in the zoning ordinance.

Consider the following example: 10 acres of a parcel is floodplain, and, based on the prevailing trends in urban land use, active development within a floodplain should be prohibited. On this basis, the "effective capacity rating" of the site's floodplain area as zero (0.0), and the product of

floodplain acreage multiplied by the "effective capacity rating" is zero (10 acres x 0.0 effective capacity rating = 0 acres). As a result, floodplains do not contribute to or qualify for inclusion in the calculation of the "net developable area."

In addition, the same tract may have 5 acres of land with slopes ranging from 10%-20%. The zoning ordinance establishes an "effective capacity rating" equal to 0.7 for 10%-20% slopes. The product of the "effective capacity rating" (0.7) multiplied by the land area of this environmental land unit (5 acres) is 3.5. Therefore, 3.5 acres of the total 5.0 acres serves as the qualifying environmental land unit in computing the development capacity of the property. It follows that only after a cumulative analysis of each environmental land unit and its related "effective capacity rating" can the total carrying capacity for a property be determined.

Listed below are the environmental land units and capacity ratings to be used in determining the "net developable area" and "land holding capacities" for subdivisions and site development proposals. The computation of "net developable areas" will be subject to detailed site engineering and environmental studies that must accompany the preparation of a private development application. All "environmental land units" should be mapped, categorized, and their acreages determined by the applicant's engineer.

<u>Physical/Environmental Land Units</u>	<u>Effective capacity Rating</u>
1. <i>Slopes (0%-10%)</i>	1.0
2. <i>Slopes (10%-20%)</i>	0.75
3. <i>Slopes (21%-30%)</i>	0.5
4. <i>Slopes (greater than 30%)</i>	0.1
5. <i>Soils with high shrink/swell characteristics</i>	0.75
6. <i>Public Rights-of-Way and Major Easements (Existing or Proposed)</i>	0.0
7. <i>Designated Wetlands</i>	0.0
8. <i>Floodplains, Streams, Rivers, and Drainage Channels</i>	0.0
9. <i>Permanent Erosion and Sediment Control Facilities</i>	0.0
10. <i>Ponds, Water Features, and Stormwater Retention Areas</i>	0.0

5. A-R, Attached Residential District Subdivision Case Study

To further illustrate this methodology for determining "net developable area" and "development capacity," the following illustration applies the residential townhouse density of eight dwelling units per acre in the Town's A-R, Attached Residential District.

A. Illustration Assumptions: A-R Residential District (Townhouses @ 8 DU/AC)

Zoned Land Use:	A-R Residential
Zoning District Maximum Density:	8 units net acre
Planned Land Use:	Townhouses
Gross Acreage:	100 acres
Existing and Planned Rights-of-Way:	10 acres
Floodplains:	5 acres
Slopes (10%-20%):	5 acres
Slopes (21%-30%):	10 acres
Slopes (31%+):	2 acres
Ponds:	1 acre

B. Compute "Net Developable Area" of the Property's Environmental Land Units

	Acres x Capacity Rating	Net Developable Area of Unit
Planned Rights-of-Way:	10 acres x 0.0	0.0 acres
Floodplains	5 acres x 0.0	0.0 acres
Slopes (10%-20%):	5 acres x 0.75	3.8 acres
Slopes (21%-30%):	10 acres x 0.5	5.0 acres
Slopes (31%+):	2 acres x 0.1	0.2 acres
Ponds:	<u>1 acre x 0.0</u>	<u>0.0 acres</u>
Site Area Impacted by Environmental Land Units:	33.0 acres	
Qualifying Acreage of Environmental Land Units for "Net Developable Area" Calculation:		9.0 acres

C. Compute "Net Developable Area" of the A-R Zoned Property

Gross Acreage of A-R Property:	100.0
Less: <u>Area of Environmental Land Units:</u>	<u>-33.0</u>
Available Acreage (less Environmental Land Unit Area):	67.0
Add: <u>Qualifying Area of Environmental Land Units:</u>	<u>+ 9.0</u>
Total "Net Developable Area"	76.0 acres

D. Compute "Development Capacity" for A-R District, Townhouse Residential Use

8.0 dwellings unit per acre x 76.0 net developable acres:	608 units
---	-----------

E. Allowable "Net Density" of A-R District Residential Development

608 Dwelling Units / 100 Acres: 6.1 DU/AC

6. Summary

The application of this "performance-oriented" methodology offers Smithfield a legally supportable and environmentally sound process through which the land use carrying capacity of any land development proposal can be measured. It is intended to be applied to both the subdivision and the site plan process and is particularly applicable to cluster development.

When the "net developable area" concept is used in conjunction with good site planning and subdivision standards for individual development projects, the Town is able to more effectively merge conventional zoning techniques with well balanced, environmental performance standards. The end result will be a more realistic implementation process that is more responsive to the physical attributes and ecological qualities of the land. In this fashion, the land is truly allowed to "speak for itself," and, in so doing, the link between comprehensive planning goals and zoning regulations is more integrally established.

One essential test of Virginia zoning law is "uniformity". The "performance-oriented", net-developable area approach to growth management ensures a uniform application of regulatory criteria and land holding capacities to land with differing sizes, physical and geological characteristics, and other environmental characteristics.

Article 14, Appendix B:
CRITERIA FOR TRAFFIC IMPACT ASSESSMENTS

Article 14, Appendix B:
Criteria for Traffic Impact Assessments

A. Purpose and Intent

In urban communities throughout the Virginia, transportation planning is becoming an ever increasing consideration in the evaluation of private land development projects. Increasingly, local ordinances are requiring developers to fully document the impacts of traffic and the capacity of existing road systems in conjunction with planning applications. Traffic impact assessments are a much needed "tool" in the Town's growth management approach. It is the purpose of this section to outline the recommended process for conducting traffic evaluations and to provide an efficient means for the incorporation of transportation systems analysis for future development projects, including redevelopment activities in Smithfield.

Transportation issues typically reach their point of "maximum controversy" at the time when new development proposals are submitted to the Town. More often than not, land development proposals are submitted for appropriately zoned parcels for which only subdivision and/or site plan approval is required. At this stage, the ability of the Planning Commission to substantially alter the course of traffic and street improvements is diluted given the ministerial nature of the plat and plan approval process. In such cases, the Town has a relatively narrow platform upon which to engage the developer as to how his project relates to: (1) existing street deficiencies, (2) Comprehensive Plan traffic and transportation recommendations, (3) coordinated on-site circulation systems, (4) coordinated off-site improvements and (5) fiscal and financial obligations to implement necessary improvements in conjunction with development activities.

The planning and programming of future residential streets within Smithfield will be a responsibility of private landowners and developers as new subdivisions and site development is undertaken. It shall be incumbent upon the Town to assure that new residential developments are designed to ensure:

1. *properly-scaled internal hierarchies of street layouts,*
2. *pavement widths, curbing and right-of-way improvements compatible with planned residential density levels,*
3. *adequate access to collector streets and minor arterioles in order to optimally distribute internal traffic generation,*
4. *new streets conform to contemporary residential street geometry and intersectional design criteria,*
5. *sufficient on-street parking is provided to serve residents and guests,*

6. *high quality street signage, signals and lighting provisions for vehicular and pedestrian safety,*
7. *adequate provisions of sidewalks and accommodation of pedestrian needs,*
8. *the feasibility of special vehicular movements, such as fire equipment and snow plowing, and*
9. *incorporation of street plantings and other buffer-oriented landscaping.*

One step in the right direction is to integrate transportation impact evaluations into the Town's growth management process, particularly by establishing a process by which the developer is held more accountable to the public sector in the analysis, planning and implementation of road improvements necessitated by the development proposal. Prior to this time, the Town has not required traffic impact assessments for major rezonings or special use permits. Also, no traffic analysis has been required by ordinance for subdivision and site plan submissions, and there have been no standards and criteria established for the use of traffic studies.

B. General Requirements for Traffic Impact Assessments

Traffic impact standards are recommended for use in all new land development and redevelopment activities which could potentially generate a sufficient level of traffic adversely impacting the Town street system. Development plans with densities of a certain "threshold" size should be required to submit a Traffic Impact Assessment (TIA), prepared by a registered professional engineer, unless this requirement is waived by the Planning Commission. In addition, TIA studies may also be needed where constraints are present on the existing roadway system, where the proposed development would require modifications to the off-site roadways in the area or where future road rights of way may be impacted by the new development. Generally, if any uncertainty exists regarding the need for such a study, it is advisable that one be required. Thus, unless otherwise directed, traffic impact assessments shall be required for all subdivision and site development activities at the sole discretion of the Planning and Zoning Administrator or the Planning Commission.

The TIA normally includes a description of the scope and intensity of the planned project, a summary of the projected impacts and any required mitigation measures. The TIA should consist primarily of an analysis of critically impacted on- and off-site intersections during the evening and site peak hour periods, as well as a description of the transportation characteristics of the site circulation plan of the proposed use. This would also include circulation plans of existing uses.

TIA studies should be submitted well in advance of finalization of the applicant's site plan or final subdivision plat. Significant transportation issues, including the review and acceptance of traffic studies, must be resolved prior to the date of the scheduled public hearing. Consequently, traffic

analyses should generally be submitted roughly six to eight weeks prior to the Planning Commission hearing in order to allow for review and coordination among Town Staff and the Virginia Department of Transportation (VDOT), if required.

By following the study and assessment format presented herein, it is anticipated that substantial efficiencies in Town Staff review can be achieved, with the additional benefit of ensuring consistency among various studies. Compliance with these recommendations will result in significant reductions in staff review time required. As a result, the identification of issues requiring further study should be greatly facilitated, and the overall efficiency of reviewing development applications greatly enhanced.

The staff review and assessment of a TIA should be primarily concerned with the Level of Service (LOS), operational and safety impacts of a transportation scheme proposed by a developer and by the introduction of the site-generated traffic to the public street and road systems. The assessment should consider the need for such improvements as additional through lanes, acceleration/deceleration lanes, left turn lanes, signage, traffic calming, signage and signalization. Recommendations should be included pertaining to design guidelines for engineering geometries, as well as off-site improvements necessitated by the development of the planned project.

The geographical area to be studied will vary with the quantity and quality of site-generated traffic and the excess capacity of the existing road network. The impact analysis should extend as far as the site-generated traffic has a significant impact. VDOT should be consulted in establishing the study area boundary for each project. Normally this evaluation would be limited to the points of access, adjacent intersections, and on divided highways, the points where "U-turns" to and from the development would be made. However, for large developments the analysis may extend a considerable distance from the site.

In general, the typical TIA report should contain the following information:

1. *A brief description of the proposed development and the proposed access scheme.*
2. *A formal traffic study evaluating discrete land use alternatives and transportation networks in separate sections.*
3. *A formal traffic analysis evaluating the proposed land uses. The land use and transportation network components of each analysis should include the following evaluations:*
 - A. *No Build/Existing Conditions: site development (existing network, committed network, modifications of network)*

- B. *Comprehensive Plan Conditions: Existing zoning/existing planning (existing network, committed network, modifications of network with application)*
- C. *Proposed Project Conditions: Future land use, as proposed in the developer's application (existing network, committed network, modifications of network with application)*

4. *A quantitative estimate of the volume and distribution pattern of site-generated traffic for the hours of maximum impact on the local and regional road networks (incorporating Institute of Transportation Engineers (ITE) rates unless better information is available).*
5. *An estimate of background traffic and projections of future background traffic based on the adopted land uses in the Smithfield Comprehensive Plan, regional transportation planning studies and commonly accepted demographic projections developed for establishing projections and growth rates.*
6. *Existing and projected Levels of Service for background traffic.*
7. *Estimated Levels of Service, based on the use of Highway Capacity Manual calculation techniques, with the addition of future site-generated traffic on the existing Town roadway configurations and configurations proposed by the developer for the existing year and for the future years.*
8. *Recommendations for transportation system improvements to ameliorate the impacts of the site-generated traffic.*

C. Guidelines for TIA Preparation

The following is intended as a guide for the preparation of traffic impact assessment studies. Since the guide cannot feasibly cover all situations, some reports will require additional information. The traffic consultant should discuss the project scope with the Planning and Zoning Administrator in advance of preparing the study to determine the physical boundaries of the area of analysis, the intersections to be studied, the trip distribution method to be used and any additional study elements will be required by the Town.

1. Project Description

- A. Type of project
- B. Square footage by use (i.e. office, retail, medical, etc.), number of dwelling units or other appropriate units to indicate the size of the project
- C. Project density (FAR, du/ac, etc.)
- D. Location maps
- E. Site plan(s) showing:
 - 1. Auto, transit, pedestrian and service vehicle access
 - 2. Parking facilities (number of spaces, dimensions, circulation pattern, conformity to code)
 - 3. Truck loading areas (number of spaces, dimensions)
 - 4. Proposed sidewalks/street improvements
 - 5. Relationship and responsiveness to the adopted Comprehensive Plan and to other applicable transportation plans and studies.

2. Existing Conditions

- A. Study Area
 - 1. Location maps
 - 2. Approved but not completed or occupied projects
- B. Street System
 - 1. Number of travel lanes
 - 2. Bike lanes
- C. Traffic Conditions
 - 1. Map showing the Average Daily Traffic (ADT) levels on major streets (based on VDOT counts, adjusted for current year volumes)
 - 2. Diagrams showing AM/PM peak hour turning movements at study intersections (based on current counts and/or counts taken by traffic consultant.)
 - 3. Peak hour level of service at study intersections (utilizing techniques prescribed in the Highway Capacity Manual)
- D. Transit System
 - 1. Map showing locations of existing or planned transit lines and/or bus stops
 - 2. Peak hour/midday frequency of service

3. Analysis of Existing Conditions

- A. Traffic Characteristics (Tables and diagrams to be included in TIA)
 - 1. Daily/peak hour trip generation, in/out ratio and turning movements from the proposed development for each land use/transportation network combination required (using information from the ITE Traffic Generation Manual or other accepted documentation).
 - 2. Daily/peak hour trip generation, in/out ratio from approved but not completed or occupied developments in the project area (Use information from the Future Land Use Plan and approved development plans and apply the ITE Trip Generation Manual).
 - 3. Trip distribution, with map showing geographical distribution and direction of approach (incorporating data from regional traffic studies and models).
 - 4. Assignment (volumes and turning movements) to each link in the network analyzed.
 - 5. Traffic assignment, with map showing turning movements attributable to the project site at analysis intersections.
 - 6. Level of Service Analysis for each major intersection affected (analyze for each alternative). Include lane geometry, assumed signal phasing and critical volumes for each phase.
 - 7. Scale drawing showing the existing and proposed intersection geometry for any intersection to be improved in conjunction with the application.
- B. Traffic Impact
 - 1. Peak hour level of service and Velocity to Road Capacity (V/C) ratios and Level of Service at critical intersections calculated by techniques prescribed in the Highway Capacity Manual for signalized and un-signalized intersections for the following conditions:
 - (1) existing,
 - (2) existing plus approved development plus project and
 - (3) cumulative development with project (cumulative traffic forecasts require use of Comprehensive Plan).
 - 2. Evaluate warrants and other related needs for traffic signals at un-signalized intersections.

- C. Access and Circulation Analysis
 - 1. Identification of driveway location and spacing
 - 2. Delineation of sight distance at driveways and intersections
 - 3. Evaluation of maneuvering/docking impacts
 - 4. Analysis of curbside loading zone impacts
- D. Parking Analysis
 - 1. To include a parking generation needs analysis using ITE's parking generators data or other accepted research.
- E. Signalization Warrants Analysis
 - 1. Develop a formal signalization warrants analysis per VDOT regulations.

4. Recommended Transportation Improvements and Mitigation Measures

- A. Proposed/suggested measures and improvements for mitigating adverse transportation impacts of the planned development. (Mitigation is normally required for any intersection with a projected cumulative V/C ratio of greater than 0.85, and the mitigation strategy should reduce the V/C ratio to 0.85 or lower.)
- B. Peak hour level of service and V/C ratios at critical intersections calculated by techniques prescribed in the Highway Capacity Manual and tabulated for the mitigated condition.
- C. Characteristics of recommended transportation improvements to provide adequate service levels and to mitigate projected traffic impacts. To include the following:
 - 1. On-site circulation systems, including geometry and lane requirements
 - 2. Off-site and street frontage traffic improvements, including geometry and lane requirements
 - 3. Signalization
 - 4. Signage
- D. Discuss the prospects for the application of Traffic Safety Measures (TSM's) to reduce the potential number of vehicular accidents in the area.
- E. Discuss the prospects for the application of Traffic Calming measures.
- F. Discuss the prospects for the application of formal car pooling programs and for the availability of public transportation opportunities.
- G. Discuss compatibility with local and state plans, such as thoroughfare plans, six year improvements plan, future land use plan, official map, official zoning map, and/or overlay district maps.

5. Phasing

- A. If portions of (or the entirety of) required on-site circulation systems and/or off-site frontage and road improvements are not planned to be constructed in the initial phase of the planned development, the adequacy of the road improvements to be constructed with each phase of development should be demonstrated.
- B. An implementation program for on-site and off-site transportation improvements shall be provided along with an acceptable financing plan and proffer.
- C. The relationship of the project to the Capital Improvements Plan including formal cash proffer considerations shall be permitted.

6. Acronyms and Definitions

The following acronyms appear frequently in this section:

ADT:	Average Daily Traffic
DU/AC	Dwelling Unit Per Acre
FAR:	Floor Area Ratio
ITE:	Institute of Transportation Engineers
LOS:	Level of Service
TIA:	Traffic Impact Assessment
TSM:	Transportation Safety Measures
V/C:	Volume to Road Capacity Ratio

Article 14, Appendix C:
**LANDSCAPE, SCREENING AND BUFFER YARD
GUIDELINES AND STANDARDS**

Article 14, Appendix C:
**Landscape, Screening and Buffer Yard
Guidelines and Standards**

A. Purpose and Intent:

This appendix provides graphic guidelines for landscaping, screening and buffer yards for development projects within the Town. It is intended to be employed by applicants as a companion to illustrate the landscape design requirements of Article 9 of this ordinance.

Where conflict exists between this appendix and Article 9, the article shall govern.

B. Appendix C Contents:

Parking Lot Landscaping Guidelines and Illustrations

- C.4 Parking lot landscaping: general illustrative design concepts.
- C.5 Parking lot landscaping: minimum requirements for parking lots.
- C.6 Parking lot landscaping: landscape islands and medians in parking lots.
- C.7 Parking lot landscaping: interior parking bays in large parking lots.

General Landscaping Guidelines and Illustrations

- C.8 Residential subdivision landscaping: street tree design concepts.
- C.9 Right of way edge buffer landscaping: edge buffers.
- C.10 Buffer yards: landscape berms.

Examples of Canopy Requirements for Urban Land Uses

- C.11 Illustrative canopy example: multi-family residential project.
- C.12 Illustrative canopy example: retirement community project.
- C.13 Illustrative canopy example: townhouse residential project.
- C.14 Illustrative canopy example: waterfront mixed-use project.
- C.15 Illustrative canopy example: downtown commercial project.

Transitional Buffer Yard Requirements

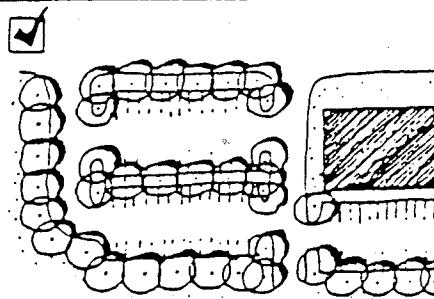
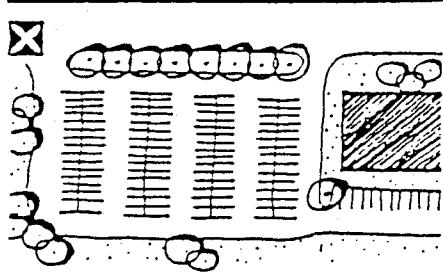
C.16 Transitional buffer yard requirements: Multi-family and Attached Residential Single Family Residential Districts (C-C, N-R, S-R, D-R, and MH-P) adjacent to a Multifamily Residential, Attached Residential or Residential Office District (A-R, MF-R and R-O).

C.17 Transitional buffer yard requirements: Commercial Residential Districts (C-C, N-R, S-R, D-R, A-R, MF-R, and MH-P) and Residential Office District (R-O) adjacent to a Commercial District (HR-C, PS-C). This requirement does not apply to a Residential District adjacent to a D District property.)

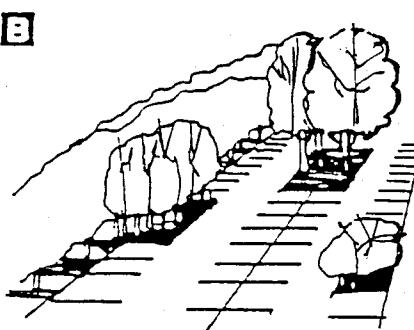
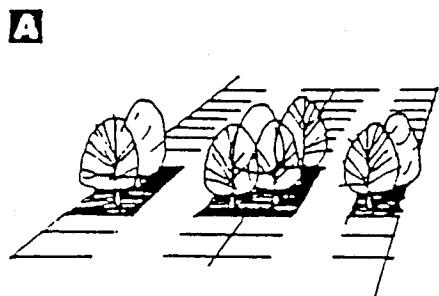
C.18 Transitional buffer yard requirements: Light Industrial Residential District (C-C, N-R, S-R, D-R, A-R, MF-R and MH-P) and Residential Office District (R-O) adjacent to a Light Industrial District (I-1).

C.19 Transitional buffer yard requirements: Heavy Industrial Residential District (C-C, N-R, S-R, D-R, A-R, MF-R, MH-P, and R-O) and Residential Office District (R-O) adjacent to a Heavy Industrial District (I-2).

PARKING LOT LANDSCAPING

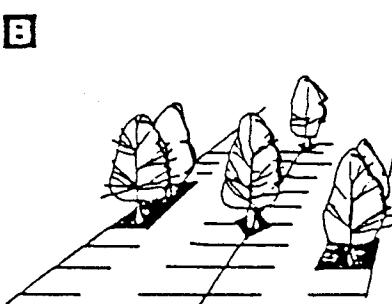
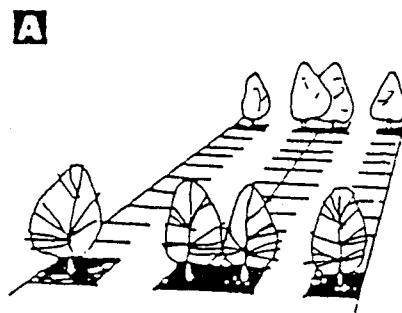


Planting in parking lots



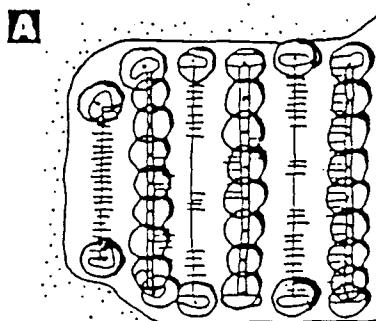
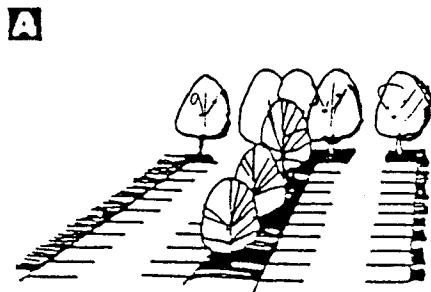
A New vegetation in groves

B Save existing vegetation and incorporate within parking lot

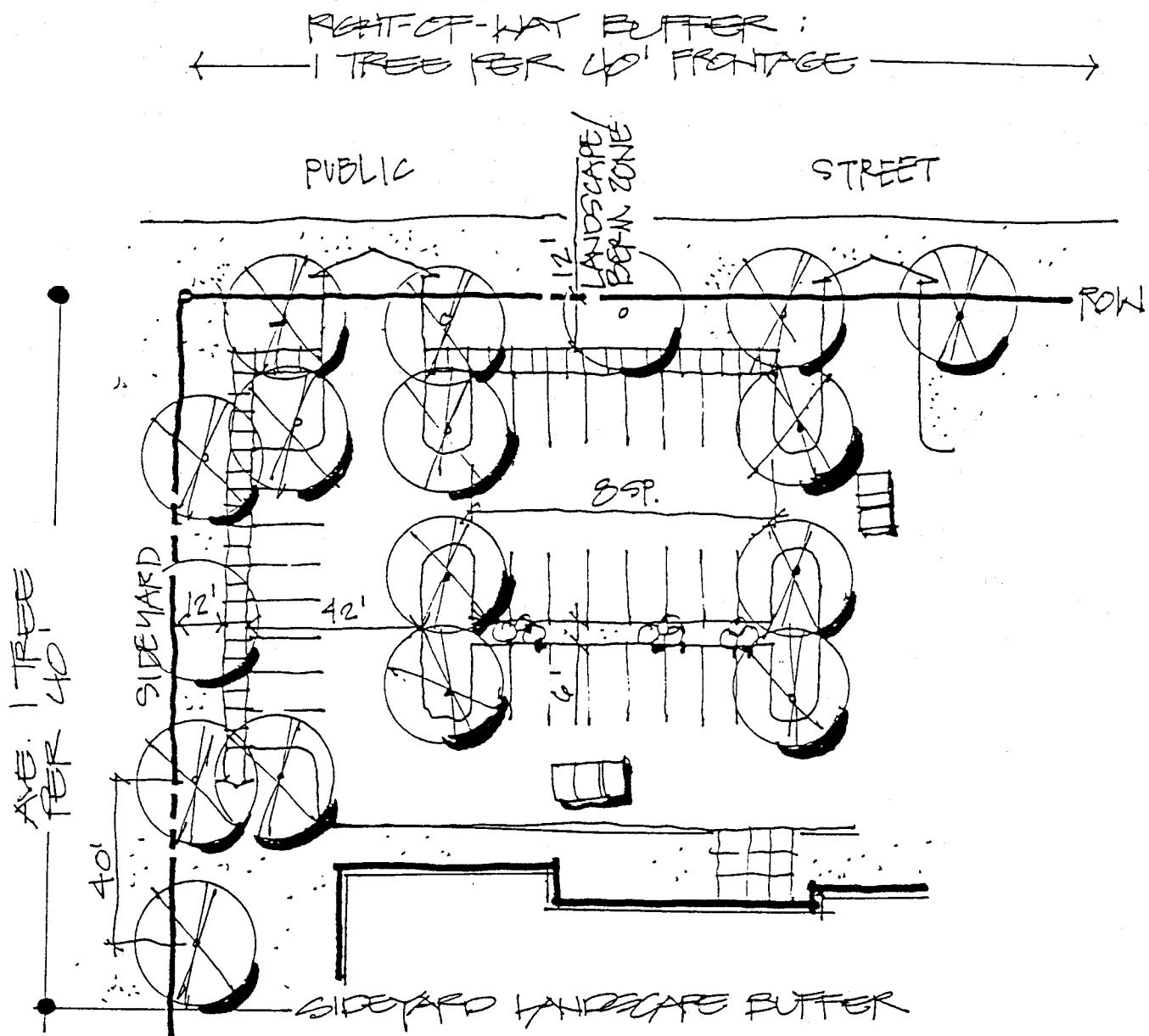


A Parking island - planted

B Planting inserted within parking lot

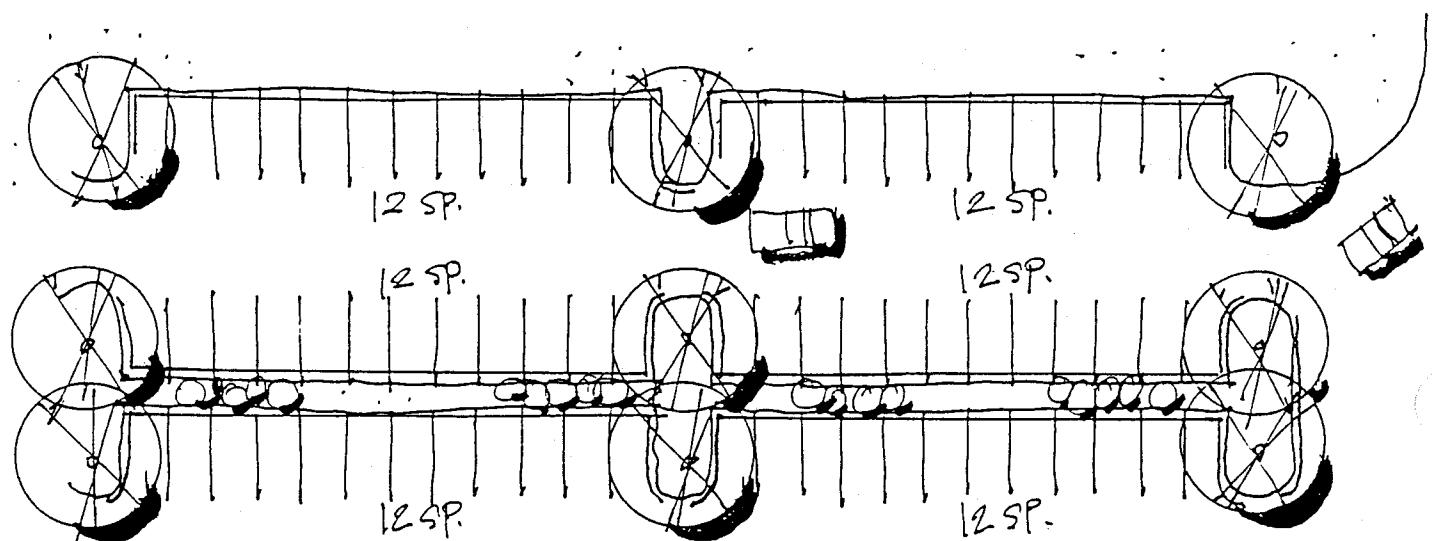


A Planted medians within parking lot

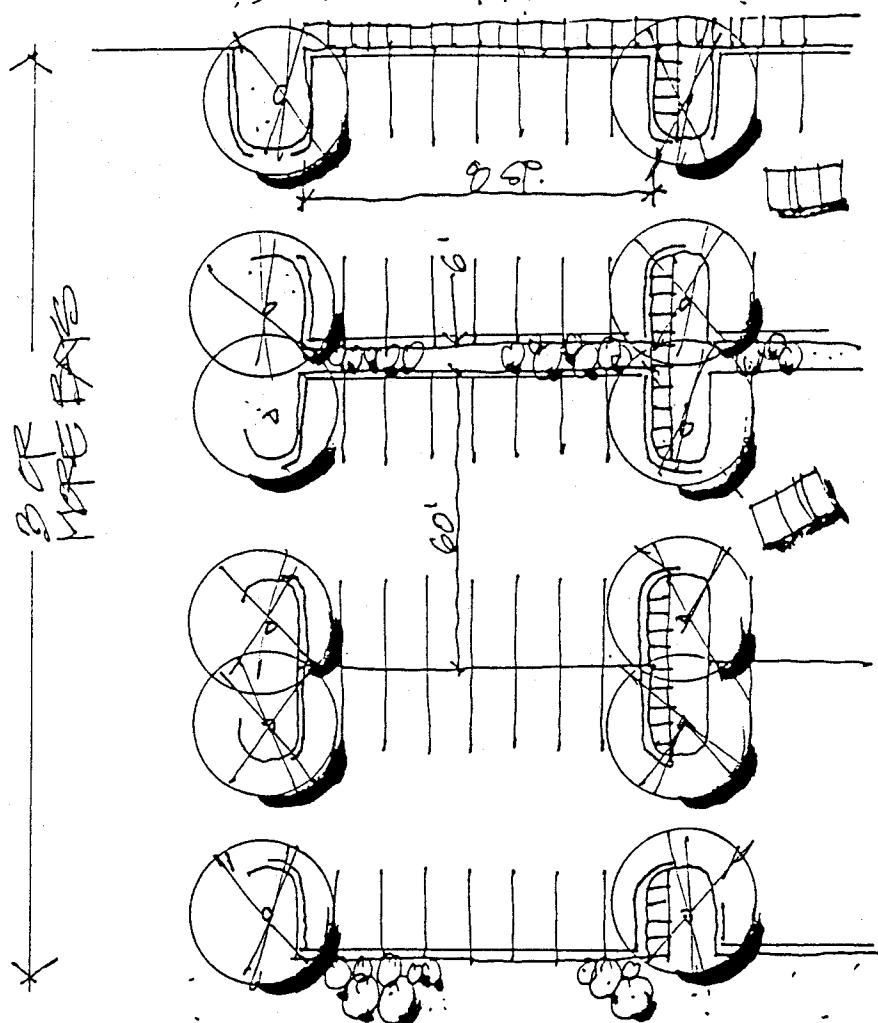


MINIMUM REQUIREMENTS
PRIVATE PARKING LOTS

LANDSCAPE "ISLANDS OR MEDIAN" IN PRIVATE PARKING LOTS

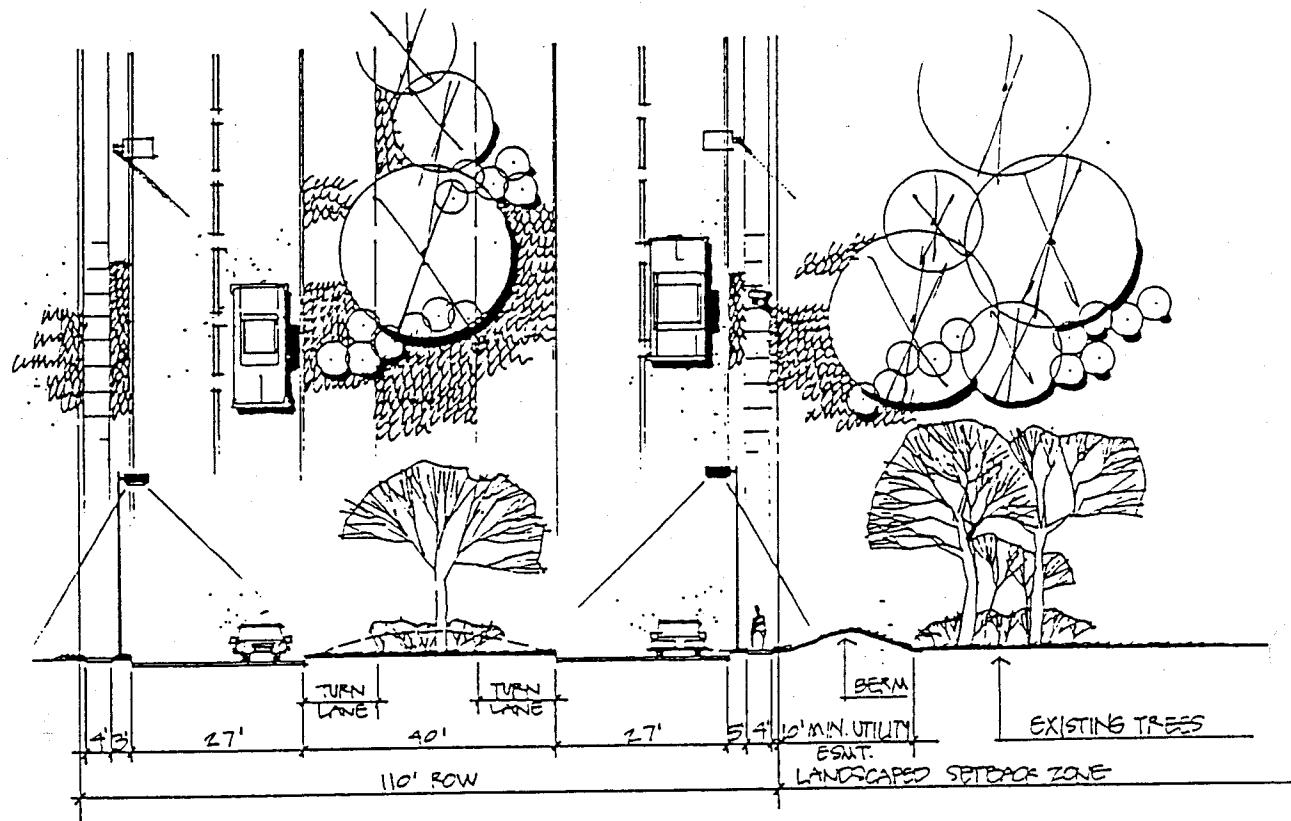


- 1 TREE / 8 SPACES
- NO MORE THAN 12 SPACES BETWEEN TREES

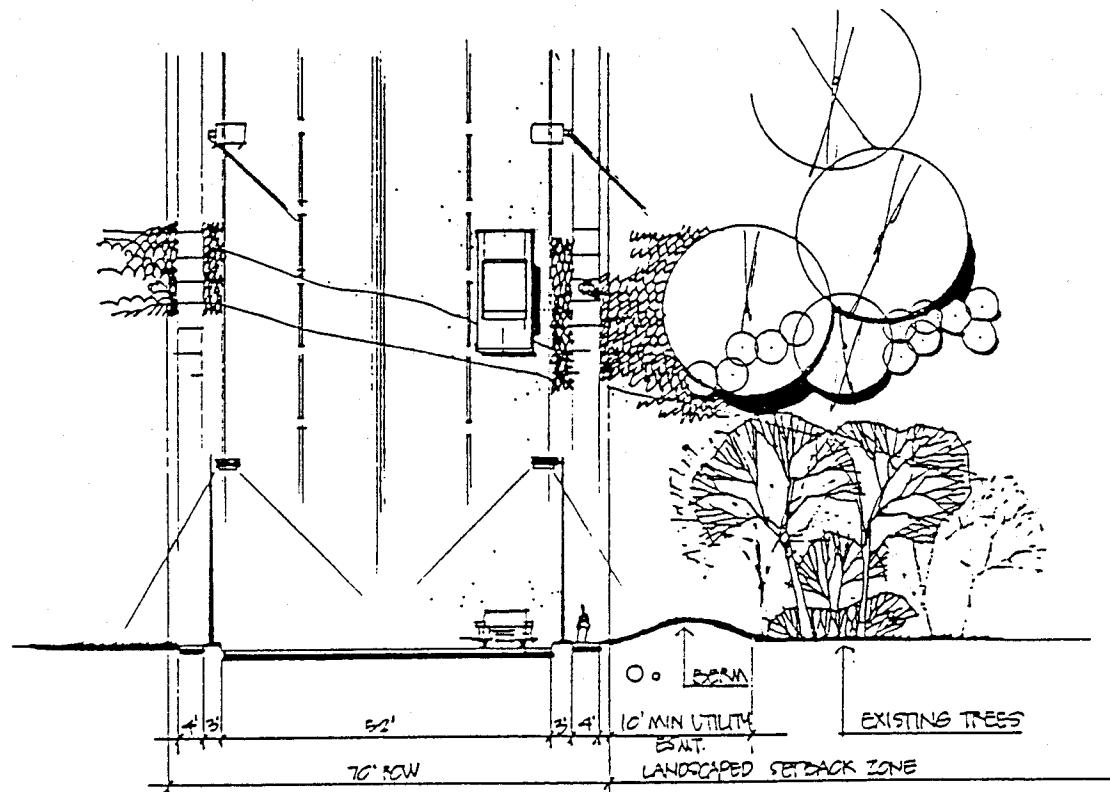


LOTS WITH > 150 SPACES :
REQUIRED TO HAVE 6'
PLANTING MEDIAN @
EVERY OTHER BAY.

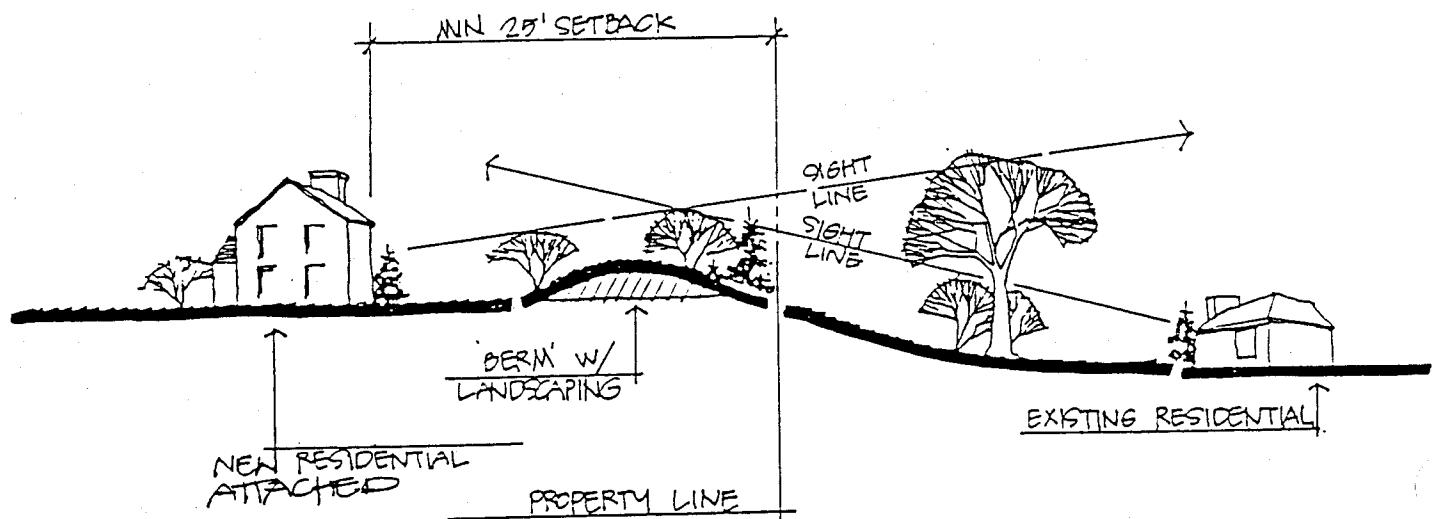
INTERIOR PARKING BAYS
LARGE PARKING LOTS



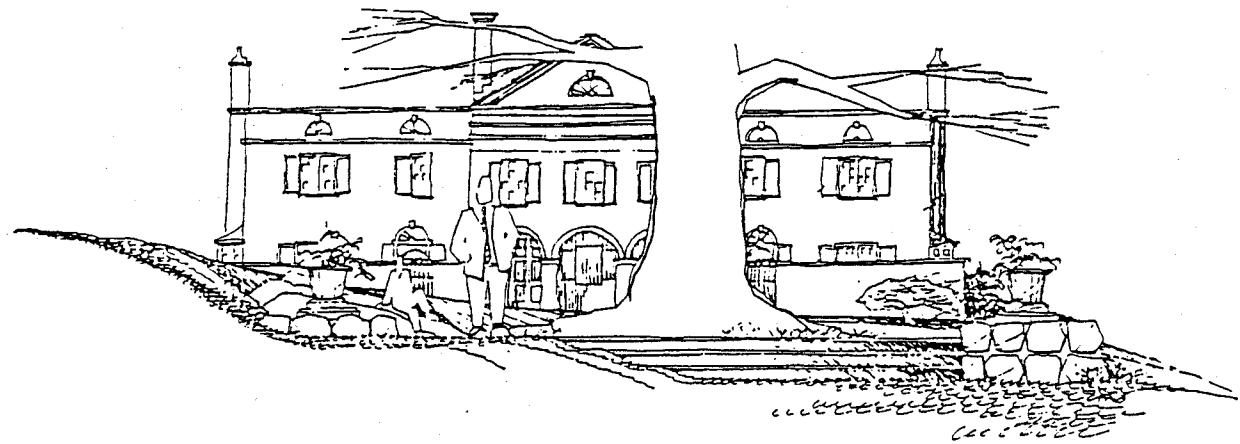
~~STREET TREE CONCEPTS :~~
~~SUBDIVISION DEVELOPMENT~~



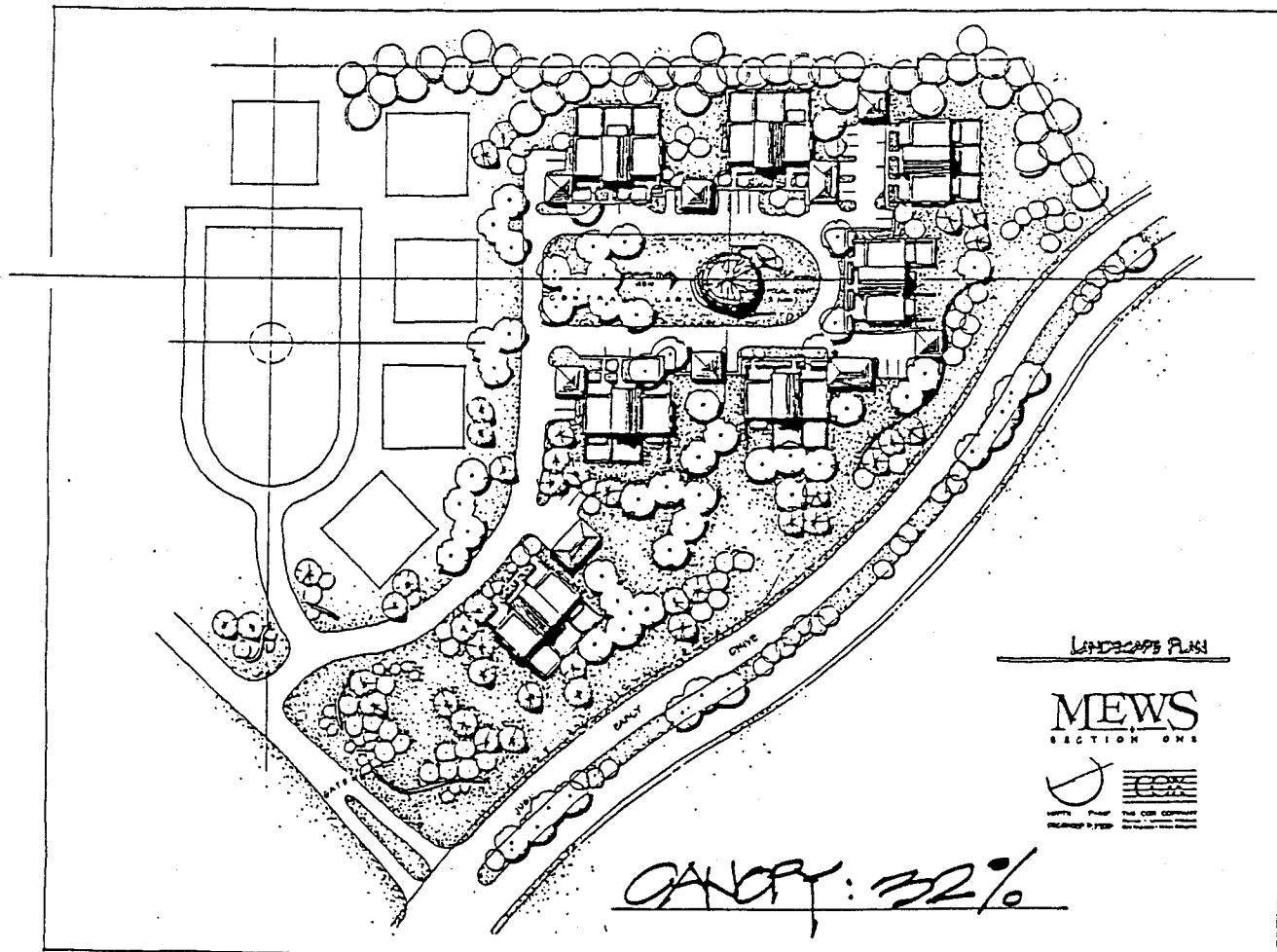
RIGHT-OF-WAY LANDSCAPING
FREE BUFFERS



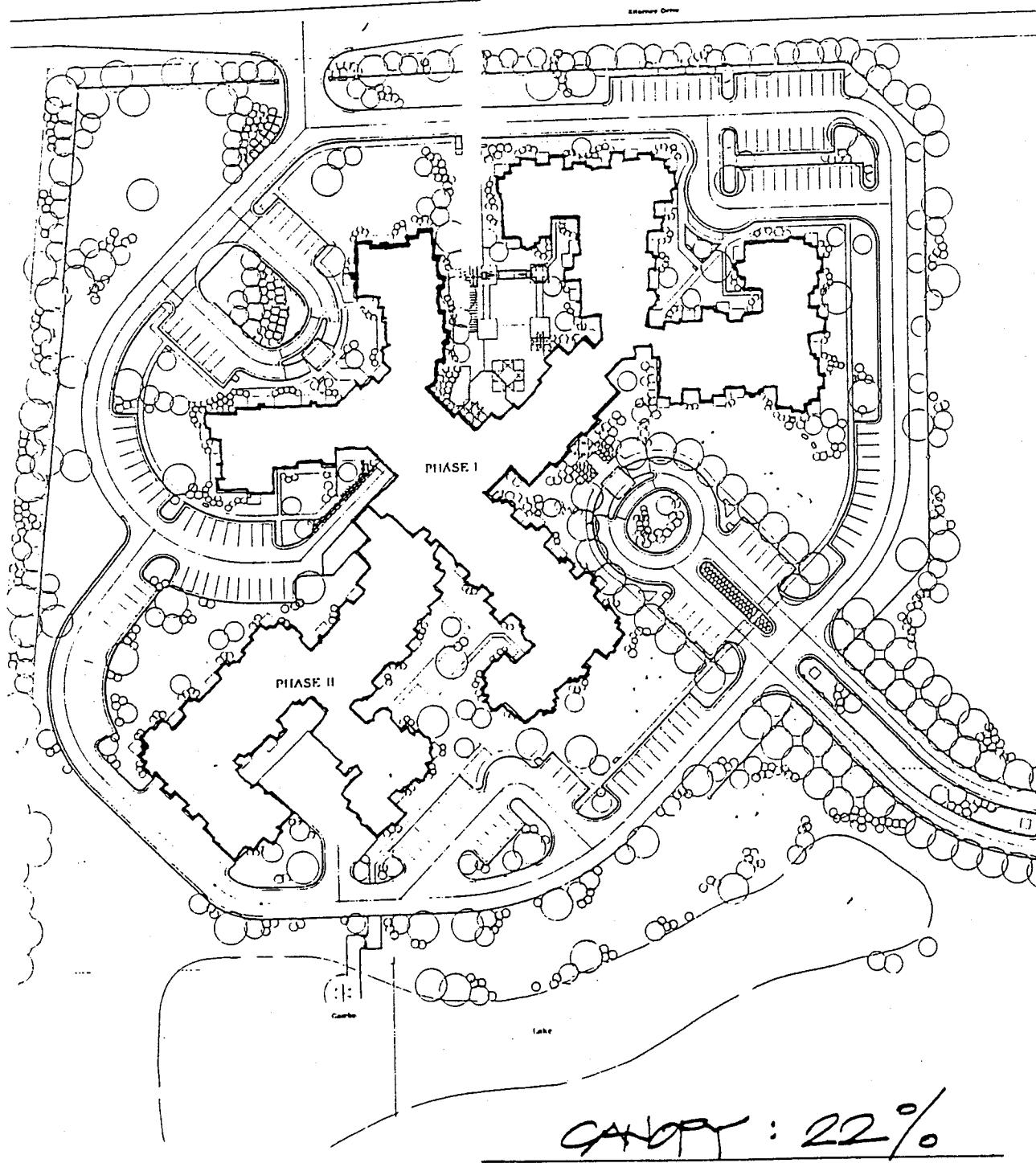
BUFFER YARDS:
LANDSCAPED BERMS

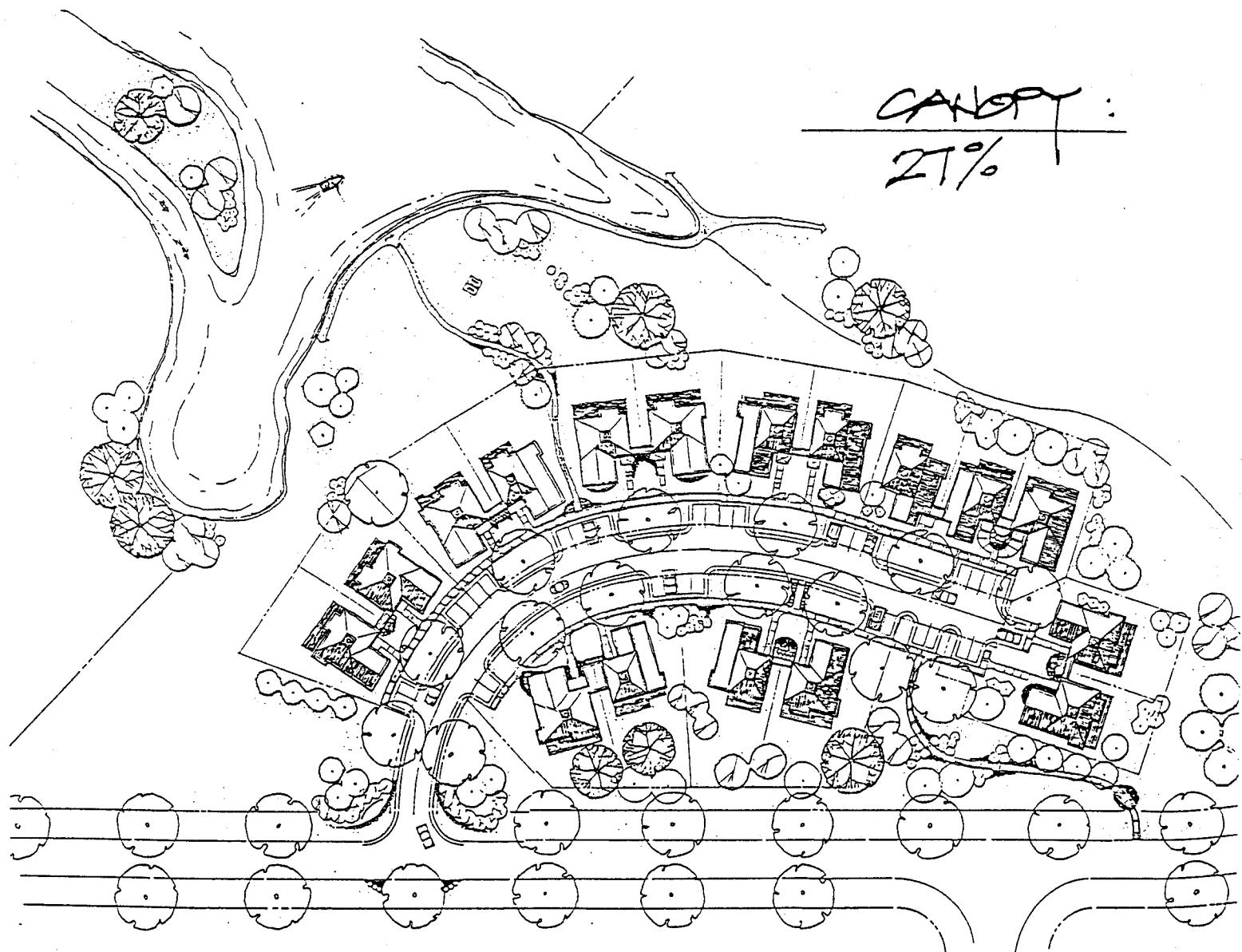


MULTI-FAMILY PROJECT



~~RETIREMENT COMMUNITY~~
7.0 - ACRE SITE





TOWNHOUSE COMMUNITY

6 DU/AC

THE LANDING

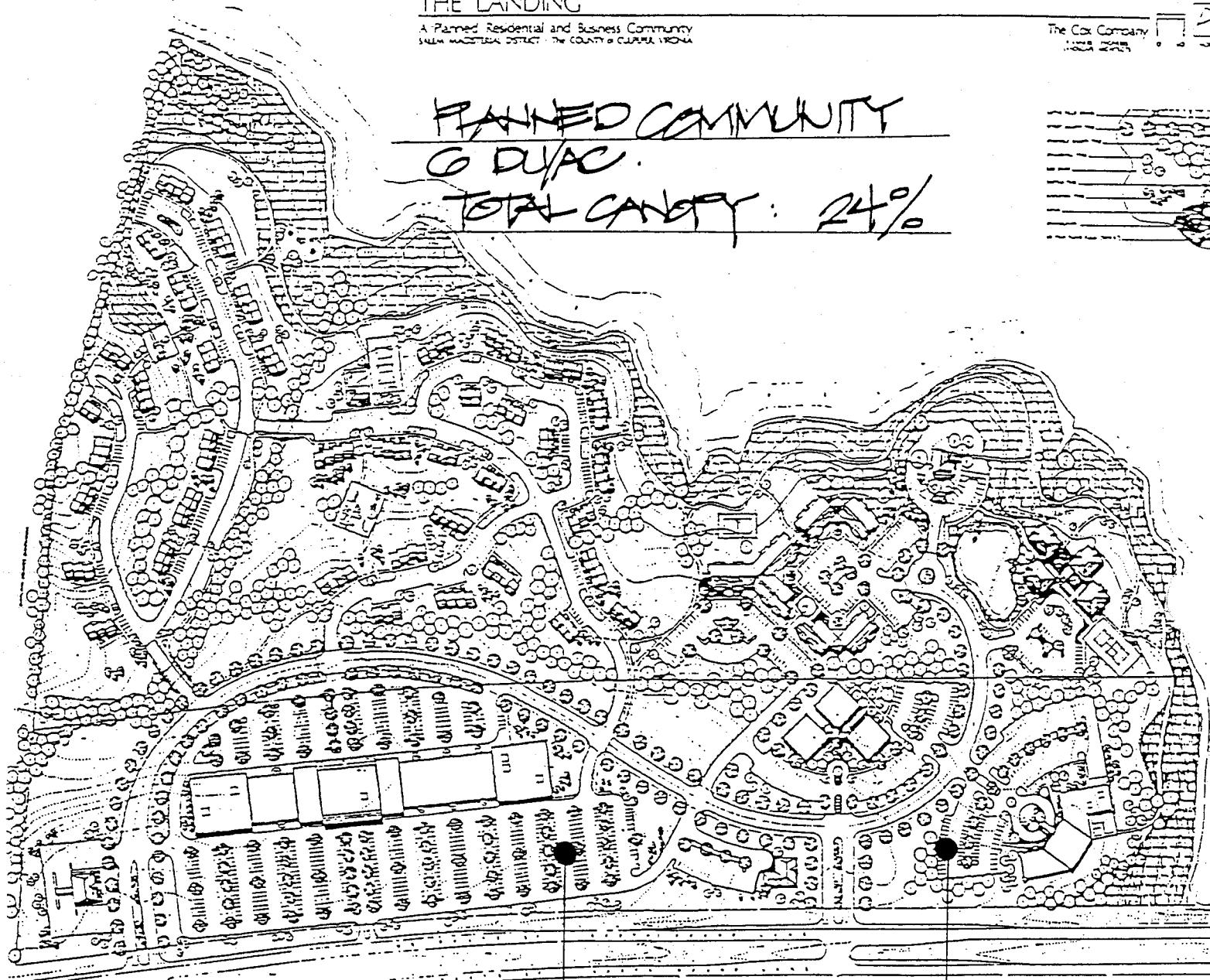
A Planned Residential and Business Community
SIXTH MAGISTERIAL DISTRICT - THE COUNTY OF CAMPBELL, VIRGINIA

The Cox Company
1992 2002

PLANNED COMMUNITY

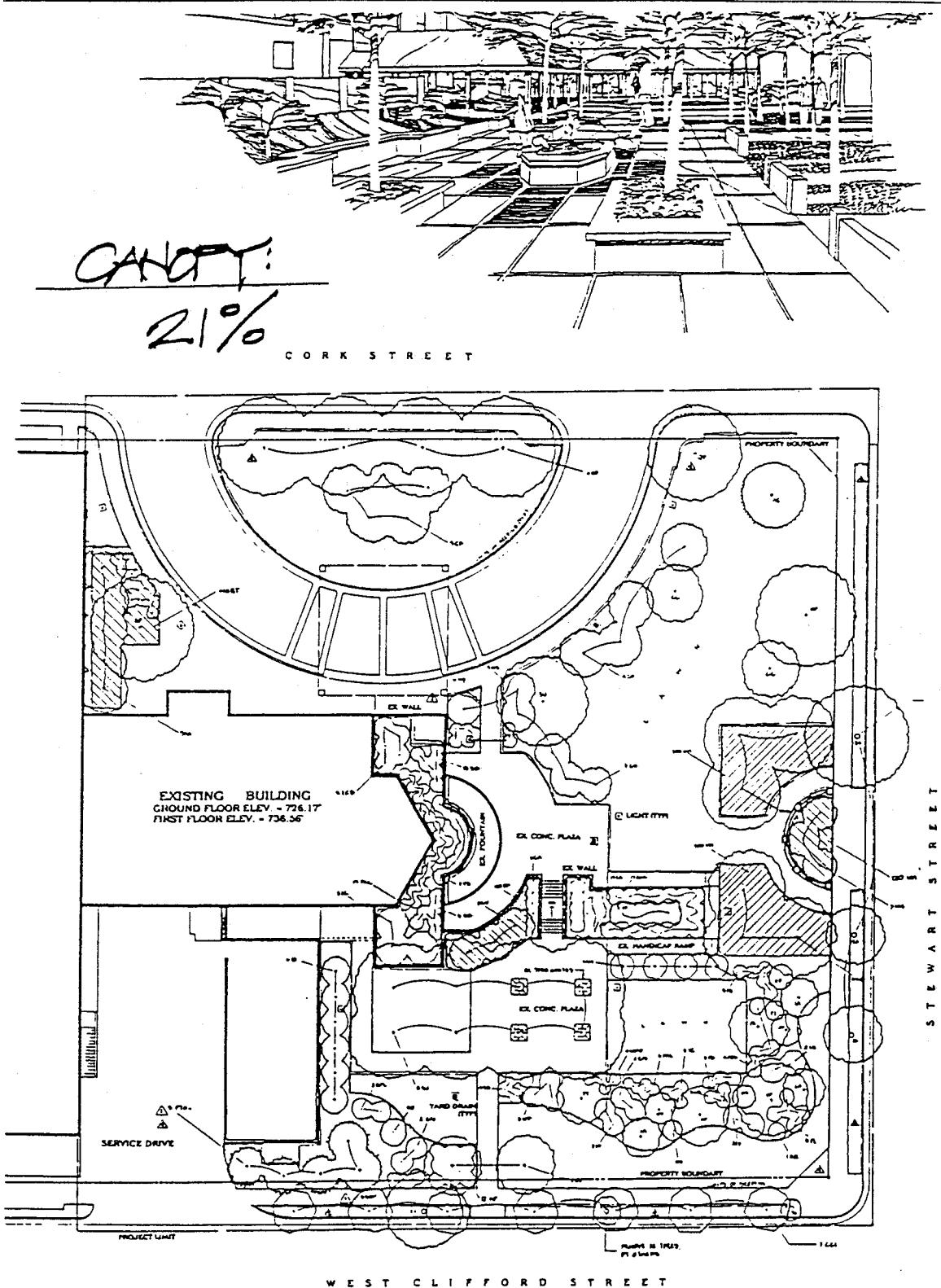
6 DU/AC.

TOTAL CANOPY: 24%



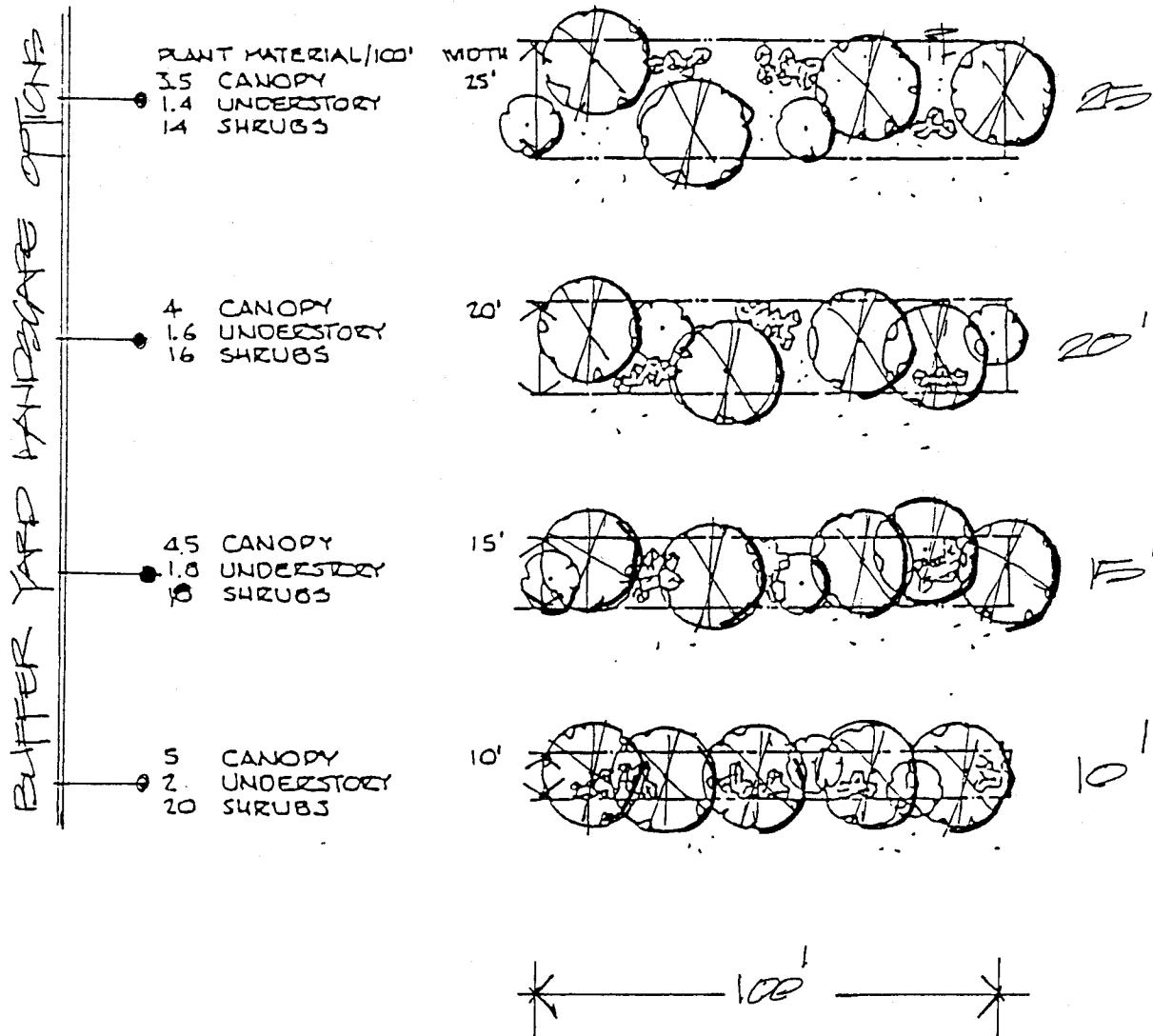
SHOPPING CENTER
22% CANOPY

MOTEL
24% CANOPY



DOWNTOWN COMMERCIAL

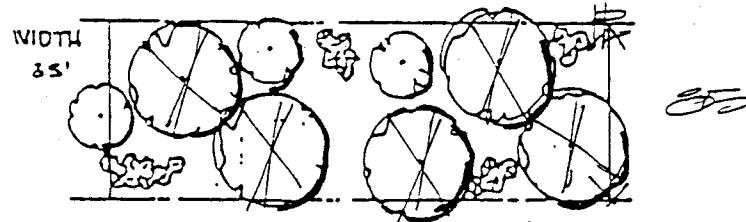
~~TRANSITIONAL BUFFER YARD~~ ~~SINGLE FAMILY / MULTI-FAMILY~~



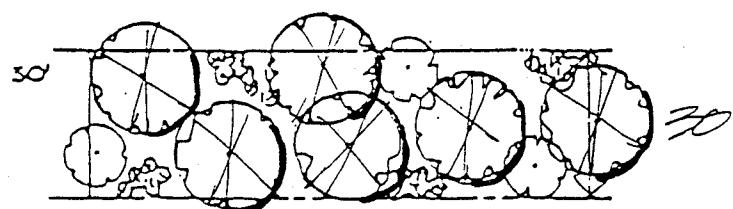
TRANSITIONAL BUFFER YARD RESIDENTIAL / COMMERCIAL

BUFFER YARD LANDSCAPE OPTIONS

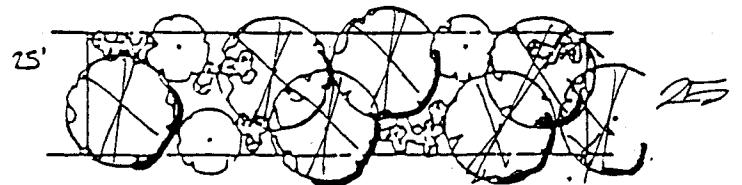
PLANT MATERIAL/100'
4.8 CANOPY
2.4 UNDERSTORY
19 SHRUBS



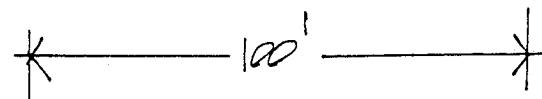
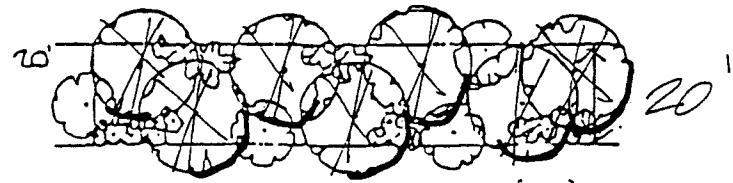
3.4 CANOPY
2.7 UNDERSTORY
22 SHRUBS



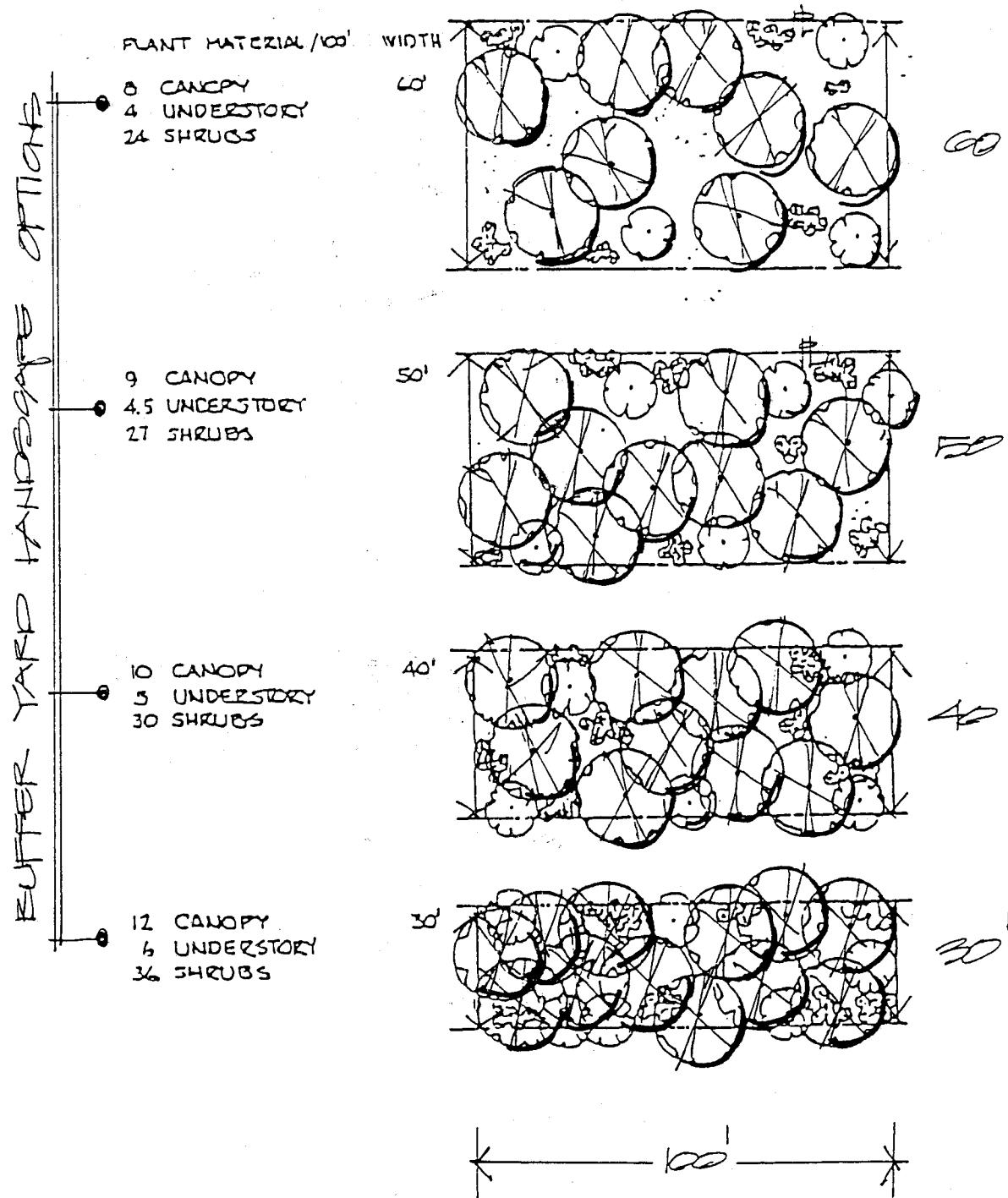
6 CANOPY
24 UNDERSTORY
SHRUBS



6.6 CANOPY
3.5 UNDERSTORY
28 SHRUBS



TRANSITIONAL BUFFER YARD RESIDENTIAL/HEAVY INDUSTRY



TRANSITIONAL BUFFER YARD RESIDENTIAL/HEAVY INDUSTRY

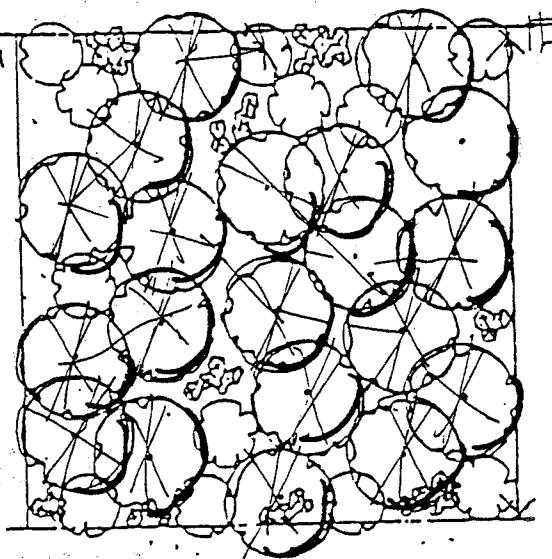
BUFFER YARD Landscape Options

PLANT MATERIAL / 100'

- 20 CANOPY
- 12 UNDERSTORY
- 40 SHRUBS

WIDTH

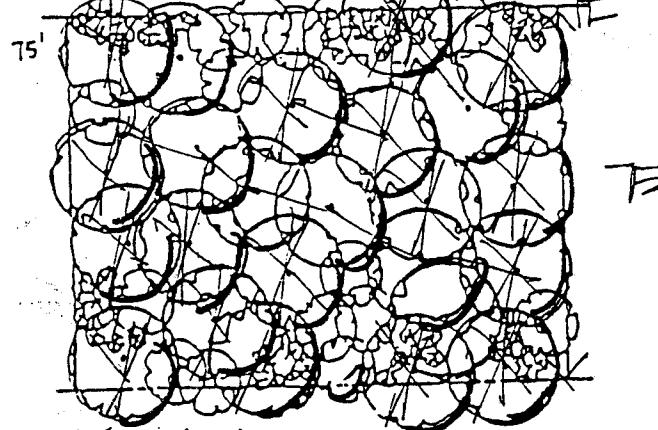
100'



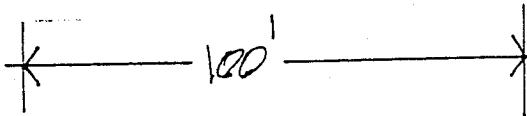
100'

- 25 CANOPY
- 15 UNDERSTORY
- 50 SHRUBS

3 FOOT DEEM



75'



Appendix 14.D:
SITE PLAN CHECKLIST

Two copies of the Site Plan Checklist shall be prepared and certified by the person(s) preparing the plan and shall be submitted with any initial application or resubmission for a Preliminary or Final Site Plan. The checklist shall be deemed "incomplete" if all items are not fully addressed.

(Official Copy)

**MINIMUM SUBMISSION REQUIREMENTS CHECKLIST
FOR SITE PLANS**

The Town of Smithfield

Project Name: _____

Project Location: _____

Tax Map and Deed Book: _____

Town Project Ref. #: _____

Submission Date: _____

Date of Revision: _____

Applicant (Type or print): _____

Applicant's Signature: _____

Address: _____

Phone #: _____

Engineer/Surveyor: _____

Address: _____

Phone #: _____

SITE PLAN TITLE SHEET

	YES	NO	N/A
1. Title of project.	—	—	—
2. Name, address, phone number and seal of preparer of plan, boundary survey, and topographic mapping.	—	—	—
3. Name, address and phone number of owner of property.	—	—	—
4. Tax map number, parcel number, deed book reference and zoning classification for parcel and adjacent properties.	—	—	—
5. Proposed zoning classification.	—	—	—
6. Description of planned land use, along with projected number of employees (for non-residential land uses) and other information related to the activities to be conducted on the property.	—	—	—
7. Date of plan and mapping preparation.	—	—	—
8. Vicinity map and location of zoning district boundaries.	—	—	—
9. Gross acreage (or square footage) of property.	—	—	—
10. Net developable area of property and supporting calculations.	—	—	—
11. Copy of rezoning proffers, special use permit conditions, and waivers or variances granted.	—	—	—
12. A blank space, sized 4" x 4", for Town review and approval notations.	—	—	—

MAPPING AND BOUNDARY SURVEY INFORMATION:

1. Title, title source, and name of owner of lot and subdivision names and/or lot owners for surrounding lots.
2. Metes and bounds of property. A current certified boundary survey of the property prepared to National Mapping Standards accuracy shall be submitted with the site plan in both paper and digital form and shall include the following:
 - 3. Location and metes and bounds of all existing property lines, rights of way and easements.
 - 4. Names of existing streets in and adjoining the development.
 - 5. Setback and yard lines in accord with zoning requirements.
 - 6. Location of Chesapeake Bay Preservation Area RPA boundaries.
 - 7. Reference to survey datum. Horizontal control shall be based on Virginia State Plane Coordinate System, Zone 5576 in a North American Datum 1983 coordinate system.
 - 8. All digital survey data must be contained in a .dxf file on either a 1.44 mb floppy disk or 100 mb zip disk, and the submission file must contain a list providing the name and a brief description of each layer in the file.
 - 9. Statement of boundary survey closure accuracy and compliance with National Mapping Standards including a certification that the digital data is a true representation of the paper copy.
 - 10. Signature and seal of person certifying boundary and topographic mapping.

MINIMUM INFORMATION TO BE INCLUDED ON SITE PLANS:

1. Location, dimensions, design sections, grading, construction specifications of all site improvements, including, but not limited to, existing and proposed streets, travelways, alleys, curb and gutter, sidewalk and driveways, including proposed street names and locations for street lights, street signs, and traffic signals.
2. Location of existing and proposed buildings and accessory structures, including land area coverage and floor elevations of proposed use.
3. Location of existing utilities within and adjacent to the development including size and elevation. Provide elevation profile where grading is proposed above utility or within easement limits.
4. Site plan and design profiles of proposed streets and travelways (public or private) depicting:
 - (a) street stations at appropriate station intervals,
 - (b) percent of longitudinal grades,
 - (c) elevations at 50-foot stations in vertical tangent sections and on 25-foot stations in vertical curves,
 - (d) finished grades (on site plans),
 - (e) spot elevations for all non-typical sections,
 - (f) locations of entrances, taper design and any necessary structures and roadway appurtenances.
 - (g) horizontal and vertical curve data, including definition of curve control point (PI, PC, PT, PVI, etc.)
 - (h) sight distances for all crest and sag vertical curves.
 - (i) sight distances (horizontal and vertical) at all street intersections and road entrances other than single family driveways, unless warranted by unique topographical conditions.
 - (j) street intersections showing spot elevations along curb radii and in pavement area as necessary to define surface drainage patterns.
 - (k) super-elevation tables shall be provided where streets require super-elevation.
5. Site plan location and design specifications for off-street parking, travelways, parking lots, sidewalks, and loading areas, including:
 - (a) building square footage / use class unit.

- (b) site access plan for internal traffic and pedestrian circulation, including handicap access.
- (c) size of parking spaces, angle of stalls, width of aisles.
- (d) travelway and parking lot pavement sections.
- (e) pavement design calculations.
- (f) parking calculations, including ADA requirements.
- (g) provisions for emergency access / fire protection.
- (h) location and marking of permanent fire lanes, if required.
- (i) pavement striping and marking.
- (j) finished grades and spot elevations at critical design points.

6. Location, size, and characteristics of geophysical and environmental features (such as wetlands, ponds, springs, streams, watercourses, high shrink/swell soils, adverse soils conditions, etc.) and other conditions which impact the calculation of net developable area, as defined. The site plan shall graphically depict the location and calculations of net developable area shall be provided for the site's physical land units (to the nearest 0.1 acre).
7. Location, size, design profiles and design calculations for proposed domestic water service and sanitary sewer mains and laterals. Invert elevations shall be shown to the nearest 0.01' accuracy. Location of gas, telephone, electric and other utility lines and other underground or overhead structures in or affecting the project. Plans shall include detail of utility appurtenances and construction procedures.
8. Site plans for projects which require utility pumping storage or treatment facilities shall be supported by appropriate structural, hydraulic, electrical and mechanical plans and construction specifications.
9. Detailed site grading plan depicting finished contours, to be prepared at a minimum two (2) foot contour interval, with spot elevations, as required, at key locations of paving, sidewalks, curb and gutter, and other proposed surface improvements.
10. Site plan and design profiles for storm water drainage improvements, including locations of existing and proposed stormwater drainage conveyance pipes, culverts, channels and drop inlets, indicating size, type and grade of all proposed improvements. Typical sections and linings for all channels shall be included. Invert elevations and other design details for all drainage improvements shall be shown to the nearest 0.01' accuracy.

Energy grade lines shall be shown on profiles. A drainage delineation map, prepared at the same scale as the site plan, shall include drainage divides and areas of contributing runoff to proposed improvements.

11. Site plan and design profiles for stormwater management (SWM) and Best Management Practices (BMP) structures, including detailed plan and section views of retention/detention ponds, underground storage structures, and other facilities. Elevations for the calculated 2-, 10-, and 100-year post-development water surface elevations shall be shown.
12. Location, width and purpose of all existing and proposed utility easements.
13. Location and boundaries of existing water courses, 100-year flood plain and floodways.
14. Location of tidal and non-tidal wetlands, including location and characterization of Chesapeake Bay Preservation Areas.
15. Erosion and sediment control plan and narrative report.
16. Site plan location and design criteria for the following:
 - (a) recreation areas (including playgrounds, courts, fields, pedestrian walkways, bike paths, etc.)
 - (b) open space, including required land area calculations.
 - (c) site amenities.
 - (d) retaining walls (include calculations).
 - (e) site and building signage, including street and advertising signs
 - (f) site lighting (exterior and building mounted), including height, illumination intensity, foot-candle distributions, and fixture type and shielding, as required).
 - (g) provisions and location for public trash pick-up.
 - (h) refuse collection and dumpster locations, including access and screening.
 - (i) locations and design for traffic control devices and signalization.
 - (j) building and structural footings.

17. Landscape architecture plan and screening plan, showing tree save areas.
18. Water quality impact assessment, pursuant to Chesapeake Bay Preservation Area Ordinance.

ADDITIONAL REQUIRED SUPPORTING INFORMATION:

1. Storm drainage and stormwater management engineering report, to include:
 - (a) hydrologic calculations and hydraulic modeling of the contributing drainage basin.
 - (b) energy grade line calculations for all enclosed pipe systems.
 - (c) storm runoff for pre-development and post-development characteristics, based on TR-55, the Modified Rational Formula or other appropriate modeling techniques as approved by the Planning and Zoning Administrator.
 - (d) analysis and verification of receiving channel capacity.
 - (e) stormwater management pond or retention/detention structure routing and performance analysis, and
 - (f) storm culvert, pipe, and inlet (street and yard) design loading and sizing calculations.
2. Geotechnical report for proposed buildings, structures, streets, pavements, and other infrastructure, as required.
3. Foundation design calculations and construction criteria, where required.
4. Pavement design calculations for all streets and travelways.
5. A phasing plan, if the development is to be constructed in more than one phase. The phasing plan shall clearly indicate by phase lines, notes or other methods which facilities are to be constructed under each phase. Plans shall indicate locations of contour tie-ins for each phase and specific measures for phased termination of all water, sewer, storm drainage, streets and other public improvements. Plans for erosion control and drainage facilities shall be designed and displayed independently for each phase.
6. Articles of incorporation, covenants and property maintenance documents related to the ownership, management, and maintenance functions for any

condominium development or other property wherein common ownership agreements exist or as otherwise required by this ordinance.

— — —

7. Statement of facility and land use operations and activities, including hours of operation, number of employees and number of work shifts.

— — —

8. Every use requiring the establishment of a buffer yard or screening area shall note the following restriction regarding the use of such buffer on a plan or other instrument recorded among the land records:

“Land designated as required buffers or landscape screening shall be landscaped and may only be used for structures, uses, or facilities in accord with the Zoning Ordinance.”

9. Application for waiver, variance or substitution (copies attached.)

— — —

10. Public improvements bond estimate (copies attached.)

— — —

11. Erosion and sediment control bond estimate (copies attached.)

— — —

12. Traffic generation volumes of proposed project.

— — —

13. Floor Plan (8.5" x 11" sheet) for use by the Smithfield Volunteer Fire Dept

— — —

PROVISIONAL INFORMATION ON MAJOR SITE PLANS:

The Planning and Zoning Administrator may require any or all of the following information and any other materials as may be deemed necessary for its review (to be determined at pre-application conference:)

1. Statement of estimated construction time.

— — —

2. Photographs and maps relating proposed use to surrounding properties.

— — —

3. Site design drawings, showing building configuration, topography and relationship to site improvements, color and building materials.

— — —

4. Architectural drawings showing plan and elevations of new planned construction or renovations, including drawings of the original building.

5. Traffic impact assessment (per Town requirements).

6. Additional documentation and technical reports (copies attached) as may be required by Planning and Zoning Administrator. (List on attached sheet)

Surveyor/Engineer's Certification of Completion of Check List:

I have fully reviewed the Town's requirements and certify this application to be a complete submission. I understand that an incomplete plat or incomplete check list shall be deemed an incomplete submission and shall be returned to the applicant upon determination of such by the Planning and Zoning Administrator.

Name

date

Professional Seal and Registration #