

Article 2:
GENERAL REGULATIONS

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

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

Any territory hereafter annexed into the Town of Smithfield shall be considered classified under the C-C, Community Conservation District, unless otherwise designated by ordinance or annexation agreement.

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 apartments 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. Portable storage units are permitted for use for a maximum of sixty (60) 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, are considered temporary accessory structures. 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). At no time shall shipping containers be stacked or used for habitation, without the successful acquisition of a Special Use Permit. Shipping 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. 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.

(Ord. of 9-5-2000; Ord. of 8-1-2001; Ord. of 3-1-2005; Ord. of 9-06-2011; Ord. 2022-01-??)

Q. Accessory Apartments

One accessory apartment may be maintained within a single-family detached dwelling in the C-C, S-R, N-R and DN-R zoning districts, contingent upon approval as a special use, in accordance with this article, and subject to the following:

1. The occupants of the accessory apartment shall be related to the owner of the principal dwelling by blood, adoption or marriage.
2. There shall be no other apartment facilities or room rentals in the dwelling or its accessory buildings.
3. The principal dwelling shall be occupied during the maintenance of the accessory apartment by the fee simple owner and members of the owner's family related by blood, adoption or marriage.
4. The permitted accessory apartment shall be exclusively occupied by not more than two persons, at least one of whom is related to the owner by blood, adoption or marriage and who must be either 62 years of age or older or must be physically or mentally handicapped, and the other occupant whom, if not of the requisite age, handicapped condition or familial relationship, must be a live-in attendant of the qualifying handicapped person.
 - a. A person shall be deemed physically or mentally handicapped if by virtue of a physical or mental condition such person is permanently incapable of carrying on some material activity reasonably necessary to independent daily living.
 - b. A written certification by the handicapped person's regular physician shall accompany the permit application. Such certification shall state the nature of the handicap, the effect upon the person's ability to function normally in daily life, the expected duration of the handicap and whether or not the handicap may be expected to moderate with time.

5. Off-street parking shall be as required by Article 8.
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 apartment and of the building housing same shall be presented to and approved by the Planning and 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 apartment shall have a floor area of not less than 400 square feet nor greater than 800 square feet, but in no event shall the floor area of an accessory apartment exceed twenty-five (25) percent of the existing floor area of the main building which will house the same.
 - a. An accessory apartment 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 but not by a breezeway or porch. Accessory apartments 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 apartment shall be consistent with that of the character of the principal single-family dwelling.
 - c. An accessory apartment shall 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 apartment; all other exterior entrances shall be at the side or in the rear.
 - d. No accessory apartment shall be permitted in a basement or cellar or above the first floor of the principal dwelling.
9. If the following conditions are met, then the Planning and Zoning Administrator shall issue a temporary special use permit to allow the establishment and maintenance of the accessory apartment during the time of allowed occupancy:
 - a. The required public hearing is held;
 - b. The Planning and Zoning Administrator determines that all enumerated requirements have been satisfied and that the required accessory apartment

will not have a net negative effect upon the peace and tranquility of adjacent properties or upon the value thereof;

- c. All fee simple owners of the affected property have executed in form recordable among the land records of the clerk's office of the Circuit Court of the County of Isle of Wight an agreement to remove the necessary kitchen improvements and to do all other things necessary to establish the accessory apartment area as a functional, non-discrete portion of the single-family dwelling housing same upon termination of the required temporary special exception permit; and
 - d. All applicable requirements of Article 12 have been met.
10. After construction of the accessory apartment has been completed, but prior to its occupancy, a fee simple owner of the main building housing same shall certify by affidavit delivered to the Planning and Zoning Administrator that the persons who will occupy such apartment are the same to whom information was presented to the Planning and Zoning Administrator and that any handicap which formed the basis for the issuance of the temporary special exception permit continues. Upon receipt of such affidavit in proper form, an occupancy permit shall be issued. Thereafter, the applicant or other fee simple owner of the property in question shall submit such notarized affidavit to the Planning and Zoning Administrator by first of September of each ensuing year as a requirement for the continuance of the temporary special use permit and the occupancy permit.
11. Within 45 days after the use of an accessory apartment is discontinued or after said use ceases to comply with the requirements of this section, the kitchen facilities (other than permanently installed plumbing pipes located in the wall and/or floor) shall be removed and said accessory apartments shall be brought into compliance with this ordinance in all respects. Furthermore, the portion of the main building which had contained the accessory apartment shall not thereafter be occupied or maintained as a separate dwelling unit. "Kitchen facilities" shall include sinks, dishwashers, stoves, refrigerators and the like.

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. Author or composer.
 - c. Computer programmer or internet service provider.
 - d. Home care provider
 - e. Tailor or seamstress.
 - f. (Repealed by Ord. 2020-08-04).
 - g. Tutoring.
 - h. Salesperson, provided that no retail or wholesale transactions occur on premises.
 - i. Telephone answering service.
 - j. Music teacher, limited to two students at any one time.
 - k. Caterer.
 - l. 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.)

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.
18. 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.
19. 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. Protection Area (RPA) designation upon it, will require the rear yard setback to begin at a minimum of twenty-five (25) feet from the RPA line. That will assure that there is adequate area to locate all buildings and structures outside the RPA.
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, not less than six days or more than twenty-one days after the second advertisement shall appear in such newspaper with not less than six days elapsing between the first and second publication.
 - 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, Rezoning 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. To protect the citizens of the Town from excessive noise, event 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)

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.

(Ord. of 2020-09-01)

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. Group homes and 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; 2022-01-??)

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.)*

Physical Land Unit

Percent Credited Toward Net Acreage

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

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.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. (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)

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 and pawn shops.
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).
(Ord. of 2005-11-01; Ord. of 2008-09-02; Ord. of 2011-04-05; Ord. of 2019-09-03; Ord. 2022-01-??)

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.)*

<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>	<i>50%</i>
<i>Slopes 30% or more:</i>	<i>10%</i>
<i>Soils with high shrink/swell characteristics, as defined:</i>	<i>75%</i>
<i>Wetlands, existing water features and streams:</i>	<i>0%</i>
<i>Stormwater management basins and structures:</i>	<i>0%</i>
<i>Above-ground 69 KV or greater transmission lines:</i>	<i>0%</i>
<i>Public right-of-way</i>	<i>0%</i>
<i>Private streets, travelways and combined travelways and parking bays</i>	<i>0%</i>

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.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 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 and pawn shops.
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 2022-01-??)

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

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.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 2022-01-??)

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 and pawn shops.
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)

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 13:
DEFINITIONS

Article 13:
Definitions

A. Interpretations:

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

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

B. Definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Bank: See **Financial institution**.

Base Flood: See **Flood**.

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

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

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

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

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

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

Curb grade: The elevation of the established curb in front of the building measured at the midpoint of such frontage. Where no curb exists, the Town engineer shall establish such curb

grade for the existing or proposed street in accordance with the existing street grading plans of the Town.

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

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

Density: The number of dwelling units per acre.

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

Development: The division of land, or construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures.

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

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

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

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

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

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

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

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

Dwelling: A building or portion thereof, designed or used exclusively for residential occupancy. The term “dwelling” shall not be construed to mean a boat, trailer, mobile home, motor home, manufactured home, motel, rooming house, hospital or other accommodation used for transient occupancy.

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

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

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 which is used to provide assisted community living for persons with physical, mental, emotional, familial or social difficulties and in which a maximum of eight (8) such persons receiving community living assistance reside. For the purpose of this Ordinance, a group home shall not be deemed a family, and a facility which provides assisted community living for more than eight (8) persons shall be deemed an institutional use for the care of the indigent, orphans and the like.

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

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

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

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

ITE: Institute of Traffic Engineers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Office: Any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, dentists or physicians, urban planners and landscape architects. For the purpose of this Ordinance, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and/or delivery of any materials, goods or products which are physically located on the premises. An office shall not be deemed to include a veterinary clinic.

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

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

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

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

Open space, landscaped: That open space within the boundaries of a given lot that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance

of openness. Landscaped open space may include, but need not be limited to lawns, decorative planting, flower beds, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural or artificial objects, wooded areas and water courses, any or all of which are designed and arranged to produce an esthetically pleasing effect within the development. Landscaped open space may be either **Common** or **Dedicated open space** as defined herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

Restaurant: See **Eating establishments**.

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

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

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

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

Rooming house: see **Boardinghouse**.

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

Semi-permeable or Permeable Materials: Grid and modular pavements, consisting of bricks or blocks designed to allow water percolation, and other semi-permeable or permeable surfacing

materials, such as permeable asphalt or gravel, shall be used for any required parking areas, and low traffic areas and driveways, unless otherwise approved by the Zoning Administrator.

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

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

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

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

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

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

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

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

Tidal wetlands: Vegetated and nonvegetated wetlands. Vegetated wetlands are defined as lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass, saltmeadow hay, saltgrass, black needlerush, saltwort, sea lavender, marsh elder, groundsel bush, wax myrtle, sea oxeye, arrow arum, pickerelweed, big cordgrass, rice cutgrass, wildrice, bulrush, spikerush, sea rocket, southern wildrice, cattail, three-square, buttonbush, bald cypress, black gum, tupelo, dock, yellow pond lily, marsh fleabane, royal fern, marsh hibiscus, beggar's tick, smartweed, arrowhead, sweet flag, water hemp, reed grass, or switch grass. Nonvegetated wetlands are defined as unvegetated lands lying contiguous to mean low water and between mean low water and mean high water.

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

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

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

Trash: see **Refuse**.

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

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

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

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

Variance: A reasonable deviation from provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk, or location of a building or structure when the strict application of this chapter would result in inordinate hardship to the property owner. Such need for a variance is site specific and would not be shared generally by other properties, provided such variance is not contrary to the intended spirit and purpose of the zoning ordinance and the Comprehensive Plan, and such variance would result in substantial justice being done to the property owner. The term "variance" shall not include a change in use that would be accomplished by a rezoning or a conditional zoning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Zoning district: See "District."

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

(Ord. of 2000-8-1; Ord. 2000-10-3; Ord. of 2004-4-6; Ord. of 2005-12-6; Ord. of 2019-9-3; Ord. of 2020-09-01; [Ord. of 2022-01-??](#))