

BUILDING AND DEVELOPMENT CONTROL LOCAL LAW TOWN OF SMITHFIELD

AS AMENDED BY LOCAL LAWS

1992-2, 1993-2, 1995-1; 1995-2, 2004-1, 2005-1, 2006-2, 2007-1

8/13/07

ARTICLE I: TITLE, ENACTING CLAUSE, PURPOSE, APPLICATION

Section 1.1 Purposes of the Building and Development Control Local Law

The purposes of this Building and Development Control Local Law and the regulations herein set forth are to provide for the orderly growth of the Town, to encourage the most appropriate use of land, to promote compatible land uses, to protect and conserve the value of property, to prevent the overcrowding of land, and to promote the health, safety and general welfare of the public.

Section 1.2 Application of Regulations

Except as herein provided:

No building or land shall hereafter be used or occupied and no building, structure or mobile home or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified.

ARTICLE II: DEFINITIONS

Section 2.1 Customary Meaning of Words

Except where specifically defined herein all words used in this Local Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular, the word "lot" includes the word "plot"; the word "building:" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by words "or intended, arranged or designed to be used or occupied".

Section 2.2 Definitions

Agricultural Products - Any organic product with commercial value grown or raised on a farm, including but not necessarily limited to, vegetables, plants, trees, seedlings and other produce, cattle, hogs, chicken, turkeys, goats, sheep, milk and other livestock products, corn, grains, soybeans, hay, straw and other livestock feeds.

Agricultural Use or Farm - Lot containing at least ten acres which is used primarily for raising livestock or other agricultural products, including greenhouses and other farm structures and the storage of agricultural equipment; and as an accessory use the sale of agricultural products raised on the property. Cultivation of wood lots is considered an agricultural use.

Board of Appeals - Board of Appeals of the Town of Smithfield.

Building - Any structure other than a mobile home having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or other personal property.

Building Line - The line parallel to the lot line beyond which a building cannot extend under the terms of this Local Law. This is the line from which the setback measurements for purposes of Section 3.4 of this Local Law are determined. If a building has an attached sun parlor, enclosed porch, and/or unenclosed porch projecting more than ten (10) feet from the wall of the building, excluding the steps, then the setback shall be measured from the front edge of the porch rather than from the wall of the main building.

Building Permit - A permit issued by the Codes Enforcement Officer stating that the purpose for which a building or land is to be used is in conformity with all requirements under this Local Law, the New York State Uniform Building Code and any other applicable Codes and Ordinances for the lot on which it is located or is to be located.

Certificate of Occupancy - A certificate issued by the Codes Enforcement Officer upon completion of construction, alteration, or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Local Law and such adjustments thereto granted by the Town Board or Planning Board.

Double Wide Mobile Dwelling – a single family residence structure containing not less than 1200 square feet of living space, exclusive of basements, garages, attics and similar spaces not constituting habitable space under the New York State Building Code which consists of two separate and distinct halves, each of which contains a permanent towing frame as part of its structure which makes it capable of being towed on a public highway, and each of which is manufactured in such a manner as to be used as a dwelling or place of business only in conjunction with the other half when the two halves are placed together.

Dwelling, Modular – A dwelling unit of modular construction consisting of more than one component module and designed to be permanently anchored to a foundation, thereby becoming a fixed part of the real estate. (For the purpose of this Local Law a modular home containing one dwelling unit shall be considered a single-family dwelling.)

Dwelling, Multifamily - A building or portion thereof containing two or more dwelling units and used for occupancy by two or more families living independently of each other.

Dwelling, Single Family - A detached building containing one dwelling unit only.

Dwelling Unit - A complete self-contained residential unit, with living, sleeping, cooking, and sanitary facilities within the unit, for use by one family

Family - One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five unrelated members.

Farm Building - Any building used for the housing of agricultural equipment, or agricultural products or for the incidental or customary processing of agricultural products, and provided that such building is located on, operated in conjunction with and necessary to the operation of the farm.

Farm Equipment - Tractors, machinery, trucks and other equipment used in the production, harvesting, handling, maintenance and storage of agricultural products and farm buildings.

Garage, Private - A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or services for profit (other than incidental and infrequent services for profit) are carried on.

Landscaping - The act of changing or enhancing the natural features of a plot of ground (usually around a building) so as to make it more attractive, as by adding lawns, trees, bushes, shrubs, etc.

Lot - Parcel of land occupied, or designed to be occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are arranged and designed to be used in connection with such buildings.

Lot Area - An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be included in calculating lot area.

Lot Depth - The horizontal distance between the front and rear lot lines, measured at right angles to the front lot line.

Lot Lines - The property lines bounding the lot.

Lot Width - The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

Mobile Home - A single, self contained portable structure or vehicle with a permanently affixed towing frame, capable of being propelled or towed on a public highway (whether or not the wheels are presently attached), and so designed and constructed as to permit

(pursuant to applicable codes) its use as a residence or as an office for the conduct of a trade, business, profession or occupation. For purposes of this Local Law, travel trailer and motor homes shall not be considered mobile homes.

Mobile Home Park - a parcel of land at least five (5) acres in size owned or operated by a single party upon which five (5) or more mobile homes are placed and occupied for residential purposes in accordance with licenses issued by the Town of Smithfield and the Madison County Department of Health.

Mobile Home Site - any designated parcel of land in a mobile home park provided by the operator and designed for accommodating one mobile home, its accessory buildings, structures and equipment for the exclusive use of the occupants.

Modular Construction – A structure built in accordance with the requirements of the New York State Building Code, which is not constructed on the parcel where it is intended to be placed, but rather is transported to the site in a substantially constructed state for placement upon a permanent foundation, and which does not contain a permanent towing frame as part of the structure

Motor Home - a motor vehicle propelled by its own power which contains sleeping, and/or cooking and/or sanitary facilities designed and constructed for vacation or other similar temporary use.

New Mobile Home - any mobile home purchased directly from a mobile home dealer which has not been previously utilized as a residence or for the conduct of a trade, business, profession or occupation.

Nonconforming Use or Structure - A use, accessory use, structure, secondary structure, accessory structure, lot, yard or any other activity, component or dimension relating to the use of land, and the improvements thereon, which does not comply with the applicable regulations contained in this Local Law, but which was not in violation of any laws or ordinances at the time of adoption of this Local Law.

Plan (Plot or Site) - The design of a development, including a: plot or subdivision, all covenants relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, private streets, ways and parking facilities. The phrase "provisions of the Plan" when used in these regulations shall mean the written and graphic materials referred to in this definition.

Planning Board - Planning Board of the Town of Smithfield.

Permanent Residence - any building, structure, or mobile home placed on a parcel with the intent that it remain there indefinitely for use as a residence.

Residence - a dwelling place so constructed and/or situated, with water, sewerage and utility facilities attached or provided, so as to contemplate and permit (pursuant to applicable codes) continuous, year-around use thereof for human habitation.

Screening - A permanent barrier including but not limited to, fences, bushes, or trees or other natural and/or artificial material, at least four (4) feet high, which obscures the visual character of any given building or use of land.

Setback - The distance between a lot line and principal, accessory, or secondary structure as required by this Local Law. Where a public or private right-of-way abuts a lot line, the setback shall be measured from the boundary line of said right-of-way closest to the interior of the lot.

Skirting - material of rigid composition for placement around all sides of a mobile home extending from the base of the mobile home to the surface of the ground or pad beneath it, with vent spaces as necessary, and painted in such a manner as to be compatible with the mobile home.

Special Use Permit - A permit for a use considered generally compatible with other permitted uses, but only if certain conditions are met.

Street line - Limit of street or highway right-of-way line. For the purpose of this Local Law, street line shall be the highway right-of-way line, whether or not set forth in a deed or shown on a map, defining the corridors for vehicular and pedestrian traffic used by the general public.

Structure - Anything constructed, erected, installed on or in the ground or which is attached to something located on or in the ground which shall be safe and stable. Structures include but are not limited to stadiums, signs, and in-ground swimming pools.

Structure, Accessory - Structure designed to accommodate an accessory use, but detached from the principal structure such as a garage for vehicles accessory to the principal use, a free standing storage shed, garden house, or similar facility. An accessory structure attached or contained within a principal structure shall be considered part of the principal structure. Barns or other structures designed or intended for the housing of livestock or other animals shall not be considered accessory structures.

Structure Height of - The vertical distance measured from the average elevation of the proposed finished grade at the front of the structure to the highest point of the roof.

Structure, Principal - A structure designed primarily to accommodate the principal use of a lot, such as a dwelling, house, apartment, office, factory, and other commercial structures. A structure designed to provide closed storage of vehicles and which is attached to or contained within a principal structure shall be considered part of the same.

Temporary Residence - any mobile home placed on a parcel for use as a residence during such time, not to exceed two years, as a permanent dwelling is being constructed upon the same parcel.

Travel Trailer - a vehicle not propelled by its own power and drawn by a separate powered motor vehicle, which contains sleeping, and/or cooking and/or sanitary facilities designed and construction for vacation or other similar temporary use.

Use, Accessory - A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Use, Principal - An activity which may be carried on independently of any other activity and which generally characterizes the primary purpose for which land and/or the principal structures thereon are intended and designed.

Used Mobile Home - any mobile home other than a new mobile home as defined herein.

Yard - An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Local Law.

Yard, Front - The open space extending the full width of the lot from the front line parallel to the part of the principal building which is nearest to such front lot line.

Yard, Rear - An open space extended across the entire width of the lot from the rear lot line parallel to the part of the principal building which is nearest to such rear lot line, unoccupied except for accessory building and open porches.

ARTICLE III: REGULATIONS APPLICABLE TO ALL PROPERTIES, BUILDINGS AND USES

Section 3.1 The following uses are permitted uses on all properties within the Town:

- a. Single family dwellings and associated private garages and outbuildings, including tool sheds, playhouses and greenhouses, pet shelters and swimming pools.
- b. Farms and farm buildings, including the sale of agricultural products grown or produced upon the premises.
- c. Orchards, tree and plant nurseries and forestry operations (limited to growing and cutting of trees and excluding commercial operations involving processing and/or manufacturing of trees and tree products).
- d. In-home occupations not involving regular motor vehicle traffic by someone other than a resident of the premises upon or to the premises as a result of the conduct of the business constituting the in home occupation.
- e. Municipal buildings, parks, libraries, museums and schools.

- f. Churches.
- g. Double wide mobile dwellings upon satisfaction of the following standards, as determined and verified by the Codes Enforcement Officer:
 - i. All double wide mobile dwellings shall be sited upon either a full basement with a concrete floor, a crawl space with a concrete floor, or a six inch floating concrete slab. All concrete slabs shall contain steel reinforcing and shall be at least as large as the exterior dimensions of the home to be placed upon it.
 - ii. All double wide mobile dwellings placed on a concrete slab must be skirted with concrete blocks at least six inches in depth parged with masonry material and waterproof coating. The area beneath the floor of the dwelling must be adequately ventilated as required by the New York State Building Code and the manufacturer's recommendations, as applicable.
 - iii. The roof pitch of the dwelling shall be not less than 4:12.
 - iv. The exterior of the dwelling must be sided with a material approved for use as siding under the New York State Building Code.
 - v. The roof of the dwelling must be comprised of a material approved for residential roofing applications under the New York State Building Code.
 - vi. All double wide mobile dwellings without a watertight area suitable for storage, such as a basement or garage area, must include an accessory storage building having at least 100 square feet of watertight storage area. There shall be no outdoor storage of personal property of any kind, (other than motor vehicles in a driveway or suitable constructed parking area), unless contained within a fenced-in area which prevents the contents of the area from being viewed from outside the fence.
 - vii. The Codes Enforcement Officer shall inspect the site prior to installation of the double wide mobile dwelling and shall conduct inspections to ensure compliance with the manufacturer's set-up requirements and proper electrical, water and septic connections, as well as the applicable site preparation and other requirements of this local law.

Section 3.2 The following uses are permitted uses on all properties within the Town upon the issuance of a Special Use Permit by the Planning Board.

- a. Multifamily dwellings (includes all buildings housing or intended to house two or more families in separate living quarters).
- b. All commercial uses.
- c. All industrial uses.
- d. In-home occupations other than those specified in section 3.1 (d) of this Local Law.
- e. Facilities for the storage, dismantling or processing of scrap metal, junk, junk cars and equipment or solid waste.

- f. Private clubs and non-commercial recreational uses.

Section 3.3 The following lot size and dimension standards apply to all uses, including single family dwellings, and all structures unless otherwise specified in this Local Law:

- a. Minimum lot size shall be one (1) acre unless an alternate septic system is required to comply with New York State standards, in which case the minimum lot size shall be two (2) acres.
- b. Minimum road frontage shall be two hundred (200) feet.
- c. Minimum lot depth shall be one hundred fifty (150) feet.
- d. Minimum front yard setback shall be sixty (60) feet.
- e. Minimum rear yard setback shall be thirty (30) feet.
- f. Minimum side yard setback shall be thirty (30) feet.
- g. Maximum building height shall be thirty-five (35) feet (farm buildings shall be exempt from this requirement).
- h. Maximum area of lot coverage by building(s) or structures shall be twenty (20) percent.
- i. Lot depth shall not be more than three (3) times the length of the road frontage of the lot.

Wind Power (Sections 3.3B – 3.3D)

Section 3.3-B The following lot size, dimension and construction standards apply to wind powered electricity generation facilities only, and shall supersede any other inconsistent provisions of this Local Law:

- a. Minimum lot size shall be five (5) acres.
- b. Minimum road frontage shall be four hundred fifty (450) feet.
- c. Minimum lot depth shall be four hundred fifty (450) feet.
- d. Maximum structure height shall be as determined by the Planning Board in the course of its special permit review.
- e. i. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding street and property lines, public street rights of way, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, electrical substations and separate meteorological tower facilities, shall be equal to no less than 1.5 times the sum of the proposed structure height plus the rotor radius. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds that the following circumstances apply: the property line in question a) separates two properties that are both part of a commercial wind powered electricity generation facility, and b) either, i) both properties on each side of the boundary line in question will have electricity generation or transmission facilities constructed on them as part of the project under review, or ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the

- Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.
- ii. No experimental, home built, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure, and a determination by the Planning Board of appropriate setback distances on the basis of that documentation.

Section 3-3-C Additional standards for granting special use permits for wind power electricity generation and transmission facilities

No special use permit shall be granted for commercial wind power electricity generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria, in addition to those general criteria listed in Section 3.3-B:

- a. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- b. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. The applicant shall submit documentation to this effect from a recognized consultant practicing in this field.
- c. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval as it applies to existing residential uses within 2000' of each tower for which such strobe lighting is proposed on property belonging to anyone other than the owner of the tower facility site in question.
- d. No individual tower facility shall be installed in any location that would substantially detract from or block the view of a portion of a recognized scenic view shed, as viewed from any public road right-of-way or publicly owned land.
- e. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.
- f. No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- g. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- h. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.

- i. Procedures acceptable to the Planning Board for emergency shut. down of power generation units shall be established as part of any special use permit issued.
- j. Prior to issuance of a Building Permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.
- k. No wind turbines will be located within eight (8) rotor hub heights (of the model of turbine used) of an existing residence unless either:
 - i. Documentation based on accepted software designed for the purpose is presented demonstrating that the residences would not be affected by seasonal shadow flicker (the casting of moving shadows by rotor blades at certain predictable times of day and year), or
 - ii. Applicant submits a legally binding agreement requiring the shutting down of the turbine or turbines casting the shadow flicker during the identified time periods of the identified days, for each year of operation, when residential shadow flicker would occur.

Turbine towers and rotors shall be painted matte white or matte grey or some other non-reflective, unobtrusive color acceptable to the Planning board.

Advertising on the tower or nacelle is prohibited.

Section 3.3-D Submission of additional supporting data for site plan of wind power electricity generation and transmission facilities

In addition to the site plan materials otherwise listed in this local/law, the following material shall be submitted to the Planning Board for the Board's special permit review of applications for commercial wind power electricity generation and/or transmission facilities:

- a. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing cultural features.
- b. Color photos, no smaller than 3"x5", taken from locations selected or approved by the Planning Board within a three-mile radius from the center of the project and computer-enhanced to simulate the appearance of the site facilities as they would appear, as built, from these locations. No fewer than four and no more than the number of proposed individual wind turbines plus three of these photo

simulations shall be provided, the exact number to be determined by the Planning Board.

Section 3.4 Residential Lots Existing Prior to Adoption or Amendment of this Local Law.

For residential uses, upon review and after issuance of a Special Use Permit by the Planning Board, nothing shall prohibit a lot of less area or less frontage than that required for a single family dwelling, provided that a.) the lot cannot be enlarged to conform with these requirements, when such lot, at the time of the passage or amendment of this Local Law regulating the size of building lots, was held under separate ownership from the adjoining lots, or b.) such lot is a principal element of a subdivision map filed in the Office of the Madison County Clerk prior to adoption of this Local Law.

Section 3.5 Dwellings on Lots

There shall be only one residential building on a lot. More than one residence per lot shall only be permissible on farms for hired help or family members of the farm operator only, and then only upon the issuance of a Special Use Permit by the Planning Board.

Section 3.6 Building Coverage, Open Porches, Carports and Garages

In determining the percentage of building coverage of a lot or the size of yards, porches or carports open at the sides but roofed, and all principal and accessory buildings shall be included.

Section 3.7 Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of this Local Law shall be smaller than herein prescribed. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

Section 3.8 Yards on Corner Lots

Any yard adjoining a street shall be considered a front yard for the purposes of this Local Law, and shall comply with all requirements for a front yard.

Section 3.9 Projection in Yards

In determining any front, side or rear yard setback, the point of measurement on the structure shall be the foundation, unless the structure has sills, cornices, pilasters, chimneys and/or eaves which extend more than two feet out from the foundation, in which case the point of measurement shall be the edge of such extension.

Section 3.10 Access and Safety

The Planning Board may require changes or additions in relation to yards, driveways, driveway entrances and exits, landscaping, and the location and height of buildings and enclosures to insure safety, to minimize traffic difficulties, and to safeguard adjacent properties.

Section 3.11 Accessory Structures in Residential Lots.

Lot line setbacks from the site or rear lot lines shall be reduced to a minimum of ten (10) feet for each accessory structure per lot, which structure shall not exceed 400 square feet of total floor area. The maximum height of such accessory structure shall not exceed 20 feet. This exception shall not apply to garages, which shall meet the setback requirements of Section 3.3.

Section 3.12 Storage of Vehicles and Junk.

Construction equipment and materials, vans and trucks of more than one ton carrying capacity, unlicensed motor vehicles, cars used for drag or stock car racing and accumulations of automotive or machine parts and/or scrap materials (including, but not limited to, metal, wood, paper or rags), rubbish or debris of any type must be stored in an enclosed garage or be hidden from the road and neighboring properties by an opaque fence at least eight (8) feet in height. Any such fence shall be located, to meet the setback requirements of Section 3.4 of this Local Law. All owners of property upon which is situated a junkyard as defined in Section 136 of the General Municipal Law of the State of New York shall secure a license from the Town Board to permit continuance of the junkyard. All such licenses shall be renewed annually upon application to the Town Board.

Up to two vehicles of the types described herein may be stored or parked upon the premises without complying with nor violating the provisions of this section. This section shall not apply to farm equipment on farms.

Section 3.13 Removal of Unlawful Junkyards and Unsafe or Detrimental Conditions.

- a. If the Town Board determines by written resolution that a property is in violation of Section 3.13 of this Local Law or Section 136 of the New York General Municipal Law, or that the condition of the property is dangerous or detrimental to the public health, safety or welfare, it may issue an order to the property owner to remedy such condition upon such terms the Town Board deems reasonable and just.
- b. Such a determination may only be made by the Town Board following a public hearing, notice of which was given to the property owner at least fourteen days

- prior thereto by regular U.S. mail and to the public in general by publication in the official Town newspaper at least five days prior thereto.
- c. Conditions which may be deemed dangerous or detrimental to the public health, safety or welfare shall include, but not necessarily be limited to the following:
 - i. unsafe or damaged buildings, structures, *vegetation*, pits or underground facilities;
 - ii. accumulation of junk, garbage or material of any sort likely to attract or harbor rodents or insects or foster disease or which hampers or obstructs the ability of fire, police, ambulances or other emergency vehicles to access any structure upon the premises or adjoining premises; and
 - iii. conditions which may be an attractive nuisance for children or others.
 - d. Upon notification from the Codes Enforcement Officer that the owner of the property has failed or refused to comply with the order of the Town Board, the Town Board may direct that the Town shall cause the offending conditions to be remedied. After the work has been completed, the Town Board shall compile a verified statement of all the direct costs of same, and add thereto a charge of fifty (50%) percent of the direct costs as compensation to the Town for administering, supervising and handling said work.
 - e. Upon completion of the verified statement and acceptance thereof by the Town Board, the Town Board shall direct that the amount thereof, including the charges added thereto, shall constitute a lien against the said premises and direct that the same shall be added to the next assessment roll of general Town taxes and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties, as the general Town tax and as part thereof. In addition thereto, interest shall run thereon from the date of filing the verified statement to the date of actual payment at seven and one-half (7 ½%) percent per annum.
 - f. Notwithstanding any provision herein to the contrary, the Town may at its election institute suite against the owner of the said premises for the direct costs, together with a charge of fifty (50%) percent in addition thereto as compensation to the Town for administering, supervising and handling said work, and enter judgment thereon against the owner personally for the aforesaid amount. The imposition and collection of any fine or penalty herein prescribed shall not bar the right of the Town to collect the costs of the removal or repair of any unsafe structure or condition as herein prescribed.

ARTICLE IV SUPPLEMENTARY REGULATIONS

Section 4.1 Sanitary Facilities.

- a. All residential, commercial and industrial structures shall have and maintain adequate and sanitary water supplies and sewage disposal systems in accordance with state and local regulations, to include indoor plumbing and adequate and approved septic system or connection to public sewer.
- b. On all premises, any storage or garbage, offal or other noxious domestic wastes that could create a public health nuisance by attracting, feeding or harboring rodents, insects or other animals or by creating an *offensive* odor, shall be stored in a sanitary manner in covered containers and removed from the premises in a regular periodic basis.

ARTICLE V PRE-EXISTING USES

Section 5.1 Nonconforming building, structures and uses.

The use of any building, structure or land existing at the time of the enactment of this Local Law may be continued, although such use does not conform to the provisions of this Local Law, except as hereinafter provided. However, any use of any building or land which under the provisions of prior ordinances or statutes, local or otherwise, is or was unlawful and in violation thereof, shall not operate to legalize such prior violation, nor to prevent enforcement of penalties therefore.

Section 5.2 Discontinuance.

When a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established except in conformity with this Local Law.

Section 5.3 Change of Use.

No non-conforming use shall be changed to other than a conforming use.

Section 5.4 Unsafe Structures, Restoration, Alteration and Extension.

A non-conforming structure or part thereof may be:

- a. Restored to a safe condition.
- b. Repaired if damaged by fire or other causes.

Section 5.5 Extension of Use

A non-conforming use shall not be extended without the issuance of a Special Use Permit. Extension of a lawful use to any part of a non-conforming building shall not be deemed extension of such non-conforming use.

ARTICLE VI ENFORCEMENT, ADMINISTRATION AND AMENDMENTS

Section 6.1 Enforcement.

This Local Law shall be enforced by the Codes Enforcement Officer of the Town of Smithfield, who shall be appointed by the Town Board and serve at its pleasure. The duties of the Codes Enforcement Officer under this Local Law shall be as follows:

- a. Enforce and administer the New York State Uniform Fire Prevention and Building Code (Uniform Code).
- b. Conduct construction inspections where a building permit has been issued, prior to enclosing or covering and upon completion of each stage of construction, including but not limited to the foundation, the structural elements (e.g., framing and superstructure), the electrical and plumbing systems, the fire prevention and detection systems and exit features for compliance with the Uniform Code. The owner or applicant shall be responsible for notifying the Building Inspector that the work is ready for inspection.
- c. Conduct inspections for compliances with the Uniform Code prior to issuance of a certificate of occupancy, where required.
- d. Conduct inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with building code provisions of the Uniform Code or with the provisions of this Local Law.
- e. Conduct any other inspections required by this chapter and as otherwise directed by the Town Supervisor and report to the Supervisor for appropriate enforcement action all known violations of this Local Law
- f. Provide forms and applications for building permits, sanitary system permits, mobile home permits and certificates of occupancy.
- g. Receive and grant or deny applications for building permits, sanitary system permits and mobile home permits and certificates of occupancy.
- h. Maintain a record *in* the office of the Town Clerk of all applications, permits, certificates and fees charged and collected and, upon request, furnish copies of such certificates and permits to persons having a proprietary or tenancy interest in the subject building or structure and file a monthly report with the Chairman of the Planning Board and the Town Supervisor on the number and type of building permits and certificates of occupancy issued the previous month.
- i. Prepare and serve appearance tickets directing any person or persons whom the Codes Enforcement Officer has reasonable cause to believe has violated any provision(s) of this Local Law to appear in Town of Smithfield Justice Court, or such other court of competent jurisdiction, to be prosecuted on such charge(s).

Section 6.2 Fees for Permits and Variances.

Fees may be charged for building permits issued, and for processing of variances and Special Permits. A schedule of fees as approved from time to time by the Town Board, shall be kept and posted in the office of the Town Clerk.

Section 6.3 Building Permit

- a. No building or structure, except farm buildings, shall be erected, added to or structurally altered, nor shall any solid fuel burning heating appliance or component thereof be installed until a building permit has been issued by the Codes Enforcement Officer. No building permit shall be required for the following:
 - (1) The performance of routine and/or necessary repairs or maintenance which are not of a structural nature;
 - (2) Alterations to existing buildings, provided that the alterations:
 - i. cost less than \$10,000.00; and
 - ii. do not materially affect structural features; and
 - iii. do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits; and
 - iv. do not involve the installation or extension of electrical systems; and
 - v. do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.
 - (3) Small no-commercial structures with dimensions not exceeding 400 square feet of floor area and not intended for use by one or more persons as quarters for living, sleeping, eating or cooking, for example, a storage building, tool shed, playhouse, pet shelter or greenhouse.
- small b. Unless a proper variance has been previously granted by the Board of Appeals, the Codes Enforcement Officer shall not grant a building permit where the proposed construction, alteration, or use thereof would be in violation of this Local Law or the New York State Uniform Building Code or other applicable health, safety and sanitary codes, statutes or regulations.
- c. The Codes Enforcement Officer shall not grant a building permit until he has been presented with and he has approved plans for construction, and also plans for water supply and sanitary sewage disposal in accordance with New York State and Town of Smithfield Regulations. On-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a statement to this effect shall be made on the application. Unless the site is served by a public sewer system, the certified results of at least two percolation tests as described in Appendix 75A of the New York State Sanitation Code, Waste Treatment Handbook must be provided in the application. These tests should be performed in the area of the sewage disposal field and at the depth of the bottom of the proposed trench. The certified results of at least one deep hole or soil boring test performed in the area of the proposed leach field shall also be reported in the application as evidence of the depth to bedrock or groundwater and types and depths of soils.

- d. There shall be submitted with all applications for building permits two (2) copies of construction plans and two (2) copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings, water and sanitary facilities (including all distance requirements or other site considerations imposed by and described in Appendix 75A of the New York State Sanitation Code, Waste Treatment Handbook), to be erected, added to or structurally altered, the proposed drainage of the lot and such other information as may be necessary to determine and provide for the enforcement of this chapter, including any natural features (rock outcroppings, wetlands, steep slopes, etc. which might impact upon the proposed construction).
- e. One (1) copy of such building plans, layout or plot plan shall be returned when approved by the Codes Enforcement Officer, together with such permit, to the applicant upon the payment of the fee required by the fee schedule approved by the Town Board.
- f. Except for permitted uses as defined in section 3.1, no building permit shall be issued prior to the issuance of a Special Use Permit by the Planning Board.
- g. Building permits shall expire one year from date of issuance; permits may be renewed for an additional year upon approval of the Codes Enforcement Officer assuming no pertinent conditions or circumstances *have* changed.

Section 6.4 Certificate of Occupancy.

- a. No land shall be used or occupied and no building, for which a building permit is required under section 6.3 of this Local Law, hereafter erected, altered or extended shall be used or changed in use and no new principal use or uses shall be established until a Certificate of Occupancy has been issued by the Codes Enforcement Officer in accordance with the provisions of this Local Law.
- b. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after erection or alteration shall *have* been approved as complying with the provisions of this chapter and upon certification by the builder that he has fully complied with all the provisions of this chapter.
- c. The Building inspector shall maintain a record of all certificates and of any fees charged and collection in relation to them, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the-building affected.

Section 6.5 Violation and Penalties.

Any violation of this Local Law is an offense punishable by a fine not exceeding two hundred and fifty dollars. Each week's continued violation shall constitute a separate offense.

Section 6.6 Complaints of Violations.

Whenever a violation of this Local Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer who shall properly record such signed complaint and promptly investigate and file a written report of the results of his investigation and send a copy of that report to the complainant with a copy of the complaint and of the report to the Town Supervisor.

ARTICLE VII APPEALS

Section 7.1 Creation, Appointment and Organization of the Board of Appeals.

The Board of Appeals of the Town of Smithfield is hereby created in accordance with the provisions of Article 16 of the Town Law of the State of New York.

Section 7.2 Powers and Duties.

The Board of Appeals shall have all the following powers and duties:

- a. Interpretation: Upon appeal from a decision of the Codes Enforcement *Officer*, to decide questions involving interpretation of any provision of this Local Law.
- b. Variances: To vary strict application of the requirements of this Local Law in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. In granting any variance, the Board shall prescribe conditions that it deems to be necessary or desirable.
- c. Decisions of the Board of Appeals shall be made within ninety days from the time that the application has been filed with the Board; decisions shall be by resolution, shall contain a full statement of findings of fact in the case, and shall be recorded in the minutes of the Board.

Section 7.3 Granting of Variances.

No variance in the strict application of any provision of this Local Law shall be granted by the Board unless it finds:

- a. Strict application of the Local Law would produce undue hardship and that the hardship is not self-created.
- b. The hardship is unique and is not shared by all properties alike in the immediate vicinity of the property.
- c. The variance would observe the spirit of the Local Law and would not change the character of the neighborhood, be injurious to the neighborhood or otherwise detrimental to public welfare.
- d. The variance is the minimum necessary to grant relief.

Section 7.4 Procedure for Interpretation or Variance.

- a. The Board of Appeals shall act in strict accordance with the procedure specified by the Town Law and by this Local Law. All applications made shall be in writing, on forms prescribed by the Board. Every application shall refer to the specific provision of the Local Law involved, and shall set forth the interpretation claimed, or details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
- b. At least thirty days before the date of the public hearing, the secretary shall transmit to the Planning Board a copy of the application and notice of hearing. The Planning Board shall submit a report of its advisory opinion prior to the hearing. Failure of the Planning Board to submit a report shall signify its approval of the application.
- c. Owners of property within 200 feet of the proposed variance shall be notified by mail at the same time the public hearing notice is given to the newspaper prior to public hearing.

ARTICLE VIII PLANNING BOARD

Section 8.1

The existence of the Planning Board of the Town of Smithfield is hereby affirmed and continued. The Planning Board shall continue to consist of seven (7) members to be appointed by the Town Board and it shall have all the powers and duties bestowed by this Local Law and by Article 16 of the Town Law of the State of New York, including the power to review and approve applications for Special Use Permits and Subdivision approval.

Section 8.2 Issue of Special Use Permits.

In every case where a Special Use Permit is required by this Local Law, the Planning Board shall action a request for such a permit only after:

- a. Owners of property within 200 feet of the property on which the Special Use Permit is required shall be notified by mail at the Same time the public hearing notice is given to the newspaper prior to public hearing.
- b. A public hearing has been held pursuant to the Town Law of the State of New York.

- c. In certain Special Use Permit cases, until the County Planning Board referral requirements of Article 12-8, Section 239-M of the General Municipal Law have been met.

Section 8.3 Required Plan.

An application for a Special Use Permit shall be accompanied by three sets of preliminary site plans, and other descriptive matter to portray clearly the intentions of the applicant. These documents shall become a part of the record. Such plans shall show location of all buildings, parking, access and circulation, open space, landscaping, and other information necessary to determine if the proposed special use

ARTICLE VII APPEALS

Section 7.1 Creation, Appointment and Organization of the Board of Appeals.

The Board of Appeals of the Town of Smithfield is hereby created in accordance with the provisions of Article 16 of the Town Law of the State of New York.

Section 7.2 Powers and Duties.

The Board of Appeals shall have all the following powers and duties:

- a. Interpretation: Upon appeal from a decision of the Codes Enforcement *Officer*, to decide questions involving interpretation of any provision of this Local Law.
- b. Variances: To vary strict application of the requirements of this Local Law in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. In granting any variance, the Board shall prescribe conditions that it deems to be necessary or desirable.
- c. Decisions of the Board of Appeals shall be made within ninety days from the time that the application has been filed with the Board; decisions shall be by resolution, shall contain a full statement of findings of fact in the case, and shall be recorded in the minutes of the Board.

Section 7.3 Granting of Variances.

No variance in the strict application of any provision of this Local Law shall be granted by the Board unless it finds:

- a. Strict application of the Local Law would produce undue hardship and that the hardship is not self-created.

- b. The hardship is unique and is not shared by all properties alike in the immediate vicinity of the property.
- c. The variance would observe the spirit of the Local Law and would not change the character of the neighborhood, be injurious to the neighborhood or otherwise detrimental to public welfare.
- d. The variance is the minimum necessary to grant relief.

Section 7.4 Procedure for Interpretation or Variance.

- a. The Board of Appeals shall act in strict accordance with the procedure specified by the Town Law and by this Local Law. All applications made shall be in writing, on forms prescribed by the Board. Every application shall refer to the specific provision of the Local Law involved, and shall set forth the interpretation claimed, or details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
- b. At least thirty days before the date of the public hearing, the secretary shall transmit to the Planning Board a copy of the application and notice of hearing. The Planning Board shall submit a report of its advisory opinion prior to the hearing. Failure of the Planning Board to submit a report shall signify its approval of the application.
- c. Owners of property within 200 feet of the proposed variance shall be notified by mail at the same time the public hearing notice is given to the newspaper prior to public hearing.

ARTICLE VIII PLANNING BOARD

Section 8.1

The existence of the Planning Board of the Town of Smithfield is hereby affirmed and continued. The Planning Board shall continue to consist of seven (7) members to be appointed by the Town Board and it shall have all the powers and duties bestowed by this Local Law and by Article 16 of the Town Law of the State of New York, including the power to review and approve applications for Special Use Permits and Subdivision approval.

Section 8.2 Issue of Special Use Permits.

In every case where a Special Use Permit is required by this Local Law, the Planning Board shall action a request for such a permit only after:

- a. Owners of property within 200 feet of the property on which the Special Use Permit is required shall be notified by mail at the Same time the public hearing notice is given to the newspaper prior to public hearing.
- b. A public hearing has been held pursuant to the Town Law of the State of New York.
- c. In certain Special Use Permit cases, until the County Planning Board referral requirements of Article 12-8, Section 239-M of the General Municipal Law have been met.

Section 8.3 Required Plan.

An application for a Special Use Permit shall be accompanied by three sets of preliminary site plans, and other descriptive matter to portray clearly the intentions of the applicant. These documents shall become a part of the record. Such plans shall show location of all buildings, parking, access and circulation, open space, landscaping, and other information necessary to determine if the proposed special use meets the requirements of this Local Law.

Section 8.4 Standards Applicable to All Special Uses.

The Planning Board may issue a Special Use permit only after it has found that all the following standards and conditions have been satisfied.

- a. Location, size of use and structure, nature and intensity of operations involved, size of site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with orderly development of the area and will not alter the essential character of the area.
- b. Location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
- c. Proposed parking and traffic circulation facilities shall be adequate for present and future needs to insure the orderly development of the district.
- d. The proposed use will not create a hazard to public health, safety, morals or the general welfare.
- e. Sufficient and appropriate landscaping or other screening is provided to ensure compatibility with adjoining and nearby uses.
- f. Proposed sanitation facilities (Le. sewage facilities, garbage storage, etc.) shall be sufficient and adequate for all proposed uses to protect health and property values in the area.

Section 8.5 Performance Bonds.

The Planning Board may require as a condition for the approval of an application for a special use permit that the owner file a performance bond, in such amount as it determines to be in the public interest, to ensure that the proposed development will be built in compliance with the accepted plans

ARTICLE IX: MOBILE HOMES

Section 9.1 - General Regulation of Mobile Homes

- a. It shall be unlawful, within the limits of the Town of Smithfield, to park or place a mobile home except upon compliance with the provisions of this Local Law and the Sanitary Law of the Town of Smithfield.
- b. Except to the extent particular provisions of this Article conflict with or are more specific than other provisions of this Local Law, all provisions of this Local Law pertaining to residence structures and placement of structures upon any lot shall also be deemed applicable to mobile home residences. No mobile home shall be parked or placed within the Town of Smithfield except upon a farm or in a duly licensed mobile home park and upon the prior issuance of a permit therefore by the Town Code Enforcement Officer. No mobile home shall be occupied, either as a residence or as a place of business, except upon the prior issuance of a certificate of occupancy by the Code Enforcement Officer.
- c. No more than one mobile home shall be parked or placed on any farm parcel within the Town unless a Special Use Permit has been issued pursuant to the provisions of section 3.5 of this Local Law.
- d. No mobile home shall be parked or placed on any parcel within the Town for any purpose other than use as a principal residence structure. Use of a mobile home on any parcel for any purpose other than as a principal residence, including, but not limited to, storage or animal housing, is hereby prohibited. Junked mobile homes shall be permitted only in licensed junkyards.
- e. No permit for the placement of a mobile home within the Town shall be issued until all of the following performance standards have been met to the satisfaction of the Codes Enforcement Officer:
 - i. The mobile home site must be graded to allow the safe placement of the mobile home. The mobile home site shall have one of the following place to accommodate the placement of the mobile home
 - a. A six inch thick, steel mesh reinforced concrete pad with dimensions at least as large as the exterior dimensions of the mobile home to be placed upon it, or;
 - b. Concrete piers at least 12" in diameter or width, placed no more than 10 feet apart (or to manufacturer's recommendations if available) around the perimeter of the mobile home, and also placed to a depth of 4 feet below the ground surface or to bedrock, whichever is less.
 - ii. Driveway, septic system and water supply must be installed and approved by the Code Enforcement Officer prior to placement of the mobile home on the mobile home site.
- f. All mobile homes shall be skirted prior to the issuance of a certificate of occupancy.
- g. All ground within 25 feet of the mobile home, or to the property line, whichever is less, shall be graded and seeded or paved to allow sufficient access by emergency vehicles and personnel. In addition any ground disturbed during site preparation or placement of the mobile home shall be regraded and

seeded or otherwise appropriately landscaped. This provision shall not be construed to require the removal of any trees which the owner otherwise desires to remain for landscaping purposes.

- h. No travel trailer or motor home shall be used as a residence within the Town of Smithfield.
- i. No mobile home may be enlarged or otherwise altered by any construction which penetrates in any way the exterior of the mobile home.

Section 9.2 - Residences

No mobile home shall be parked or placed in the Town of Smithfield for use as a residence unless it has affixed to it its original manufacturer's data plate indicating a year of manufacture of 1976 or later.

Section 9.3 - Temporary Residences

- a. Upon the issuance of a Special Use Permit, a mobile home may be parked or placed within the Town of Smithfield for use as a temporary residence while the owner of the subject parcel constructs a permanent residence structure.
- b. No mobile home shall be parked or placed in the Town of Smithfield- as a temporary residence for a period longer than two years from the date of issuance of the permit therefore. Upon the expiration of such two year period, one (but no more than one) six month provisional extension of the permit to use a mobile home as a temporary residence may be obtained from the Code Enforcement Officer upon the Codes Enforcement Officer's determination that the applicant is proceeding in good faith toward the completion of the permanent residence structure, and proof that at least the foundation of the permanent residence structure has been completed.
- c. The permanent residence structure shall consist of either a home of conventional construction or modular construction.

Section 9.4 - Used Mobile Homes

- a. No used mobile home shall be parked or placed within the Town (either as a permanent or temporary residence), except upon the issuance of a permit by the Code Enforcement Officer for the placement of any such mobile home.
- b. Upon application for a permit for the placement of a used mobile home for a residence structure, the burden of proof shall be upon the Applicant to demonstrate to the Code Enforcement Officer, through the use of documents, photographs or such other appropriate evidence, that each of the following conditions is met:
 - 1. That the mobile home meets all requirements of the New York State Building and Energy Conservation Codes pertaining to mobile homes;
 - 2. The mobile home must be free of detectable defects in the plumbing, heating and electrical systems;
 - 3. No exterior rust shall be visible on the mobile home;

4. The factory or replacement siding and roof shall be intact;
5. All windows shall be intact and functional;
6. The mobile home must be identifiable by make, model and year of manufacture and must be accompanied by a manufacturer's data plate indicating a date of manufacture after 1975; and
7. All smoke detectors shall be in place and functional in accordance with applicable state and federal codes and guidelines.

Section 9.5 Existing Mobile Homes

- a. Any mobile home situate within the Town and being used as a principal residence pursuant to a valid mobile home permit and/or certificate of occupancy issued by the Code Enforcement Officer as of the effective date of this Article shall be considered a nonconforming use and structure, the occupancy of which may be continued subject to the provisions of this Article and Article V of this Local Law. In the event of any conflict in the provisions of this Article and Article V pertaining to the non-conforming status of mobile homes, the provisions of this Article shall control.
- b. Notwithstanding the provisions of paragraph (a) of this section, or any other provision of this Local Law, any mobile home situate on any parcel within the Town as of the effective date of this Article which is not being used as a principal residence structure as of the effective date of this Article (other than junked mobile homes within a licensed junkyard) shall be permitted to remain on such parcel for a period not to exceed two years from the effective date of this article. Upon the expiration of such two year period, all properties within the Town shall be in compliance with Section 9.1, paragraph (d) of this Article.
- c. The nonconforming status of any use, structure or parcel grandfathered under the provisions of paragraph (a) of this section 9.5 shall terminate upon cessation of use of the nonconforming mobile home as a principal residence structure upon the parcel for a period of twelve (12) consecutive months.
- d. A mobile home which has a legal nonconforming status as a residence structure under the provisions of paragraphs (a) and (c) of this section may be replaced On the same lot with a newer mobile home upon satisfaction of the following conditions:
 - i. issuance of a Special Use Permit;
 - ii. all other provisions of this Article are satisfied to the same extent as if it were the initial placement of a mobile home upon the lot;
 - iii. square footage of the replacement mobile home must be equal to or greater than that of the existing mobile home;
 - iv. the replacement mobile home must be of a model year that is newer than that of the mobile home being replaced.
 - v. The mobile home being replaced must be removed from the site within thirty days of the completion of the installation of the newer mobile home. No certificate of occupancy for the newer mobile home may be issued until the mobile home being replaced has been removed from the site.

Section 9.6 License to Operate Mobile Home Park

- a. It shall be unlawful, within the limits of the Town of Smithfield, to operate a mobile home park without first having obtained a mobile home park license from the Town Code Enforcement Officer and the Madison County Department of Health .
- b. Such mobile home park license shall be issued by the Town Code Enforcement Officer upon the payment of an application fee to be determined from time to time by resolution of Town Board, and upon the review and approval of the Planning Board, which approval shall be granted only after inspection of the premises by the Town Code Enforcement Officer, and certification by such inspector (or a New York State licensed professional engineer) that said mobile home park location was found to be in conformance with the requirements of this local Law and the requirements of the New York State Department of Health.
- c. No mobile home park license shall be issued unless the applicant therefore has complied with the following requirements:
 1. The applicant shall submit a scale drawing by a New York State licensed surveyor or engineer of his proposed mobile home park, which plan shall show in detail the exact location of said mobile home park, the number of units for which said park shall be licensed, the distance between the mobile homes, the location of roadways, recreational facilities, and the proposed plan for water supply and swage disposal facilities and electrical power.
 2. No mobile home park shall be located except in a well drained site suitable for such purpose, and having adequate room for the number of mobile homes authorized in said license.
 3. No mobile home shall be place in a mobile home park within 1 00 feet of any adjoining public street line.
 4. No mobile home shall be place or parked closer than 50 feet from any permanent structure or closer than 50 feet from any property line.
 5. No mobile home shall be place in a mobile home park closer than 50 feet from an adjoining mobile home or structure attached thereto.
 6. No drains from toilets, lavatories, showers or sinks shall be permitted to flow onto the surface of the ground or into any ditch, but must be connected to a sewer line emptying into a septic tack and draining into an adequate seepage field, or such with other approved sanitary systems.

7. All mobile homes located within a mobile home park shall be provided with a connection to a private or public water system providing a steady flow of clear and pure water, found safe to drink after being tested by approved standards.
 8. All mobile home parks shall be adequately equipped with sanitary covered receptacles for all garbage and refuse and covered receptacles shall be furnished for the use of the occupants. No uncovered refuse or other unsanitary conditions shall be permitted in any mobile home park.
 9. No mobile home park license shall be issued unless the applicant has filed with the Town Clerk a certificate from the Madison County Health Department that the proposed mobile home park has been inspected by the County Health Department, and has been approved and found to be in compliance with New York State Sanitary Code.
 10. All mobile homes within a mobile home park shall access the public highway via an internal drive. No mobile home site shall have direct access to the public highway.
- d. All mobile home sites and mobile homes located in any mobile home park shall meet all performance standards and other requirements of this Article,
 - e. The owners of a licensed mobile home park shall keep a registry of all occupants which shall include the occupant's name, address, and mobile home license or serial number, the make, model and year of the mobile Home and the number of persons occupying same, which registry shall be available at all time for inspection by the Code Enforcement Officer or other Town official.

ARTICLE X DRIVEWAYS

Section 10.1 Purpose

The purpose of this article is to establish regulations for the construction of driveways allowing access to own roads within the Town of Smithfield: This article is adopted with the understanding that the Town highway system serves two major purposes: it must provide safe and efficient movement of people and goods and reasonably convenient access to the abutting property owner. The intent of this article is to balance these two roles without allowing one to become a serious detriment to the other.

Section 10.2 Permits

Any person, institution or corporation desiring to construct a residential driveway or commercial driveway (as such terms are defined in this Article) for permanent or temporary vehicular access to a town highway shall obtain a driveway permit prior to the commencement of construction from the Town Codes Enforcement Officer upon the advice and recommendation of the Town Highway Superintendent. Farm driveways (as defined in this Article) and in-home occupations using existing residential driveways and not involving regular motor vehicle traffic by someone other than a resident of an existing residence shall not be subject to the provisions of this Article.

- a. Application:
 - i. Applications for a driveway permits shall be on such forms as determined

and supplied by the Town Codes Enforcement Officer and shall include such information as may be necessary to determine compliance with this article and any other applicable codes, rules and regulations.

- ii. The applicant shall furnish with the application maps detailing the location of the property and the specific location of the proposed driveway for which approval is requested. The Town Code Enforcement Officer and/or Town Highway Superintendent may require such other additional documentation including but not limited to photographs, surveys or reports sale discretion shall deem appropriate.
- b. Issuance. Within a reasonable time after the submission of a completed application, appropriate fee, and additional documentation, if necessary, the Codes Enforcement Officer shall cause a copy of the application to be delivered to the Town Highway Superintendent for review. Should compliance be determined, the Code Enforcement Officer shall issue a permit for the construction of the driveway as specified on the application. An incomplete application or lack of sufficient information shall be cause for denial of the permit.

Section 10.3 Classifications.

Driveways shall be classified as to the most prominent use of the driveway. All driveways entering town roads shall be classified as follows:

- a. Farm driveways: a driveway servicing a farm yard, cultivated or uncultivated field, timberland, or undeveloped land not used for a non agricultural purpose, and utilized primarily by farm vehicles such as tractors, and other off-road agricultural vehicles.
- b. Residential driveway: a driveway servicing a private home or othersingle or multiple family residence.
- c. Commercial driveway: a driveway servicing a commercial establishment, industry, governmental or educational institution, private utility, hospital, church, apartment building or other comparable traffic generating facility.

Section 10.4 Design regulations for Residential and Commercial Driveways.

- a. The maximum number of driveway entrances onto a town road shall be one per building lot having 200 feet of frontage or less, which restriction shall not be deemed to prohibit circular or u-shaped driveways where they are necessary for safe ingress and egress to and from the public road. If the lot frontage is greater than 200 feet, two or more driveway entrances may be allowed if all other standards of this Article are met and there is no detrimental effect on public safety.
- b. No driveway shall be constructed within 100 feet of a road intersection measured from the nearest intersection of the right-of-way lines.
- c. The angle of all driveways with town roads shall be as close to 90° as practicable, but in no event less than 45°.
- d. The minimum driveway width shall be 10 feet.
- e. The minimum return radius at the intersection of driveways and the road surface shall be 10 feet and in no case shall the radius extend beyond the intersection of the pavement edge and the side property line as projected.

- f. Driveways shall slope down from the road surface to the drainage line at grades of 3/4 inch per foot or existing shoulder pitch, whichever is greater.
- g. The sizes and slopes of driveway storm drains and culverts within the town road right-of-way shall be as specified by the Town Highway Superintendent. The owner shall bear all costs for pipe, grating, paving, etc., required within such right-of-way.
- h. No driveway shall be constructed where the sight distance is less than 10 times the legal, posted, maximum limit. The applicant shall also trim brush and maintain his/her property in such a manner as to maintain optimal sight distance.
- i. Driveways and parking areas shall be designed so that no parking, loading or servicing of vehicles will take place within the town road right-of-way and so no vehicles will be required to back onto the town road to gain ingress or egress to the abutting property.

Section 10.5 Drainage regulations.

- a. All existing and proposed drainage conditions shall be indicated on the plans submitted by the applicant.
- b. Facilities to carry water through and/or off the owners' property shall be designed and constructed so that no damage or surface pounding will occur to, or on, existing and proposed buildings, driveways, adjacent properties, drainage facilities and public improvements.
- c. In no case shall a driveway be constructed so as to convey water onto the road surface.

Section 10.6 Location and layout.

- a. A driveway system shall be so located as to provide:
 - i. The most favorable vision, grade and alignment conditions for motorists using the proposed driveway and highway;
 - ii. The least interference with the free and safe movement of highway traffic; and
 - iii. The maximum safety and convenience for pedestrians and other users of the highway right-of-way.
- b. Placement. In the interest of public safety and convenience, the Town Codes Enforcement Officer may restrict the placement of a driveway to a particular location along the owner's road frontage or require the relocation of existing driveways subject to this Article.
- c. Restrictions. Driveways for new subdivisions or re subdivisions shall, where necessary for safe ingress and egress to and from the individual lots and the public road, utilize one or more shared private drives for common access to the highway in order to minimize, to the maximum extent practicable, the number of new driveway access points to town roads. The Code Enforcement Officer shall impose such other restrictions and conditions on the issuance of a driveway permit as, in his discretion, may be required to implement the purposes of this Article. Such other conditions and restrictions may include, but are not limited to,

traffic control devices, pavement markings, turn restrictions or other conditions deemed necessary.

Section 10.7 Liability.

The adoption of this Article is to provide a minimum procedure for the regulation of access to Town highways. Its adoption and enforcement is not intended to relieve the property owner and the individuals constructing driveways in the Town from any obligation or responsibility to avoid the creation of dangerous conditions. Additionally, the adoption, administration or enforcement of this Article shall not act as the basis for any claim of any nature against the Town of Smithfield concerning the location, existence, maintenance, construction, regulation or design of driveways.

Section 10.8 Maintenance responsibility.

- a. Property owners having access to a Town highway shall be fully responsible for maintenance of their driveway and channelization, including the portion from the highway right-of way line to the outside edge of the highway shoulder or curb line. The maintenance responsibility includes removal of snow and ice and keeping the portion within the highway right-of-way in a safe condition for the general public.
- b. The property owner shall be responsible for the maintenance of ditches, pipes, catch basins, grates and other drainage structures constructed in connection with providing access to his property. All traffic control devices, such as stop and yield signs, etc., installed by the property owner in the highway right-of-way with the permission of the town, shall conform to the Manual of Uniform Traffic Control Devices and be maintained, and replaced by the property owner. The property owner shall also trim brush and maintain his property in such a manner as to maintain optimal sight distance.

Section 10.9 Performance bonds and deposits.

A performance bond and/or a deposit may be required for a permit issued for construction or reconstruction of a commercial driveway to protect the town against the cost of completing construction or correcting deficiencies. The deposit shall be returned when the work is satisfactorily completed. The performance bond amount or deposit will be prescribed by the Town Highway Superintendent, consistent with the scope and magnitude of the work involved.

Section 10.10 Fees/Modification of Approvals.

The fees charged for driveway permits shall be determined from time to time by the Town Board. Any driveway permit and/or site plan approval or special use permit may be revoked or modified by the Code Enforcement Officer (with respect to driveway

permits) and the Planning Board (with respect to site plan approval and special use permits) if the classification or use of the driveway(s) serving the premises is changed or other hazard(s) becomes apparent after construction and use of the driveway begins. All costs for any warning devices and/or signs shall be borne by the applicant.

Section 10.11 Construction standards and regulations

a. Accepted materials for drainage structures.

i. Driveway pipe shall be either reinforced concrete, corrugated steel pipe, corrugated polyethylene storm drain pipe meeting NYSDOT Standards and shall be of a size and type as determined by the Highway Superintendent.

ii. Back fill around driveway pipes shall consist of gravel or crushed stone containing no stone greater than four inches in diameter and shall extend at least 12 inches above the driveway pipe. The backfill shall be properly placed and compacted with particular attention given to the haunches.

iii. No headwalls may be built on ends of driveway pipes. Flared end sections may be required.

iv. Catch basins, if required, shall conform with such specifications as determined by the Code Enforcement Officer and/or Highway Superintendent.

b. Sub base and surface materials.

i. The driveway sub base shall consist of 12 inches of gravel.

ii. The driveway surface shall be consolidated in such a manner so to prevent loose material from being scattered onto the town road surface.

c. Excavation for drainage structures. Roadside ditches shall be excavated to the width and depths specified by the Highway Superintendent.

