

## SECTION 6.

### SUPPLEMENTARY DISTRICT REGULATIONS

#### **Sec. 6.1. Fresh water wetlands.**

No fresh water wetland, as defined in Chapter 213 of the Public Laws of 1971 relating to fresh water wetlands, shall be excavated, drained or filled nor shall any extraneous materials be placed into these wetlands or water flow diverted onto or out of, or of any other change be made to the natural condition of any fresh water wetland without the prior approval of the Director of the Rhode Island Department of Environmental Management-Division of Freshwater Wetlands in accordance with the provisions of said chapter.

#### **Sec. 6.2. Street access to buildings.**

Every building hereafter erected or moved shall be on a lot abutting an improved public street, . All structures shall be so located on lots so as to provide safe and convenient access for servicing, public safety, and required off-street parking. On any corner lot, no driveway or access way shall be constructed within seventy-five (75) feet of the intersection of two (2) street lines.

#### **Sec. 6.3. Number of residential structures per lot.**

Not more than one (1) principal single-family or two-family residential structure shall be permitted on a lot.

#### **Sec. 6.4. Visibility at intersections.**

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) feet and ten feet above the centerline grades of the intersecting streets in the triangle formed by the street lines of such corner lots and a line joining points along said street lines;

- (a) Forty (40) feet from the point of intersection in residential districts.
  - (b) Twenty-five (25) feet from the point of intersection in all other districts.
- Poles not exceeding six (6) inches in diameter are exempted from this regulation.

#### **Sec. 6.5. Fences, walls, and hedges in residential districts.**

Notwithstanding other provisions of this ordinance, fences, walls, and hedges in residential districts may be permitted in any required yard, or along the edge of any yard, provided that all opaque fences, walls, or hedges over two and one-half (2 1/2) feet that screen open areas which may provide access to the street, shall be set back a minimum of 25 feet from the front lot line.

### **Sec. 6.6. Landscape features and structures.**

With the exception of swimming pools, such landscape features and structures as trees, shrubs, fences, terraces, driveways and walkways may be placed within any yard providing that such features conform to the visibility requirements of sections 6.4 and 6.5.

- (1) *Stump disposal areas:* Only stumps and boulders native to the site may be buried. All dumping and landfilling of tree stumps must be approved as a site plan review by the Planning Board if the stump disposal area is not part of a subdivision approved by the Board.

### **Sec. 6.7. Swimming pools.**

A swimming pool, including portable pools capable of containing a depth of thirty (30) inches of water, shall:

- (a) Be enclosed by a fence, five to six feet in height, capable of restricting access.
- (b) Have apron no less than four (4) feet in width.
- (c) Be limited to side and rear yards only.

### **Sec. 6.8. Accessory buildings and structures.**

A permitted accessory building may cover up to 25 percent of a side or rear yard but may not be placed within ten (10) feet of a lot line. No accessory buildings or structures shall be located nearer than ten (10) feet to a principal building unless such accessory building or structures are attached to the principal building.

### **Sec. 6.9. Other yard modifications.**

Yard regulations in section 5 may be modified as follows:

**6.9.1.** Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape, location or topography, such regulations may be modified or determined by the Board, as provided for in section 9.3, Variances.

**6.9.2.** The rear yard and side yard requirements may be modified as provided in section 9.2, Special-Use Permits, by the Board in cases where freight rail facilities are adjacent to said yard and lot lines.

**6.9.3.** A carport, where attached to the main building, may be erected over a driveway in a side yard provided such structure is not over twenty four (24) feet in length and shall be no closer than ten (10) feet from side lot line and is entirely open on three sides, except for necessary supporting columns and customary architectural features.

**6.9.4.** An unenclosed porch may extend up to ten (10) feet into a side or rear yard but shall not extend to within ten (10) feet of a lot line.

**6.9.5.** Ordinary projections of window sills, cornices and other ornamental features may extend up to two (2) feet into the required minimum yard.

**6.9.6.** Only one shelter per dwelling unit for a family house pet is allowable within forty (40) feet of a property line. All other animal shelters, excluding wild bird shelters, must be kept a minimum of forty (40) feet from a property line.

**6.9.7.** An outdoor telephone booth may be located in a front yard in nonresidential districts provided it is adjacent to a permitted curb parking area or an off-street parking facility.

**6.9.8.** Front yard requirements on a lot situated between two lots, each of which has a main building (within 25 feet of its side lot line) which projects beyond the established front yard line and was so maintained when this ordinance became effective, may be the average of the front yards of said existing buildings, provided, however, the front yard of such lot shall not be less than fifteen (15) feet.

**6.9.9.** For the purpose of side yard regulations, residential dwellings with common party walls shall be considered as one building occupying one lot. Such dwellings shall include but not be restricted to apartments, townhouses, row dwellings, duplexes, and double dwellings.

**Sec. 6.10. Height modifications.**

Height regulations in section 5 may be modified as follows:

**6.10.1.** Accessory structures permitted above height requirements include roof structures for housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts and water tanks, provided that no roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business or manufacturing use. Such structures shall require a special-use permit if intended to be utilized as a principal structure on a lot.

**6.10.2.** Structures permitted above the maximum height requirements shall be set back from any lot line one additional foot by which it exceeds the maximum height limit for the district.

**Sec. 6.11. Street frontage on cul-de-sacs reduced.**

In a residential district, street frontage for lots fronting entirely on cul-de-sacs may be reduced 20 percent below the frontage requirement of section 5.5; provided however that lot frontage shall not be reduced below a minimum of one hundred (100) feet in the REA-120, RA-65 and RS-40 zones and not less than 85 feet in the RU-2- zone.

## **Section 6.12. Wetland Setbacks for Onsite Waste Water Treatment Systems, OWTS, Buildings and Impervious Surfaces.**

### **Section 6.12.1 Purpose and Authority**

- (1) Purpose. The standards and provisions in this section are intended to protect the health, safety and general welfare of the Town's residents, property owners and businesses, to prevent nuisance, to prevent degradation of North Smithfield's surface or ground waters, and to maintain and enhance the water quality function of wetlands and associated wetland buffers, in accordance with goals of the North Smithfield Comprehensive Plan. It establishes standards and procedures for the use of wetland buffers, including the location and design of OWTS, buildings, impervious cover and other land development, and use of best management practices to minimize pollution sources, ensure proper management of storm water runoff, and adequate treatment of pathogen and nutrient inputs to wells, groundwater and surface waters from onsite wastewater treatment systems.

As per RIGL 45-24-30 the methods of protection recognize:

- 1) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography and susceptibility to surface and groundwater pollution;
  - 2) The values of unique or valuable natural resources and features;
  - 3) The availability and capacity of existing and planned public and/or private services and facilities;
  - 4) The goals and patterns of land use contained in the North Smithfield Comprehensive Plan.
- (2) Authority. The Town of North Smithfield recognizes its authority to adopt requirements that are more restrictive than State minimum standards to address the combined impacts of land use, storm water runoff and wastewater effluent to locally important water resources. These State standards include: the *Rules Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Regulations); the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* (Rules); and the *Rhode Island Storm water Design and Installation Standards Manual*, as promulgated by the Rhode Island Department of Environmental Management (RIDEM). The following requirements are hereby established in accordance with *The RI Zoning Enabling Act* RIGL 45-24. These requirements shall be considered an addition to, and not a replacement for, the referenced regulations and any subsequent amendments thereto.
  - (3) Wetlands and water bodies covered under this ordinance include: Wetland, freshwater are defined as in G.L. 1956, 2-1-20 as follows: Marshes; swamps; bogs; ponds; rivers; river and stream floodplains and

banks; areas subject to flooding or storm flowage; emergent and sub emergent plant communities in any body of fresh water including rivers and streams and that area of land within 50 feet of the edge of any bog, marsh, swamp, or pond.

(4) Scientific findings. There is ample and defensible scientific justification for increased buffer width benefiting water quality (EPA 2006; Wenger, 1999; Vermont Agency of Natural Resources, 2005). The EPA (2006) notes that nitrogen removal efficiencies of 80-90% are obtained for wetland buffers overall that are 30m or approximately 100ft wide. In contrast, only 65-75% of nitrogen is removed for buffers 15m, or approximately 45 ft. wide. Grass buffers alone are only 75% effective at 28m; and only 50% effective at 16m. Water bodies with little or no riparian buffer zones are found to have two to three times the annual nitrate concentration of streams with buffers. Wenger (1999) reviewed 140 scientific studies and notes, "Reduction of various forms of nitrogen in surface runoff is reasonably well correlated with buffer width." Studies of sediment in surface runoff show that the most efficient width for sediment removal is 82 feet. The Vermont Agency of Natural Resources summarized 22 scientific studies recommending buffer widths for riparian ecosystem function. Eighty percent of the studies recommended a mean width of 100 feet. Wenger (1999) writes that a 100 ft option, including adjacent wetlands "provides the greatest level of protection for stream corridors, including good control of sediment and other contaminants, maintenance of quality aquatic habitat, and some minimal terrestrial wildlife habitat."

#### **6.12.2. Onsite Wastewater Treatment (OWTS) setback.**

- (1) This section applies only to properties located within any surface water supply basins in town, including the surface water supply basins for Woonsocket's Reservoirs 1, 2 and 3, and to school well-head protection areas, as delineated in the North Smithfield, RI Zoning Ordinance Map: Water Supply Protection Overlay District. Except as provided in subsections (2), (3), (4) and (5) of this section, no component of an onsite wastewater treatment system (OWTS) facility designed to leach liquid wastes into the soil shall be located within 150 feet of the defined edge or channel of any Freshwater Wetland as defined in the Rules. This section shall not be interpreted to require a 150-foot setback from a riverbank wetland, areas of land within fifty feet 50' of wetlands (perimeter wetlands) or area(s) subject to storm flowage as defined in the Rules.
- (2) No part of an OWTS or other facility designed to leach liquid wastes into the soil shall be located within 200 feet of any drinking water supply impoundment or tributary that directly discharges to a drinking water supply, including storm and subsurface drains that directly discharge to a tributary stream surface water body.
- (3) Subsection (1) of this section shall not apply to any replacement, major repair, alteration or modification of a system or facility which exists 20 days after the Date of Passage of this Section provided that the replacement, repair, alteration or modification meets the Minimum Requirements for Advanced OWTS Treatment as defined herein.

- (4) Subsection (1) of this section shall not apply to the location of such a system on a residential lot located in a subdivision which received final approval from the Planning Board or from RIDEM prior to the adoption of this section provided that the replacement, major repair, alteration or modification meets the Minimum Requirements for Advanced OWTS Treatment as defined herein.
- (5) Administrative review: Development within the areas required to have an OWTS system shall comply with the development standards listed below. Development proposals that meet these standards will be reviewed administratively by the zoning enforcement officer and/or his/her designee after review with the town planner. The town may engage professional assistance to assist with the professional review of applications and advise with the applicant responsible for such cost. Applications failing to meet one or more of the development standards listed below shall require a special use permit per section 6.12.2.(5).

The administrative review shall apply the following criteria:

- a. The design of the OWTS and layout of the building site in general shall minimize or mitigate the potential for ground and surface water contamination to the greatest extent possible.
  - b. The system, once in use, will not pose a threat to public health and safety or cause any degradation of ground or and surface water quality, including adverse effects due to cumulative impact.
  - c. The foundation not including pilings/footings of a dwelling shall have a 12-inch separation between the bottom elevation of the structure and the seasonal high groundwater table. All foundation elements below the seasonal high-groundwater table shall be engineered to allow for free passage of water.
  - d. All new OWTSs and OWTSs requiring major repair shall have been approved by RIDEM and provide for either denitrification or enhanced pathogen removal.
  - e. If the setback does not meet the standard in Section 6.12.2(1), the applicant shall demonstrate that the OWTS and associated building have been sited as far as possible from the wetland edge.
- (6) Special Use Permit Criteria. The Zoning Board of Review may grant a Special Use Permit for construction of an OWTS not less than 100' from Freshwater Wetlands as defined in the Rules provided that the applicant submits a site plan meeting the requirements of Section 7(I)

demonstrating that the buffer provided is sufficient to substantially attenuate pollutants from the OWTS and associated land disturbance, and:

1. Advanced OWTS Treatment meeting the performance standards of section (7) and approved by RIDEM are used.
  2. Will not degrade the quality of groundwater or any wetland or surface water body, either directly or indirectly, on site or off site; 3. Will result in the least site disturbance and removal of vegetation as possible, every attempt shall be made to site the wastewater treatment system and the associated dwelling as far as possible from the wetland edge;
  4. Will not obstruct floodways or reduce the net capacity of the site to retain floodwaters;
  5. Will not cause any sedimentation of wetlands, and will include all necessary erosion and sediment control measures; plans for erosion and sediment control and storm water management shall be completed which meets standard requirements for such plans and also includes:
    - a. The limits of disturbance during construction including areas to be cleared and/or graded, construction easements, temporary stockpiles and material/equipment storage areas, and protection of individual trees and groups of trees to avoid construction injury by fencing off trees at the drip line. In critical areas the limits of disturbance will be fenced off in the field.
    - b. A plan for re-vegetation, stamped by a landscape architect of wetland buffers, slopes and erodible areas.
  6. Will not reduce the capacity of any wetland to absorb pollutants;
  7. Will not degrade the recreational or educational value of any wetland or water body;
  8. Will not reduce the capacity of any wetland to recharge groundwater; and
  9. The potential for wetland impact based on the type of development, soil type, potential for future disturbance of the buffer and size of the wooded swamp or pond to be buffered is determined to be minimal.
- (7) Performance Standards: Applications for a Special Permit under provisions of this Section shall meet the following minimum performance standards:
- A. Minimum Requirements for Advanced OWTS Treatment. All new, replacement and alterations for OWTS that do not meet the dimensional requirements set forth in Section

6.12.2. (1) and (2) above shall be approved by RIDEM and provide advanced treatment to achieve the following levels, as measured at the outlet of the treatment unit prior to discharge to a drain field, and to achieve the following performance based on siting.

1. System Type - Category 1 Alternative and innovative system as defined by RIDEM Use of a Category 1 Alternative and Innovative system shall be required in the watersheds of drinking water supplies, other phosphorus-sensitive surface waters, and areas where maximum pathogen and nutrient removal is required for either protection of surface or ground waters.

2. System Type - Category 2 Alternative and innovative system as defined by RIDEM

Use of a Category 2 Alternative and innovative system may be permitted in watersheds of non-critical water resources.

3. Permitted OWTS Technologies. Installation of Advanced OWTS treatment technologies permitted shall be those technologies certified by RIDEM pursuant to their procedures and regulations. Innovative or alternative OWTS technologies shall have documented the ability to achieve the minimum treatment requirements set forth in this Ordinance.

4. Seasonal High Water Table Determinations. For the purpose of determining the seasonal high water table, detailed soil morphological data to a depth of four feet shall be prepared and submitted by a professional soil scientist recognized by the Soil Science Society, Southern New England Chapter, or ARCPAC certified, professional soil scientist or licensed Class IV Soil Evaluator.

5. Operation and Maintenance. All installations of Advanced OWTS Treatment technologies, or any other OWTS with mechanical components, shall include a continuous Operation and Maintenance (O & M) agreement with the property owner that shall be duly recorded in Land Evidence Records.

#### B. Minimum Requirements for Storm Water Management.

1) Total impervious cover shall be reduced to the maximum extent practicable using Low Impact Development (LID) methods as specified in the RI Storm water Design and Installation Standards Manual and supporting guidance documents (as amended), and shall not exceed the maximum allowed within a given district. Elevated structures with roofs allowing for groundwater infiltration that are less than 120 square feet in size are exempt when calculating this percentage. Impervious cover shall be calculated based on the area of the parcel suitable for development, excluding wetlands, hydric soils, high flood zone, and other lands identified as unsuitable for development. The use of permeable pavements is encouraged where the risk of groundwater contamination is low.



- 2) Storm water control measures shall be designed to ensure that no net increase between pre and post development site conditions in volume or rate of storm water runoff for a 25 year frequency rainfall occurs onto adjacent properties or roadways from the proposed individual residential lot.

*C. Storm water Management Plan.* A detailed storm water management plan shall be submitted to the Town that includes a drainage plan and drainage calculations prepared by a Rhode Island Registered Professional Engineer. Proposed grading shall maintain existing natural drainage patterns to the degree feasible. Use of small scale “low impact development” storm water controls designed to disperse, store, filter and infiltrate storm water runoff at points close to where runoff is generated, with minimal site alteration and filing shall be required.

*D. Storm Water Controls and OWTS Location.* Storm water runoff shall be diverted from any OWTS. Also, there shall be a minimum fifteen foot horizontal separation distance between any OWTS drain field and the edge of any storm water infiltration system, or as otherwise required by the RI Stormwater Design and Installation Standards Manual and supporting guidance documents as amended.

*E. Required Information.* A development plan shall be filed with the Building Official’s Office and the Planning Department to show the following information:

1. Property boundary lines with area and dimensions of property to be developed;
2. Vicinity plan showing adjacent or nearby properties, uses, OWTS, wells, wetlands, streams, or surface water reservoirs within a 500 foot radius;
3. Topographic map of property showing existing and proposed two foot contours;
4. Site specific soils map of property prepared by a professional soil scientist recognized by the Soil Science Society, Southern New England Chapter, or ARCPAC certified.
5. Storm water management plan;
6. Soil erosion and sediment control plan, and;
7. Wetlands delineation map as field verified by DEM for new OWTS construction or alteration.
8. A plan for re-vegetation of the buffer following constructing using native shrubs and trees for maximum water quality protection benefit and habitat value.

**6.12.3. Structure and Impervious Surface setback.**

- (1) Except as provided in subsections (2)-(7) of this section, no part of a residential, commercial or industrial structure (including accessory structures such as garages or sheds) or impervious surface shall be located within 100 feet of Freshwater Wetlands as defined in the “The Rules” and in “Definitions”, Section 20 of this Zoning Ordinance. This section shall not be interpreted to require a 100-foot set back from a riverbank wetland or land within fifty feet 50’ of wetlands (perimeter wetlands) or area(s) subject to storm flowage as defined in the Freshwater Wetlands Act.
- (2) Subsection (1) of this section shall not apply to the location of such a structure which received final approval from the Planning Board prior to the adoption of this section.
- (3) Subsection (1) of this section shall not apply to: 1) areas where the wetland buffer area is already substantially developed and retains none of the natural features necessary to support native flora or fauna and where the volume of storm water runoff has been maintained at pre-development levels, or restored to the extent possible.
- (4) Subsection (1) of this section shall not apply to the location of elevated structures with roofs allowing for groundwater infiltration that are less than 120 square feet in size.
- (5) Subsection (1) of this section shall not apply to the following accessory structures to existing households: Decks, porches, gazebos, patios, above-ground swimming pools, in-ground swimming pools, fences, signs, and permitted accessory residential and/or non-residential structures under two hundred (200) square feet
- (6) Any proposed construction which is no closer to the wetland than the existing construction on the lot in question may be exempted from the one-hundred-foot setback requirement if the Zoning Board of Review determines that there is no potential for significant environmental impact, taking into full consideration the report of the Conservation Commission. Development standards for review include the following:
  1. The proposed project will not obstruct floodways in any detrimental way, or reduce the net capacity of the site and adjoining properties to retain floodwaters.
  2. The proposed project will not cause any sedimentation of wetlands, and will include all necessary and appropriate erosion and sediment control measures.
  3. The proposed project will not reduce the capacity of any wetland to absorb pollutants.
  4. The proposed project will not directly or indirectly degrade the water quality in any wetland or water body.
  5. The proposed project will not reduce the capacity of any wetland to recharge groundwater.

6. The proposed project will not degrade the value of any wetland as a spawning ground or nursery for fish and shellfish or habitat for wildlife or wildfowl.
- (7) This section is exempt in the following districts due to economic impact: RS20, MU1, and MU2. In addition, all nonconforming RS40 lots that are less than or equal to 20,000 square feet are also exempt until they reach conforming status.

#### **6.12.4. Substandard Systems: Cesspools**

According to RIDEM's OWTS Regulations, cesspools are not an approved method of sewage disposal and all existing cesspools are considered to be substandard. As such, all cesspools should be brought into conformance with current and local standard within 12 months after the sale or transfer of a property, or by January 1, 2020, whichever date comes first.

This subsection shall take effect as of (Jan. 1, 2014) unless: either a listing agreement contract with a licensed real estate broker shall have been signed by the owner(s) of the property and the broker prior to (June 1, 2013), in which case any buyer(s) of said property from that owner(s) while the listing agreement contract is in effect shall be exempt from this requirement; or a purchase and sales agreement for the property shall have been signed by the owner(s) of the property and the prospective buyer(s) prior to (June 1, 2013), in which case, the buyer(s) named in such purchase and sales agreement shall be exempt from this requirement.

**6.12.4.1. Hardship extension.** Property owners of a Substandard system may qualify for a hardship extension of up to five years if the Substandard OWTS is not failed, and their household income is less than 80% of the appropriate household size area median income determined by federal Housing and Urban Development standards for the community in which the Substandard system is located. The Public Works Department shall develop an application for hardship extension.

**6.12.5. Definitions.** Wetland, freshwater are defined as in G.L. 1956, 2-1-20 as follows: Marshes; swamps; bogs; ponds; rivers; river and stream floodplains and banks; areas subject to flooding or storm flowage; emergent and sub emergent plant communities in any body of fresh water including rivers and streams and that area of land within 50 feet of the edge of any bog, marsh, swamp, or pond.

**Category 1 System:** Advanced treatment units that are time dosed and have been classified by the RI Department of Environmental Management as meeting effluent standards less than or equal to 20 mg/l for both BOD5 and TSS; and FOG (fats, oil and grease) of less than or equal to 5 mg/l. *Example Category 1 systems: textile filter, peat filter, recirculating sand filter, single pass sand filter, trickling filter).*

**Category 2 Systems:** Advanced treatment units that are not time dosed and have been classified by the RI Department of Environmental Management to at least meet effluent standards of 30 mg/l for both

BOD<sub>5</sub> and TSS; and FOG (fats, oil and grease) of less than or equal to 5 mg/l. (*Examples: FAST, Singulair, Bioclere, RUCK*)

**Major Repair (of an OWTS):** Any work performed on an OWTS, excluding minor repairs, in order to repair or replace a failed system.

**Minor Repair (of an OWTS):** Any work performed on an OWTS involving the repair, replacement or upgrade of the building sewer, septic tank or distribution box and/or the installation of inspection ports and/or effluent filters on septic tanks.

Nitrogen Reducing System: An alternative system classified by the Rhode Island Department of Environmental Management as a nitrogen reducing system under RIDEM Innovative or Alternative ISDS Technologies List as amended and which achieves a minimum total nitrogen removal of fifty percent and a reduction to less than or equal to 19mg/l total nitrogen.

### **Section 6.13. Parking and Storage of Certain Vehicles.**

**6.13.1.** In any residential zoning district, unless licensed as a vehicle-related business no unregistered, unserviceable, discarded, or junked vehicles or trailers of any kind or type, or bodies, engines, tires, parts or accessories thereof, shall be parked stored on any property other than in a completely enclosed building or carport with the following exceptions:

- (a) Land classified by the Town of North Smithfield Assessor as Farmland under the Rhode Island Farm, Forest and Open Space Act may store unregistered serviceable vehicles, trailers, farm machinery and engines kept for spare parts as long as they are not within a 100-foot setback from the property line.
- (b) Land classified by the Town of North Smithfield Assessor as Forestland under the Rhode Island Farm, Forest and Open Space Act may store unregistered serviceable vehicles, trailers and machinery as long as they are not within 100-foot setback from the property line. The unregistered serviceable vehicles, trailers and machinery, may be parked temporarily within the 100-foot setback if they are being actively used during the daytime for forestry work.

**6.13.2.** In any residence district, the parking or storage of all commercial vehicles and construction equipment of over five (5) tons gross vehicle weight shall not be permitted except where such parking or storage is directly related to and is accessory to a permitted use or legal non-conforming use on the premises. All commercial vehicles and construction equipment shall be screened as in sub-section 6.15.2.4. The numbers of commercial vehicles limited to each lot are as follows: RV - 1; RS - 1; RU - 1; RA - 2; and, REA - 2.  
(Ord. of 8/15/16)

### **Section 6.14. Parking, Storage or Use of Major Recreational Equipment**

**6.14.1** For purposes of these regulations, major recreational equipment is defined as boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automobiles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. The parking and storage of major recreational equipment in a residential district as an accessory use to a permitted residential use, is permitted in enclosed buildings and carports. Open storage of only one of the above is permitted on residential lots provided:

- (a) That such equipment is in condition for safe and effective performance of the function for which it was intended.
- (b) No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- (c) That it be limited to the side and the rear yards of the residence
- (d) That it not be stored within (20) feet of a lot line.
- (e) One (1) recreational vehicle is allowed to be parked on lots 65,000 sq. ft. or less. Two (2) recreational vehicles are allowed on lots greater than 65,000 sq. ft.  
(Ord. of 8/15/16)

## **Section 6.15. Off-street Parking Requirements**

**6.15.1.** Any structure erected or use developed after the date of passage of this ordinance must provide off-street parking in accordance with the following minimum requirements:

### **Dwellings**

*Single-family, two family dwelling* - two (2) parking spaces per dwelling unit.

*Multi-family dwellings:* one and one half (1.5) parking spaces per dwelling unit.

*Multi-family dwellings, elderly and assisted living:* one half (0.5) parking space per dwelling unit.

### **Transient Lodging**

*Bed and Breakfast* – One (1) parking space per guestroom or suite.

*Hotels, motels and transient lodging:* one (1) parking space per bedroom, one (1) parking space per 1,000 square feet of non-guest room area, plus one (1) parking space per five (5) employees

### **Commercial Uses**

*Retail and service business less than 20,000 square feet:* two (2) parking spaces per one thousand (1,000) square feet of use floor area.

*Retail and service business 20,000 square feet or more:* three (3) parking spaces per one thousand (1,000) square feet of use floor area

*Industrial, corporate offices, research, development, and warehouse uses:* two (2) parking spaces per three (3) employees based on largest shift.

*Office uses, including medical and out-patient:* three (3) parking spaces per one thousand (1,000) square feet of use floor area.

**Public Assembly**

*Restaurants, theaters, churches and other places of public assembly* – One (1) space per four (4) seats or places available at maximum legal capacity.

**Institutions**

*Educational institutions:* five (5) spaces per pre-school, primary or middle school classroom; one (1) space per 5 high school students; one (1) space per 3 college or adult education students.

*Hospitals:* three (3) parking spaces per one thousand (1,000) square feet of use floor area.

*Nursing homes:* one (1) parking space per three (3) beds.

**Mixed use:**

Combined total of all uses

**Other**

All other uses, one parking space per 250 square feet of floor area

**6.15.2.** Plans and specifications for the required parking and its access drives other than single-family or two-family dwellings shall be submitted at the time of application for the zoning certificate for the main use.

**6.15.2.1.** In allocating space for off-street parking, each car space shall have a minimum width of nine (9) feet and a minimum length of eighteen (18) feet and except for attended commercial parking lots, shall be served by suitable aisles listed in the table below to permit access to all car spaces.

Aisle widths: 90 degree angle.....	24 ft.
60 degree angle.....	16 ft.
45 degree angle.....	12 ft.
0 degree (parallel parking) .....	12 ft.

**6.15.2.2.** All parking areas provided under this section must be constructed on the same lot as the principal use.

**6.15.2.3.** The area shall have a hard surface and shall be provided with bumper guards where needed.

**6.15.2.4.** Where a non-residential parking area adjoins or lies within a residential district, or abuts a property on which a residential use is located, an opaque fence not less than six (6) feet nor more than eight (8) feet in height or a compact evergreen screen not less than four (4) feet in height shall be erected and maintained between such area and the adjoining residential property

**6.15.2.5.** Lighting fixtures used to illuminate the parking area shall reflect away from adjoining property and away from adjacent traffic arteries

**6.15.2.6.** Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated, so that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

### **Section 6.16. Off-street Loading Requirements**

All commercial and industrial structures, erected subsequent to the adoption of this ordinance, shall provide off-street loading facilities.

Plans and specifications for such loading facilities shall be submitted to the Zoning Official at the time of application for the zoning certificate for the main use. Where a loading facility is to be located in or abutting a residential district, the restrictions contained in Section 6.15 concerning surfacing, screening and lighting shall apply. Such loading facility shall be sufficient in size to eliminate the projection of vehicles beyond any lot line.

### **Sec. 6.17. Sign Regulations.**

**6.17.1 Purpose.** The purpose of these regulations is to encourage the effective use of signs as a means of communication in the town, provide for the protection of the scenic, historic, cultural and natural character of North Smithfield, maintain and enhance a healthy business environment in commercial and industrial zones, improve pedestrian and traffic safety, minimize the adverse effect of visual clutter on property values, and to enable fair and consistent enforcement of these sign restrictions by regulating only the time, place, size and illumination of such signs, and not in any way regulating the content of such signs.

#### **6.17.2. Definitions – Signs**

Outdoor advertising business- Those persons who provide outdoor advertising to other businesses.

Sign, on-site- A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, off-site- Any sign or advertising device, including a billboard which advertises a use or activity not located on, or a product or service not sold, manufactured or conducted on the lot upon which the sign or device is located. A sign other than an on-site sign.

Sign- The term sign shall mean any permanent or temporary device, reproduction, material or structure which is: freestanding, attached to a building or structure or erected, painted, represented or reproduced inside or outside any building, structure or natural object, including window display area, which displays, reproduces or includes any lettered or pictorial matter; which is used to identify the premises, occupant or owner of the premises; to advertise any trade, business, profession, industry, service or other activity; to advertise any product or item; to advertise the sale, rental or use of all or part of any premises or item, including that upon which it is displayed; to direct vehicular or pedestrian traffic other than

public highway markers; and shall also include any announcement, demonstration, display, illustration, logo or insignia used to advertise or promote the interests of any persons or business when the same is placed in order to attract the general public. In no event shall the word "sign" be construed to mean any sign in the interior of any structure, not visible from the outside, unless specifically set forth in this Ordinance. Excluded from this definition also are pavement markings or driveway directional arrows painted on the ground, which contain no advertising.

Outdoor advertising-The use of outdoor signs to promote or advertise goods or services to the public.

Shopping Center- A group (two or more) of commercial establishments, planned, developed, owned, and/or managed as a unit, with off-street parking provided on the same lot or contiguous lots; or any group of commercial establishments sharing common walls; or a group of separately owned establishments which share a common parking lot with spaces for at least ten (10) cars.

Sign, Awning or Canopy- A sign painted on or attached to the cover of a structural frame; movably hinged, rolled, folding or rigid.

Sign, Changeable- A sign whose informational content can be changed or altered by manual, electric, electro-mechanical, or electronic means. Changeable signs include the following :

1. Manual: Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered by manual means.
2. Electrical : Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes two types:
  - o Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information projection.
  - o Computer Controlled Variable Message Electronic Signs: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

Sign, Externally Illuminated- A sign illuminated with an artificial light directed primarily toward such sign from an exterior source.

Sign, Freestanding- A sign located on the ground and supported by a pole, uprights, braces or frame and not attached to any building or similar structure.

Sign, Inflatable- A sign whose principal system of structural support is by means of compressed gases, air blower, hot air or similar methods. Such sign may be in the shape of a balloon or other three-dimensional shape and may be free-standing, supported or tethered and may be constructed of flexible and/or solid materials.

Sign, Internally Illuminated-A sign designed to give forth light from an artificial source in such a manner as to be an integral part of the construction of the sign, and signs illuminated from within. This also includes backlit signs, and so-called halo or silhouette signs where the lighting source is located behind individual letters or other sign elements.



Sign, Obsolete- Any sign which advertises an area, use, business or product no longer sold on site or service no longer offered.

Sign, Projecting- A sign which is erected so as to extend approximately perpendicular from an exterior wall or ceiling of a building or structure.

Sign, Roof-Mounted- A sign painted upon, placed upon, or affixed to or located above the roof of any building or portion thereof.

Sign, Temporary- Signs that will be displayed for a limited duration.

Sign, Trailer- A sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a self-propelled or towed vehicle. Such signs shall include, but not be limited to, mobile advertising signs attached to a truck, chassis, detachable vehicle trailer or other such mobile signs, but shall not include signs painted or otherwise inscribed on a self-propelled vehicle or towed vehicle which identify the product, service or an activity for which the vehicle is used, unless the principal use of such vehicle is for advertising purposes.

Sign, Wall-Mounted- A single-faced sign erected against, painted on or attached to the exterior wall of any building or structure (except a freestanding sign support) including signs attached to fences, screens and freestanding walls.

Sign, Window- Any sign painted upon, placed upon or maintained inside or outside an exterior glass door or window facing the outside and which is intended to be visible from any public or private street.

Storefront Wall Area -The surface area of the vertical front wall of a building facing a public street or private access road, measured from left sidewall to right sidewall and from the top of the first floor joist or building slab to the top of the floor joist or ceiling rafter of the uppermost floor of the business.

### **6.17.3. Signs permitted in any zoning district without permits**

The following signs shall be permitted in any zoning district without a permit, and shall not be counted when calculating the maximum number of signs permitted or the total permitted sign area. Such signs shall not be illuminated, except as otherwise noted.

- (a) Signs erected by the Town of North Smithfield, the State of Rhode Island or the United States of America pursuant to and in discharge of any governmental function, or required by any law, ordinance or governmental regulation. Such signs may be illuminated internally or externally.
- (b) Signs not exceeding one and one-half (1-1/2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- (c) An announcement board, or changeable sign, no greater than twelve (12) square feet in area, for a church, school or other public or semi-public use. Such signs may be illuminated internally or externally.
- (d) Instructional or directional signs identifying on-premises traffic, parking or other functional activity. There shall be no more than one sign for each applicable activity, and bearing no

commercial advertising. Each sign shall not exceed two (2) sq. ft. in area, and such signs may be illuminated internally or externally.

- (e) Accessory signs incidental to a business conducted on the premises indicating hours of operation, credit cards, business affiliation and the like, provided that the total area of all such signs does not exceed three (3) square feet per business or use, and are located on a door or are wall-mounted at or immediately adjacent to a public entrance to the building on the premises.
- (f) Digital clocks or time/temperature clocks which contain no advertising, and which do not exceed fifteen (15) square feet in area.
- (g) Sale of produce raised on the premises signs, not exceeding six (6) square feet in area.
- (h) Permanent window signs which do not exceed thirty (30) percent of the window area.
- (i) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- (j) Holiday signs and decorations 45 days prior to and 15 days after the specific holiday. The term "holiday" means and includes all federal or state legal holidays and all recognized religious holidays.
- (k) Signs customary and necessary to the operation of filling and service stations and automotive fueling areas. The number, area and height of freestanding signs shall be regulated by Section 6.17.6 of this Ordinance.
  - 1. Lettering on buildings displayed over individual entrance doors consisting of the words "washing," "lubrication," "repairing" or words of similar import, provided that there shall not be more than one such sign over each entrance and that the letters shall not exceed ten inches in height.
  - 2. Lettering or other insignia which is a structural part of a gasoline pump or lighting fixture consisting only of a brand name, lead-warning sign, price-per-gallon sign or other signs as required by law.
  - 3. A credit card sign not exceeding two square feet in area, affixed to the building or a permanent sign structure.
  - 4. One or more signs bearing the brand or trade name of the station, of a design specified by the manufacturer, permanently affixed to the building or its own metal substructure, such as a canopy or roof located above pump islands, the total area of such signs not to exceed 30 square feet.
  - 5. All point of purchase materials or signs located no further than ten linear feet from the gasoline islands or ten linear feet from the principal building.
  - 6. Any such freestanding sign may be internally illuminated, regardless of the zoning district in which it is located.

#### **6.17.4. Signs prohibited in all zoning districts.**

- (a) Billboards or other off-site advertising signs. Off-site directional signs may be permitted only by the granting of a special use permit by the Zoning Board of Review.
- (b) Portable signs, including sandwich-board signs and trailer signs.
- (c) Changeable signs, which change the content or display more frequently than once every two (2) minutes.
- (d) Animated, revolving, sparkling or flashing signs, or signs which incorporate intermittent, oscillating, or moving spot lights.

- (e) Signs attached to trees, traffic signs, regulating signs, or utility poles; except for signs on private property posting restrictions on hunting or trespassing , not exceeding two (2) square feet in area per sign.
- (f) Permanent inflatable signs or inflatable objects displayed as a form of advertising.
- (g) Roof-mounted signs.
- (h) String lights, banners or flags. The use of string lights, banners or flags to call attention to a business or activity are prohibited. However, such signs associated with public, religious, or charitable organizations are permitted for a period not to exceed thirty (30) days in any calendar year. The use of established governmental flags are permitted, provided the use is consistent with the established standards of display and the intent is not to call attention to the business and activity. Factors that shall be considered by the Building Official in making such determination shall include, but not be limited to, the size and quantity of the flags, banners or lights.
- (i) Projecting signs which extend over a public sidewalk or public way, without the approval of the Building Official.
- (j) Any sign that constitutes a hazard to public safety or health, including signs which because of size, location, or manner of illumination, obstruct the vision of a driver or detract from the effectiveness of traffic control devices, or that impede vision or access to or from public streets, sidewalks or other places or ingress or egress.
- (k) Any obsolete sign, which no longer advertises a bonafide business conducted or product sold on the premises. Such signs shall be removed within thirty (30) days of the date on which they became obsolete.

**6.17.5. Signs in residential zoning districts (REA, RA, RS, and RU) shall be governed by the following regulations:**

- (a) One freestanding or one wall-mounted sign shall be permitted for a use authorized by the Zoning Board of Review by the granting of a special use permit. No such sign shall exceed nine (9) square feet in area, and shall not be illuminated.
- (b) One freestanding or wall-mounted sign identifying a permitted home occupation shall be permitted. No such sign shall exceed six (6) square feet in area, and shall not be illuminated.
- (c) One non-illuminated sign for an approved accessory use, not to exceed six (6) sq. ft.

**6.17.6. Signs in business and manufacturing districts (BN, BH, PS, LC and M) shall be governed by the following regulations:**

- (a) Except as noted below for shopping centers, there shall be a maximum of two (2) regulated signs per principal building in any business or manufacturing zoning district. Permitted signs include a maximum of one freestanding sign, which may be two-sided, plus either one wall-mounted, projecting or awning sign.
- (b) Where a building fronts on two or more streets or access roadways, the total area of signs shall be based on the building's frontage on a given street and as other wise provided in tables (b) and

(d) below. A maximum of two street frontages may be counted in the calculation of sign area for a single user building located on a corner.

(c) If there is no freestanding sign, there may be a maximum of two (2) wall-mounted, projecting or awning signs, in any combination. In BN, LC and PS zones, signs may be externally illuminated only. Signs in BH and M zones may be either internally or externally illuminated.

(d) The maximum area per sign of any permitted sign shall be as follows:

Zoning District	Maximum Area / Height of Free-standing Sign (per side) (area in sq. ft. / height in ft.)	Maximum Area of Wall-Mounted Sign (per sign) (area in sq. ft.)
BN	12 / 8	1 sq. ft. per lineal foot of wall face; not to exceed 20 sq. ft.
BH	60 / 20	1.5 sq. ft. per lineal foot of wall face; not to exceed 40 sq. ft.
PS	30 / 12	1 sq. ft. per lineal foot of wall face; not to exceed 30 sq. ft.
LC	30 / 12	1 sq. ft. per lineal foot of wall face; not to exceed 30 sq. ft.
M	60 / 20	1.5 sq. ft. per lineal foot of wall face; not to exceed 75 sq. ft.

(e) Signs in shopping centers – general. In shopping centers, there may be one or more common freestanding signs identifying all uses, plus one or more wall-mounted signs for each business or use, as further specified in (d) below. Signs in shopping centers may be illuminated internally or externally.

(f) Wall-mounted signs in shopping centers. The maximum area of wall-mounted signs in shopping centers shall be determined by the distance between the building wall where the sign is to be located and the nearest public street.

The area of wall-mounted signs shall be governed by the table below.

Distance between building and street or driveway (feet)	Maximum Total Area of Wall-Mounted Signs (per sign) (area in sq. ft.)
<100	200 Sq. ft. not to exceed 5 percent of the total storefront wall area.
100 – 200	300 Sq. ft. not to exceed 5 percent of the total storefront wall area.
201-300	350 Sq. ft. not to exceed 5 percent of the total storefront wall area.
301 – 400	400 Sq. ft. not to exceed 5 percent of the total storefront wall area.
>400	450 Sq. ft. not to exceed 5 percent of the total storefront wall area.

The maximum number of wall-mounted signs shall not be limited, provided however that the total area of all wall-mounted signs shall not exceed the area specified in the table above.

- (g) Freestanding signs in shopping centers. A maximum of one (1) freestanding sign per shopping center is permitted. Provided, however that shopping centers which have more than one principal entrance, and (1) each entrance is located on a separate street; or (2) the entrances are at least 1000 feet apart, the maximum number of freestanding signs may be increased to two (2). Freestanding signs may be either internally or externally illuminated.

The maximum area and height of freestanding signs for shopping centers shall not exceed the limits specified in the table below.

<b>Zoning District</b>	<b>Gross floor area of shopping center</b>	<b>Maximum Area / Height of Free-standing Sign (per side) (area in sq. ft. / height in ft.)</b>
BN	<10,000 sq. ft.	25 / 8
	10,000 sq. ft. or more	40 / 8
BH <sup>1</sup>	< 100,000 sq. ft.	100 / 10
	100,000 – 200,000 sq. ft.	175 / 12
	200,000 – 400,000 sq. ft.	200 / 15
	400,000 sq. ft. or more	350 / 30
PS	<50,000 sq. ft.	40 / 8
	50,000 sq. ft. or more	60 / 10
LC	<50,000 sq. ft.	40 / 8
	50,000 sq. ft. or more	60 / 10
M	< 100,000 sq. ft.	40 / 8
	100,000 sq. ft. or more	100 / 10

- (h) Projecting signs shall not exceed six (6) sq. ft., and may only be used in place of permitted wall-mounted or freestanding signs. There shall be a minimum clearance of 10 feet between the ground surface and the lowest part of the sign.
- (i) Window signs. Signs which do not exceed thirty (30) percent of the window area are permitted in addition to any other permitted sign.
- (j) Awning or canopy signs. Such signs shall not exceed six (6) sq. ft. area, with a minimum clearance of eight (8) feet over sidewalks and thirteen (13) feet over driveways. The sign text shall be only on the vertical portion of the apron which is parallel to the building.

#### **6.17.7. Signs in a Historic District (HD).**

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<sup>1</sup> Including BH Limited

Construction, alteration, or repair of a sign in a Historic District shall be governed by the provisions of Section 19 of this Ordinance.

**6.17.8. Temporary signs.**

All temporary signs identified herein shall be permitted in any zoning district without a permit provided that they are removed within ten (10) days following the completion of the advertised activity. No such temporary sign shall be in place more than a total of 30 days, except as otherwise noted.

- (a) Special events. One sign not to exceed 32 sq. ft. in area denoting a special event of a non-commercial nature, such as fairs, auctions, sporting events, etc. Such signs may be erected not more than thirty (30) days prior to the event and shall be removed within ten (10) days after the event. Such signs may not be illuminated.
- (b) One sign customary and necessary in the offering of real estate for sale or to let by the owner or the owner's licensed broker or agent, which shall not exceed six (6) square feet in residential zones or twenty (20) square feet in nonresidential zones. Signs indicating the property has been sold must be removed within ten (10) days after the sale is completed.
- (c) Temporary signs for subdivisions or other real estate developments (six months renewable, three (3) year maximum), no greater than thirty-two (32) square feet in area. The wording shall be restricted to the advertising of the sale or lease of the subject property.

**6.17.9. Political, election, and non-commercial free speech signs.**

- (a) *Purpose.* It is the purpose of this section to regulate only the time, place, size and illumination of such signs, and not in any way to regulate the content of such signs.
- (b) Such signs shall not be attached to any tree, traffic sign, regulating sign or utility pole or within the public right-of-way.
- (c) No such individual sign shall exceed six (6) square feet (2'x 3').
- (d) In a Residential Zone, such signs may be illuminated, but only externally.

Any such sign that pertains to a particular event (such as an election or referendum), or public figure (such as person holding public office), or public policy shall be removed within ten (10) days after the particular event

**6.17.10. Signs, number, area, height, illumination and placement.**

(a) *Number.* For the purposes of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(b) *Measurement of Sign Area.* The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display

area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest single geometric form or other single shape which encompasses all of the letters or symbols.

When a sign has two or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than one foot from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

(c) *Height.* The height of a sign shall mean the vertical distance measured from the average ground level at the base of the sign to the highest portion of any portion of the sign or supporting structure.

(d) *Illumination.* Where permitted by this ordinance, signs may be internally or externally illuminated. Indirect light sources, including light bulbs or tubes shall be shielded so as not to create glare upon abutting or nearby streets or abutting property. Direct light sources, including signs having internal lighting, shall be designed so as to either shine through a plastic or other translucent covering, or to create backlighting of individual letters or graphic material. The light source shall be shielded and focused not to extend beyond the sign border.

(e) *Placement Standards.* No freestanding sign shall be placed closer than ten (10) feet to any lot line.

#### **6.17.11. Permit procedure.**

(a) *Permit required.* Any person intending to erect, relocate or alter any sign within the town shall, except as provided in this article, first obtain a sign permit from the Building Official or designee. This requirement shall not apply to temporary signs and signs listed in Section 6.17.3 herein.

(b) *Application.* Application for a sign permit shall be made on forms provided by the Building Official/Zoning Official and shall contain or shall have attached all of the following information:

(1) Submittal requirements are as follows:

- a. A site plan which shall include the position of all existing and/or proposed signs, indicating the distance and relationship to all existing, proposed and/or adjoining structures or premises.
- b. A scaled drawing of each face of all existing and/or proposed signs is required, including but not limited to the following:
  1. All size specifications, including the size of letters and graphics.
  2. Description of sign and frame materials and colors.
  3. Wall anchorage details. (Note: Anchorage must be interior to the sign or camouflaged).
  4. Foundation mounting assembly and/or footing details.
- c. An elevation drawn to scale of the entire wall of the building to which the sign is to be fixed, correctly locating the sign, and providing the width of the building or affected unit and the height of the first floor.

(2) Names of persons performing the work.

(3) Written consent of the owner and lessor of the premises.

- (4) The electrical permit, if any, when required by the state building code.
- (5) Description of illumination proposed for the sign and its location on the property or building if the proposed sign is to be illuminated.

(c) *Fees.* Each application for signs shall be accompanied by a filing fee or such other fees as shall from time to time be established by the town council.

(d) *Review of applications.* It shall be the duty of the Building Official or designee, upon the receipt of a completed application for a sign permit, to forward such application for review and comment to those departments with the responsibility to do so and to examine such plans, specifications, other data, and if necessary visit the premises upon which the sign is to be located. If it shall appear that the proposed sign is in compliance with all requirements and other town ordinances, the Building Official or designee shall approve the application and issue the permit.

## **6.18. Special Flood Hazard Areas.**

### **6.18.1. Statement of Purpose.**

The purpose of this ordinance is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of North Smithfield elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

### **6.18.2. Applicability.**

#### **A. Special Flood Hazard Areas.**

The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within the Town of North Smithfield\_ designated as Zone A, AE, AH, AO, A99, V, or VE on the Providence County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Providence County FIRM that are wholly or partially within the Town of North Smithfield are panel number 0065 unprinted, panel numbers 0068, 0069, 0151, 0152, 0155, 0156, 0157, 0160, 0165, 0176 and 0178 dated March 2, 2009 and panel number 0166 dated October 2, 2015. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Providence County Flood Insurance Study (FIS) report dated October 2, 2015. The office of the Building Official is responsible for floodplain management. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Tax Assessor.

#### **B. Administrative Provisions.**

**Building Permit.** All proposed construction or other development within a Special Flood Hazard Area shall require a permit.



The National Flood Insurance Program Special Flood Hazard Area requires permits for all projects that meet the definition of development, not just “building” projects. Development projects include any filling, grading, excavation, mining, drilling, storage of materials, temporary stream crossings. If the construction or other development within a Special Flood Hazard Area is not covered by a building permit, all other non-structural activities shall be permitted by either the Rhode Island Coastal Resources Management Council and/or the Rhode Island Department of Environmental Management as applicable. Therefore if another State agency issues a permit, the local building official must have the opportunity for input and keep a copy of the respective permit in their files.

Prior to the issuance of a building or development permit, the applicant shall submit evidence that all necessary permits and approvals have been received from all government agencies from which approval is required by federal or state law.

A permit fee (based on the cost of the construction) may be required to be paid to the Town of North Smithfield and a copy of a receipt for the same shall accompany the application. An additional fee may be charged if the code enforcement officer and/or board of appeals need the assistance of a professional engineer.

**Disclaimer of Liability.** The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.

**Severability.** If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

**Abrogation and Greater Restriction.** This ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

**Enforcement.** The building official shall enforce all provisions as applicable in reference to RIGL § 23-27.3-108.1.

**Penalties.** Every person who shall violate any provision of this code shall be subject to penalties put forth in RIGL § 23-27.3-122.3.

### **6.18.3. Notification of Watercourse Alteration.**

In a riverine situation, the Building Official shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator  
Rhode Island Emergency Management Agency  
645 New London Avenue  
Cranston, RI 02920

- Risk Analysis Branch  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

The carrying capacity of the altered or relocated watercourse shall be maintained.

#### **6.18.4. Use Regulations.**

##### **A. Reference to Existing Regulations.**

The Special Flood Hazard Areas are established as a floodplain overlay district. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with the following:

- Rhode Island State Building Code (As established under Rhode Island General Law § 23-27.3);
- Coastal Resources Management Act, Rhode Island Coastal Resources Management Council (RIGL § 46-23)
- Endangered Species Act, Rhode Island Department of Environmental Management (RIGL § 20-1-2)
- Freshwater Wetlands Act, Rhode Island Department of Environmental Management (RIGL § 2-1-18)
- Minimum Standards Related to Individual Sewage Disposal Systems, Rhode Island Department of Environmental Management (RIGL §, 5-56, 5-56.1, 23-19.15, 23-19.5, 23-24.3, 42-17.1, and 46-13.2)
- Water Quality Regulations, Rhode Island Department of Environmental Management (RIGL § 42-17.1 and 42-17.6 and 46-12)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

##### **B. Other Use Regulations.**

- 1) Within Zones AH and AO on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- 2) Within Zones AO on the FIRM, new and substantially improved residential structures shall have the top of the lowest floor at least as high as the FIRM's depth number above the highest adjacent grade and non-residential structures shall be elevated or flood-proofed above the highest adjacent grade to at least as high as the depth number on the FIRM. On

FIRMs without a depth number for the AO Zone, structures shall be elevated or flood proofed to at least two feet above the highest adjacent grade.

- 3) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Providence County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 4) All subdivision proposals must be designed to assure that:
  - a.) such proposals minimize flood damage;
  - b.) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - c.) adequate drainage is provided to reduce exposure to flood hazards.
- 5) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do not have to meet the elevation or dry flood-proofing requirement if the following standards are met:
  - a.) The structure has a value less than \$1000.
  - b.) The structure has unfinished interiors and must not be used for human habitation. An apartment, office or other finished space over a detached garage is considered human habitation and would require the structure to be elevated.
  - c.) The structure is not in the floodway.
  - d.) The structure is not used for storage of hazardous materials.
  - e.) The structure is used solely for parking of vehicles and/or limited storage.
  - f.) The accessory must be wet flood proofed and designed to allow for the automatic entry and exit of flood water.
  - g.) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
  - h.) Service facilities such as electrical, mechanical and heating equipment must be elevated or flood proofed to or above the base flood elevation.
  - i.) The structure must not increase the flood levels in the floodway.
- 6) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
- 7) No person shall change from business/commercial to residential use of any structure or property located in the floodway of a Special Flood Hazard Area so as to result in a use or expansion that could increase the risk to the occupants.
- 8) The space below the lowest floor:
  - a.) Free of obstructions as described in FEMA Technical Bulletin 5 “Free of Obstruction Requirements for Buildings Located in Coastal High Hazard Area in Accordance with the National Flood Insurance Program”, or
  - b.) Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

Designed with an enclosed area less than 300 square feet that is constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

### **C. Base Flood Elevation and Floodway Data.**

- 1) **Floodway Data.** In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2) **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within unnumbered A zones.
- 3) **Base Flood Elevations in A Zones.** In the absence of FEMA BFE data and floodway data, the best available Federal, State, local, or other BFE or floodway data shall be used as the basis for elevating residential and non-residential structures to or above the base flood level and for flood proofing non-residential structures to or above the base flood level.

#### **6.18.5. Definitions.**

Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance it's most reasonable application.

**Accessory Structure** – A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

**Area of Shallow Flooding** (for a community with AO or AH Zones only) - A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** – see definition for “Special Flood Hazard Area”.

**Base Flood** – The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** – The elevation of the crest of the base flood or 100-year flood. The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where specified), in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

**Basement** – Any area of a building having its floor subgrade (below ground level) on all sides.

**Building** – see definition for “Structure”.

**Coastal A Zone** – Area within a special flood hazard area, landward of a V Zone or landward of an open coast without mapped V Zones. The principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for breaking wave heights shall be greater than or equal to 1.5 feet.

**Cost** – As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor’s estimate. The estimate shall *include*, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s profit; and grand total. Items to be *excluded* include: cost of plans and specifications, survey costs, permit fees, costs to correct code violations subsequent to a violation notice, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

**Development** – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Existing Manufactured Home Park or Manufactured Home Subdivision** – A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Existing Manufactured Home Subdivision** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Federal Emergency Management Agency (FEMA)** - Federal agency that administers the National Flood Insurance Program (NFIP).

**Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

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

**Flood Insurance Study (FIS)** – The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

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

**Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. For the purposes of these regulations, the term “Regulatory Floodway” is synonymous in meaning with the term “Floodway”.

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

**Functionally Dependent Use or Facility** – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities.

**Highest Adjacent Grade (HAG)** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** – Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

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

**Manufactured Home** – A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**Manufactured Home Park or Manufactured Home Subdivision** – A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

**Market Value** – Market value is the price of a structure that a willing buyer and seller agree upon. This can be determined by an independent appraisal by a professional appraiser; the property’s tax assessment, minus land value; the replacement cost minus depreciation of the structure; the structure’s Actual Cash Value.

**New Construction** – Structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Manufactured Home Subdivision** – A manufactured home park or manufactured home subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain regulations adopted by the community. (*required*)

**Recreational Vehicle** – A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** – see definition for “Floodway”.

**Sheet Flow Area** – see definition for “Area of Shallow Flooding”.

**Special Flood Hazard Area (SFHA)** – The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**Start of Construction** – For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent

construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

For insurance purposes, means:

1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;
2. A manufactured home (“a manufactured home,” also known as a mobile home, is a structure; built on permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.

For the latter purpose, “structure” does not mean recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

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

**Substantial Improvement** – Any reconstruction, rehabilitation, addition or other improvements to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include:

1. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
2. Any alteration of the “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**Variance** - A grant of relief by a community from the terms of the floodplain management ordinance that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

**Violation** – Failure of a structure or other development to be fully compliant with the community’s floodplain management ordinance. Construction or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment



calculations is presumed to be in violation until such time as that documentation is provided.  
(Ord. of 9/21/2015)

## **Sec. 6.19. Water Supply Protection Overlay District.**

### **6.19.1. Purpose.**

The regulations herein governing the development and use of lands within the water supply protection overlay district aquifers shall take precedence over any other conflicting laws, ordinance, or codes, and are established for the following purposes:

- (A) To protect the quality and supply of future and present sources of drinking water for the residents of the Town of North Smithfield and adjacent communities by regulating the use and development of land to protect major stratified drift aquifers and their recharge areas (GAA Classification), surface drinking water supplies and their watersheds, community well-head protection areas, and town-owned non-transient, non-community wellhead protection areas (schools) and to prevent uses of land detrimental thereto;
- (B) To protect, preserve and enhance drinking water resource quality;
- (C) To protect the health, safety and general welfare of the public.

### **6.19.2. Definitions.**

For the purpose of this subsection and this ordinance generally, the following terms shall have these meanings:

Aquifer- A saturated and permeable geologic formation that can yield significant quantities of water to wells, springs or surface water bodies.

Community water system- A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

Discharge to groundwater-. The intentional, negligent, accidental, or other release of any pollutant onto or beneath the land surface, in a location where it is likely to enter the groundwater of the State.

Disposal- The deposit, injection, dumping, spilling, leaking, incineration of, or placing of any pollutant or hazardous material(s) into or on any land or water so that such pollutant(s), hazardous material(s) or any constituent thereof may enter the environment.

GAA Classification- Groundwater classified GAA includes those groundwater resources that are known or presumed to be suitable for drinking water use without treatment, including the following:

- (1) The state's major stratified drift aquifers that are capable of serving as a significant source for a public water supply (groundwater reservoirs) and the critical portion of

their recharge areas as delineated by DEM; and

- (2) The wellhead protection area for each public water system community water supply well. Community water supply wells are those that serve resident populations and have at least 15 service connections or serve at least 25 individuals (e.g., municipal wells, and wells serving nursing homes, condominiums, mobile home parks, etc.)

Groundwater-Water located beneath the ground surface which completely fills the open spaces between particles of sediment and within rock formations.

Underground storage tank (UST)-Any one or more combinations of tanks (including underground pipes connected thereto) used to contain petroleum or other hazardous material and which is located wholly or partly beneath the surface of the ground.

Hazardous waste- Any material or combination of materials of a solid, liquid, contained gaseous, or semi-solid form which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment.

Such materials include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, substances which are assimilated or concentrated in and are detrimental to tissue, or which generate pressure through decomposition or chemical reaction and includes septic wastes. In addition, such materials include "industrial waste" as such term is used in the Rhode Island General Laws, as amended, unless the context shall clearly indicate otherwise. Hazardous waste shall also include all waste types as defined in the rules and regulations adopted in accordance with Title 23, Chapter 19.12 of the General Laws of the State of Rhode Island and Providence Plantations, as amended.

Hazardous material- Any material defined as a "hazardous substance" by section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC 9605) as amended. Hazardous Material shall include any hazardous waste as well as any of the following materials: acetone, ethanol, ethylene oxide, methanol, methylene chloride, perchloroethylene and petroleum products. The enumeration of the above materials ~~is in~~ not intended in any way to minimize the list of material defined in the aforesaid section.

Hazardous waste management facility- A facility, excluding vehicles, for collection, source separation, storage, processing, treatment, recovery, or disposal of ~~hazardous station~~ ~~for~~ hazardous waste, and may include a facility at which such activities occur and hazardous waste has been generated.

Onsite wastewater treatment system- One installed to provide sanitary sewage disposal by leaching into the ground where no public sewer system is available or accessible.

Pollutant- A man-made or man-induced substance which causes or could cause the alteration of the chemical, physical, biological or radiological integrity of groundwater.

Recharge area of aquifer- Any area in which precipitation percolates to the water table and flows through materials to the aquifer.

Reservoir. A pond, lake, or basin, either natural or artificial, for the storage, regulation, and control of water.

Solid wastes- Useless, unwanted or discarded solid materials with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, combustion residues, garbage, scrap materials, junk, fill material, demolition debris, construction wastes and refuse.

Town-owned non-transient non-community water system- A town-owned non-community water system that regularly services at least 25 of the same persons over six months of the year (e.g., schools).

Water Supply Overlay District- The Water Supply Overlay District includes all land in the Town identified as major stratified drift aquifers and their recharge areas (GAA Classification), surface drinking water supply watersheds, community wellhead protection areas, and town-owned non-transient, non-community wellhead protection areas (schools). The term Water Supply Overlay District shall be synonymous with Groundwater Aquifer Protection Overlay District.

Water Supply Watershed-The portion of land drained by a river and its tributaries to a reservoir used for the storage, regulation, and control of public drinking water.

Water table- The upper surface of the saturated zone in an unconfined aquifer.

Wellhead protection area- The critical portion of a three-dimensional zone, surrounding a community public well or town-owned non-transient non-community well (schools) through which water will move toward and reach such well or well field as designated by the RIDEM and any amendments thereto.

### **6.19.3. Applicability.**

With the exception of exempt industrial or commercial areas as depicted on Water Supply Protection Overlay District Map, there is hereby established an Water Supply Overlay District (“the District”), which shall be defined as lots of record, or portions thereof, which are indicated as major stratified drift aquifers and their recharge areas (GAA Classification), surface drinking water supply watersheds, community well-head protection areas, and town-owned non-transient, non-community wellhead

protection areas (schools) on the Official Zoning Map that is part of this Ordinance, and on file at the Town Clerk’s Office and on display in the Building Inspector’s Office.

The map of the Water Supply Overlay District is based upon natural topography and estimated groundwater recharge flow lines, not property boundaries. The boundaries of the water supply basin include sub watersheds of the Blackstone Watershed and further, a drinking water, sub watershed of the Peters River to Mouth area known as the Crookfall Brook Watershed. The primary groundwater protection areas were delineated by the RI DEM pursuant to the methodology described in the Groundwater Quality Rules, June 2010, and amendments thereto.

The Water Supply Overlay District is superimposed over any other zoning district established by this Ordinance. The regulations imposed by the Water Supply Overlay District shall apply in addition to the regulations of the underlying zoning district. In the event of a conflict or inconsistency between the regulations imposed by the Water Supply Overlay District and those imposed by the underlying district, the regulations imposed by the Water Supply Overlay District shall govern.

The Crookfall Brook Watershed encompasses and is home to the City of Woonsocket public drinking water natural resource. Accordingly, the City of Woonsocket, Town of Lincoln, and Town of Smithfield, shall be notified regarding projects within the Crookfall Brook Watershed. Project’s falling within the GAA area in the northern part of North Smithfield shall require notice to the Towns of Uxbridge and Blackstone, Massachusetts.

**6.19.4. Characteristics.**

Water generally enters an aquifer by downward percolation from land surface recharge area and moves laterally underground toward areas of natural and man-induced discharge. The soils and subsoil conditions of the lands in the groundwater aquifer zone are such that any use introducing pollutants or hazardous materials into the natural drainage system could adversely affect the quality of drinking water resources, including the waters of the Slatersville and the Woonsocket Water Supply Reservoirs.

**6.19.5. Permitted uses.**

All uses otherwise permitted in the various zones established by [Section 5.4](#) ~~this ordinance~~ that do not cause the introduction of pollutants or hazardous materials into the ground or waters of the Town shall be permitted in the Water Supply Overlay District. [All residential uses of minor or major subdivision or land development classification, shall require a special use permit from the Water Supply Overlay District.](#)

**6.19.6. Prohibited uses.**

The following uses, except those lawfully maintained pre-existing uses, are specifically prohibited within the Water Supply Overlay District:

- (A) Any uses prohibited (N) in the underlying zoning districts;

- (B) Septic and solid waste management, treatment, or transfer facilities, including, without limitation, landfills, junkyards and salvage yards. Additionally, land disposal of septage and sewage sludge, resource recovery or recycling facilities, and hazardous waste treatment facilities;
- (C) Storage of petroleum or petroleum products, including, without limitation, gasoline service stations, fuel dealers, oil and bottled gas sales and service, and open lot storage of such fuels. This prohibition shall not apply to the replacement or upgrading of existing underground storage tanks containing petroleum products or hazardous materials and associated piping, having the same storage capacity or less, installed prior to the effective date of these regulations, provided that such activity is regulated by the RI Department of Environmental Management and takes place in accordance with all applicable state and federal regulations;
- (D) Storage of road salt, sand/salt mixtures, or other de-icing chemicals in quantities greater than for normal individual household use. At locations where such materials have been stored prior to the effective date of these regulations, such materials must, at a minimum be covered with a secured, durable, waterproof cover to protect the materials from precipitation, with an impermeable storage and handling surface that will prevent contaminated runoff;
- (E) Manufacture, use, storage, or disposal of toxic or hazardous materials, excluding normal household activities;
- (F) Industrial uses which discharge process liquids on-site, like metal plating, machine shops, metal working shops and welding shops, finishing and polishing, including jewelry manufacturing;
- (G) Commercial chemical users, including but not limited to hairdressers, photographic processors, print shops; and dry cleaners, excluding pick-up or drop off;
- (H) Furniture stripping and refinishing businesses;
- (I) Storage or disposal of hazardous waste, including, without limitation, chemical wastes, radioactive materials, and waste oil other than in the course of normal household activity;
- (J) Boat or motor vehicle service or repair shops, gasoline or diesel-powered engine repair shops and commercial car washes;
- (K) All fossil-fuel fired power plants.
- (L) The storage, disposal, or use as fill of material containing asphalt, concrete, construction debris or stumps, even if determined to be non-hazardous;

#### **6.19.7. Exemptions.**

The following uses shall be exempt from the provisions of this subsection:

- (A) Agricultural uses, as defined by subsection 3.4.1 of this ordinance;
- (B) Onsite wastewater treatment systems associated with otherwise permitted uses;
- (C) Storage of petroleum products in a free-standing container within a building for the purpose of heating that building.
- (D) Routine maintenance of buildings and landscape care; however, application of fertilizers and pesticides in close proximity to wetlands and associated state or local buffer areas is ~~is~~ not recommended. Enhancement of wetland buffers by allowing natural re-vegetation of native plants or planting in accordance with DEM standards is encouraged.

Notwithstanding any other provision herein, a nonconforming and already permitted use within the Water Supply Overlay District may be continued and maintained so long as it remains otherwise lawful. No such use shall be enlarged, altered, extended, or operated in any way which increases its threat to groundwater quality or otherwise contravenes the purpose and intent of this ordinance.

In the event that a nonconforming use has ceased for a consecutive period of one (1) year, such nonconforming use may not be resumed except in conformity with the provisions of this Section.

#### **6.19.8. Special use permits.**

The Special Permit Granting Authority under this Water Supply Overlay District shall be the Zoning Board of Review. Such special permits shall only be granted if the Board determines that the intent of this ordinance and each of its specific criteria are fully met. ~~In making such determination, the Board shall give consideration to the demonstrated reliability and feasibility of the use and pollution control measures proposed and the degree of threat to water quantity and quality which would result if the control measures perform at less than design efficiency.~~ In addition, the Board shall take into consideration the sensitivity of the water body to which the site drains. A water body and its watershed will be considered sensitive if a Total Maximum Daily Load is written or under development for it, or it is included on RIDEM'S 303(d) list, or is included on RIDEM'S list of Special Resource Protection Waters (Appendix D of the Water Quality Regulations), or has been noted by the Town Council or the Comprehensive Plan to be a critical resource of special concern. The Board may impose such conditions, safeguards and limitations as it deems appropriate. The Board shall document the basis for any departures from the recommendations of other town boards or agencies, in its decisions.

**6.19.8.1. Technical assistance.** To assist its review of applications for special permits, at the applicant's cost, the Board may engage a professional hydrogeologist or hydrologist, ~~soil scientist or licensed Rhode Island engineer experienced in groundwater evaluation or hydrogeology~~ to review the application for its possible effects on groundwater completeness and accuracy, ~~and shall charge the applicant for the cost of such review. In the use of such professional, the Board may also require said professional to verify information contained in the application, and verify the inclusion of the subject land within the Water Supply Overlay District.~~

~~If an application submitted to the Board does not contain adequate data, including field and laboratory measurement results and fully documented calculations, performed and certified by a professional geologist, hydrologist, soil scientist or licensed Rhode Island engineer experienced in groundwater evaluation, or water supply information submitted in support of the application and subject land, whichever is proposed, the Board may engage a professional geologist, hydrologist, soil scientist or licensed Rhode Island engineer experienced in groundwater evaluation or hydrogeology to perform analyses and prepare all data necessary for an accurate evaluation of the application and shall charge applicant for the costs of such information.~~

**6.19.8.2. Application contents.** ~~In addition to the requirements of the North Smithfield Zoning Ordinance and any and all applicable state and federal requirements, the following requirements will apply:~~

(1) ~~Each application for a special permit shall be filed with the Board and shall comply with the Rules and Regulations of the Board.~~ The application, including any plans and accompanying text, shall be sufficient to allow full evaluation of the proposed use and its impacts on the Groundwater District;

(2) The application shall be prepared in accordance with [Zoning Sections 6.22 post construction stormwater control, section 17 site plan review, and section 18 soil erosion and sediment control, to ensure measures to protect the aquifer are being employed.](#) ~~the data requirements of the proposed developed site plan review, erosion and sedimentation control plan, etc.;~~

(3) The application shall, [if requested by the Zoning Board of Review,](#) include an analysis by a professional [hydrogeologist or](#) hydrologist, ~~soil scientist, or licensed Rhode Island engineer experienced in groundwater evaluation or hydrogeology~~ to demonstrate that the proposed activity will not be detrimental to the [aquifer.](#) ~~purpose of the district.~~ At a minimum, [a potentiometric profile shall be created to understand groundwater level and flow direction.](#) ~~, the analysis shall fully describe the seasonal profile of the volumes and directions of groundwater and surface water flows with and without the proposed use, the location and use of all present and potentially suitable future drinking water supplies that could be affected by uses, and the location and use of any surface and/or groundwater that could be affected by the proposed use.~~

The application shall contain [potentiometric well data.](#) ~~adequate data, including field and laboratory measurement results and the fully documented calculations.~~

~~———— (4) ——— The applicant shall present a profile of potential events which could adversely affect the normal range of quality or quantity of water leaving the site. Such events shall include any which could reasonably be expected to occur at least once in the lifetime of the proposed use.~~

**6.19.8.3. Review by other town boards or agencies.** Upon receipt of the special permit application, the Zoning Board of Review may transmit forthwith, a copy of the application to [any Town board, commission, or staff for written opinion. Said opinion\(s\) shall be transmitted to the zoning board via Town staff, as well as the applicant, within 35 days of initial transmittal.](#) ~~the Planning Board, Conservation Commission, Town personnel, or other such Boards or Agencies as it may deem necessary or appropriate for their written reports. Any such board or agency to which petitions are referred shall~~

~~make recommendations or submit such reports as they may deem appropriate and shall send a copy thereof to the Planning Board and the applicant within forty five (45) days of receipt of the application by such board or agency. Failure to make a written recommendation or submit a written report~~ Failure to transmit said written opinion within the thirty-five (35) day period shall be deemed a lack of opposition.

**6.19.8.4. Special-use permit approval criteria.** After notice and public hearing, and after due consideration of the reports and recommendations of other Town personnel, boards and agencies, the Zoning Board of Review may grant such a special use permit provided that it finds the proposed use:

(1) Will not cause the groundwater quality to degrade by fall below the groundwater classification standards established by Rhode Island Department of Environmental Management (DEM) in accordance with RIGL 46-13.1 or nearby individual private wells to degrade in accordance with ; Rhode Island Department of Health (DOH) standards set by RIGL 23-1-5.2 and 3. , U.S. Environmental Protection Agency (EPA), Rhode Island General Public Law 46-13.1 Ch. 3799, 1956, (reenacted 1988 Ch. 84) Chapter 13, and where existing upon determination that the proposed activity will result in no further degradation;

(2) Is in harmony with the purpose and intent of this ordinance and will promote the purpose of the Water Supply Overlay District;

(3) Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;

(4) Will not, during construction or thereafter, have any adverse environmental impact on any water body or course in the Water Supply Overlay District; and

(5) Will not adversely affect an existing or potential water supply.

#### **~~6.19.9. Public hearing and decision.~~**

~~The Board shall hold a public hearing no later than sixty five (65) days after filing a completed application and may continue a public hearing under this section if it finds that such a continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of a special permit application and to allow sufficient time for remonstrants and public comment.~~

#### **6.19.10. Design and operation guidelines.**

At a minimum, the following design and operation guidelines shall be observed within the Water Supply Overlay District:

(A) *Fill* - Fill materials used in the Water Supply Overlay District shall not contain solid waste, toxic or hazardous materials, or hazardous wastes. Adequate documentation shall be provided to staff the Zoning Board of Review to guarantee the ~~chemical~~ quality of the fill. Any expenses incurred in laboratory analysis shall be solely at the expense of the applicant.



(B) *Drainage* - Storm-water shall be managed using Low Impact Development (LID) practices to avoid and reduce runoff volume to the maximum extent practicable, as specified in the RI Stormwater Design and Installation Standards Manual ~~and the Rhode Island Stormwater Management Guidance for Individual Single Family Residential Lot Development~~, as amended, Where necessary to protect groundwater quality, runoff from paved parking lots, public and private streets, loading areas, storage and operating areas, and other impervious surfaces subject to contamination from road sediments, heavy metals and petroleum products shall be collected and diverted through an oil/water separator prior to discharge to the environment; collected and discharged into a "wet" storm water detention basin capable of achieving water quality enhancement; or diverted toward vegetated filter strips, swales, or bio-retention; or discharged or diverted to other storm water management (facility(s) designed to attenuate runoff and provide pollutant removal capabilities. The Zoning Board of Review may require off-site discharge if on-site discharge is not feasible because of site conditions or is undesirable because of risks to water quality from such recharge.

~~(C) — The maximum percentage of impervious area for each zone shall be as follows: M-40%, BH-35%, REA-10%, RA-12%, RS-15%, RU-25%, PS-40%, BN-40%, and all other commercial-40%. Residential lots of record that are non-conforming by area shall meet the requirements of the zone for which their area most nearly matches. Non-conforming lots of less than 15,000 square feet may use 40% impervious cover.~~

(D) ~~Residential-s~~Storage tanks for petroleum products may be located outdoors provided that they are located within a containment structure that has an impermeable base and surrounding dike. Such base and dikes shall be constructed of material which is ~~both impermeable, and compatible with the material being contained.~~

(E) Dumpsters which are used to store solid wastes shall be covered or located within a roofed area and have drain plugs intact. No washing or rinsing of dumpsters on-site shall occur.

~~(E) (F) —~~Conservation Developments are strongly encouraged for all major subdivision and land development projects in the Water supply Overlay Protection District.

(G) All LID stormwater features

~~All facilities constructed in accordance with this Section~~ shall be maintained by the owner or owner's representative so as to assure their ability to function as designed. Failure to properly maintain said facilities shall constitute a violation of this Ordinance and is subject to enforcement action by the Town.

#### **6.19.11. Enforcement and violations.**

**6.19.11.1. Enforcement-** It is the intent of this Ordinance that, except in the cases of a Special Permit, all questions of interpretation and enforcement shall first be presented to the Zoning Enforcement Officer and that all questions shall be presented to the Zoning Board of Review only on an appeal from the Officer. Interpretation, enforcement and appeals shall be conducted in compliance with Section 18 of the ordinance.

**6.19.11.2. Violations** - Written notice, via certified mail, of any violation of this ordinance shall be given by the Officer to the responsible person within forty-eight (48) hours of detection of the violation,

specifying the requirement or restriction violated, the actions necessary to remove or remedy the violations, preventive measures required for avoiding future violations and a schedule of compliance. The costs of containment, cleanup, or other action of compliance shall be borne by the owner or operator of the premises.

**6.19.12. Fee schedule.**

A schedule of fees, charges, expenses and penalty fees shall be established in conformation with section 12, subsection 12.1 of the North Smithfield Zoning Ordinance. (Ord. of 04/01/2013 , Ord. of 11/02/2020)

**Section 6.20 Conservation Developments**

**6.20.1. Purposes.** The purposes of this section entitled Conservation Developments, are:

- A. To protect natural resources, including but not limited to those areas containing woodlands, unique or specimen vegetation, streams, floodplains, wetlands, aquifers to their recharge areas, agricultural lands, wellheads and vernal pools, by setting them aside from development;
- B. To preserve cultural, historical and archaeological resources;
- C. To protect recreational resources;
- D. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including wastewater disposal systems and wells, and to reduce length of roads, utility runs, and the amount of paving required for residential development;
- E. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the population diversity of the community may be maintained;
- F. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally important resources as set forth in the Comprehensive Plan,
- G. To provide reasonable incentives for the creation of a contiguous greenway system within the Town;
- H. To implement adopted land use, transportation and community service policies, as set forth in the Comprehensive Plan;
- I. To protect areas of the Town with productive agricultural soils to encourage continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
- J. To create neighborhoods with direct visual and/or physical access to open land, with amenities in the form of Town open space, and with a strong neighborhood identity;
- K. To provide for the maintenance of open land set aside for active or passive recreational use, storm

water drainage or conservation lands;

L. To conserve and create scenic views, to protect views along scenic roadways, and, where appropriate, to preserve the rural character of the Town; and,

M. To provide a buffer between new development and existing streets, neighborhoods, active farmland and adjacent park or conservation land.

### **6.20.2. Applicability.**

A. In accordance with the procedure set forth in the Land Development and Subdivision Regulations, the Planning Board may allow a land development project or subdivision to be developed as a Conservation Development only in the following zoning districts: RU-20, RS-40, RA-65 and REA-120.

B. Conservation developments shall only be allowed when specifically requested in writing by the applicant. The Planning Board cannot require an applicant to develop a conservation development.

C. If an applicant requests approval of a major or minor conservation development, the Planning Board shall, at the pre-application stage of review (major) or informal concept review stage (minor) require the applicant to submit two alternative plans for the property proposed for development as follows:

- A plan(s) of a conventional subdivision
- A plan(s) for the conservation development requested.

D. At this initial stage of review, the Planning Board shall determine if a conservation development would be consistent with the purposes of the Land Development and Subdivision Regulations, and with the purposes of conservation developments set forth in Section 6.20.1, herein. Based on this determination, the Planning Board may permit the applicant to proceed with a conservation development.

E. At this initial stage of review, if the Planning Board finds that the conservation development alternative is not consistent with the purposes described in subsection D, above, the Board may disallow the conservation development and require the applicant to proceed with the conventional subdivision.

F. The applicant shall then submit plan(s) for the development preferred by the Planning Board in either subsection D. or E. above. Plans shall be submitted at the master plan stage of review (major), or preliminary stage of review (minor) in accordance with the procedures and requirements of the Land Development and Subdivision Regulations. Nothing herein shall prevent an applicant from requesting an additional pre-application meeting or informal concept review.

G. Administrative subdivisions and subdivisions that create lots which are not for the purpose of present or future development are not eligible to be developed as a Conservation Development.

H. In RU-20 zoning districts, all conservation developments must be provided with public water and sewer service. Privately owned wells and/or sewage treatment systems and/or Individual Sewage Disposal Systems (ISDS) for individual lots in a conservation development shall not be allowed in

RU-20 zoning districts.

Application for all conservation development land development projects shall be made in accordance with the procedures of the Town's Land Development and Subdivision Regulations, whether a subdivision or not.

**6.20.3. Permitted Uses.** Permitted uses in a conservation development include:

A. The following residential uses are permitted as a principal use (Y) in a conservation development:

Use Category as provided in Section 5.4 – District Use Regulations

5.4.2 (1) Single-family dwelling

5.4.2 (1a) Accessory Family Dwelling

5.4.2 (2) Single-family dwelling with office space (see Section 5.4.3)

5.4.2 (3) Two-family dwelling where one unit is deed restricted for affordable housing. Two-family units are permitted in RU-20 zone, require a Special Use Permit in RS-40 and RA-65 zones and are prohibited in the REA-120 zone.

B. Accessory uses customarily incidental to a use permitted in the district and located on the same site are permitted by right. Any accessory use customarily incidental to a use allowed by special use permit in the district and located on the same site is permitted by special use permit.

C. The open space in a conservation development shall be devoted only to conservation purposes or for park, recreation, forest management and agricultural purposes.

The following uses listed in Section 5.4 of this Ordinance shall be permitted as a principal use (Y) within the open space areas:

Use Category as provided in Section 5.4 – District Use Regulations

5.4.1 (2) Non-commercial raising of animals indoors or outdoors (excluding pets, watchdogs and apiary)

5.4.1 (5) Non-commercial raising of crops

5.4.1 (6) Commercial raising of crops

In addition, the following uses are also permitted as a principal use (Y):

1. Conservation area, wildlife refuge, reforestation area or woodlot
2. Subdivision parks, playgrounds, community centers, recreation facilities and similar

structures of a non-commercial nature designed for the use of the residents of the conservation development and their guests

In all zoning districts where conservation developments are permitted, the following uses may also be allowed in open space areas if permitted by the Planning Board in accordance with the applicable provisions of the North Smithfield Land Development and Subdivision Regulations:

1. Storm water drainage areas;
2. Buildings, structures, parking areas or other impervious improvements which are accessory to and subordinate to a permitted open space use, may be located on any open space lot provided that, in all cases, they occupy no more than two (2) percent of the total open space area of the conservation development.

The required amount of open space in a conservation development shall be as provided in Section 6.20.7.

**6.20.4. Maximum Density for Conservation Development.** The maximum density for a conservation development shall not exceed the number of lots intended for single-family dwellings which could reasonably be expected to be developed upon the conservation development site under a Conventional Yield Plan as provided in Section 4-1 (H) of the Land Development and Subdivision Regulations (The Basic Maximum Number of Dwelling Units).

**6.20.5. Reserved**

**6.20.6. Lot Dimensional Requirements.** Applicants are encouraged to modify lot area, shape, and other dimensional characteristics within a conservation development. A conservation development may be developed with dwelling units on separate lots, a single lot, or a combination thereof. Where dwellings are proposed to be located on individual lots, the dimensional regulations provided in Table 1 below shall be applicable to dwellings within a conservation development.

**6.20.7. Open Space in Conservation Developments.** All conservation developments shall provide open space in accordance with the following requirements and standards:

- a. The open space shall be established as a lot or lots separate and distinct from the lot or lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- b. The minimum amount of required open space area shall be based on a percentage of the land suitable for development in the entire Conservation Development as provided in the table below. Land deemed unsuitable for development as defined in Section 5.5.3 of this ordinance shall not count towards the minimum required open space area.

<i>Zoning District</i>	<i>Minimum Percentage of Land to be Dedicated as Open Space</i>
<i>REA-120</i>	<i>65</i>
<i>RA-65</i>	<i>50</i>

<i>RS-40</i>	<i>No water or sewer</i>	<i>25</i>
	<i>Sewer/no water OR Water /no sewer</i>	<i>50</i>
	<i>Both sewer and water</i>	<i>60</i>
<i>RU-20</i>	<i>25</i>	

*Table 1 – Dimensional Requirements in a Conservation Development*

<i>Utilities</i>	<i>Min. Lot Area (sq. ft.)</i>	<i>Min. Lot Frontage and Width (ft.)</i>	<i>Min. Front Yard Depth (ft.)</i>	<i>Min. Rear Yard Depth (ft.)</i>	<i>Minimum Side Yard (each side) (ft.)</i>	<i>Maximum Building Coverage (percent)</i>
<b>Single Family Dwelling</b>						
<i>Both public water and sewer</i>	15,000	85	25	30	15	30
<i>Either Sewer/no water OR Water /no sewer but not both</i>	20,000	<i>REA-120=140 RA-65=120 RS-40=100</i>	25	30	15	20
<i>No water or sewer ISDS and well located on lot</i>	30,000	<i>REA-120=180 RA-65=120 RS-40=100</i>	24	32	15	15
<b>Two Family Dwelling</b>						
<i>Both public water and sewer</i>	20,000	<i>RA-65=145 RS-40=120 RU-20=100</i>	30	32	15	30
<i>Either Sewer/no water OR Water /no sewer but not both</i>	30,000		30	32	15	20
<i>No water or sewer ISDS and well located on lot</i>	40,000		30	32	15	15

## **Sec. 6.21 ILLICIT DISCHARGE STORM WATER**

### **Sec. 6.21.1 Purpose**

Contaminated storm water runoff is a major cause of impairment of water quality in lakes, ponds, streams, rivers, wetlands, and groundwater; contamination of drinking water supplies; and alteration or destruction of aquatic and wildlife habitat. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Town water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment

The objectives of this ordinance are:

1. to prevent (or reduce to the maximum extent practicable) pollutants from entering the Town owned storm drainage system;
2. to prohibit illicit connections and unauthorized discharges to the storm water drainage system;
3. to require the removal of all such illicit connections and discharges;
4. to comply with state law and federal statutes and regulations relating to storm water discharges; and
5. to set forth the legal authority and procedures to carry out all inspection, detection, monitoring, and enforcement activities necessary to ensure compliance with this ordinance.

### **Sec. 6.21.2 Authority**

This ordinance is promulgated pursuant to the Rhode Island Department of Environmental Management's ("DEM") General Permit Rhode Island Pollutant Discharge Elimination System Storm Water Discharge from Small Municipal Separate Storm Sewer Systems and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s ("MS4 General Permit") and in accordance with the Administrative Procedures Act, R.I.G.L. 42-35-1, et seq.

**Sec. 6.21.3 Definitions** The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section:

*Allowable Non-Storm Water Discharges*- Discharges not comprised of storm water are allowed under the MS4 General Permit Part I.B.3 but are limited to the following, provided these are not significant contributors of pollutants to the MS4: discharges which result from the washdown of vehicles at retail dealers selling new and



used automobiles where no detergents are used and individual residential car washing; external building washdown where no detergents are used; the use of water to control dust; fire-fighting activities; fire hydrant flushings; natural springs; uncontaminated groundwater; dechlorinated pool discharges; air conditioning condensate; lawn watering; potable water sources including waterline flushings; irrigation drainage; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents, or contaminated by contact with soils where spills or leaks of toxic or hazardous materials have occurred; uncontaminated utility vault dewatering; dechlorinated water line testing water; hydrostatic test water that does not contain any treatment chemicals and is not contaminated with process chemicals.

*Best Management Practices (BMPs)*- Schedules of activities, prohibitions of practices, general good house-keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices; and structures, to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Clean Water Act (CWA)*- The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

*Construction Activity*- Activities subject to RIPDES Construction Permits, which includes construction projects resulting in land disturbance of one acre or more; and activities resulting in land disturbance of less than one acre which are subject to Planning Board approval. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Director* means the Director of Public Works, or his authorized deputy, agent or representative.

*Discharger*- Any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

*Hazardous Material*- Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, radioactive, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Illicit Connection-* An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Director, or,
- any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Director .

*Illicit Discharge-* Any direct or indirect discharge to a municipal storm drainage system that is not composed entirely of storm water, except discharges pursuant to a RIPDES permit (other than the RIPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities. Illicit discharges include, but are not limited to, discharges in the form of: illegal dumping, hazardous waste/material spills, sewage and wastewater, construction waste, building material, truck washout, litter, and those allowable storm water discharges found to be a significant contributor of pollutants to the MS4.

*Industrial Activity-* Activities subject to RIPDES Industrial Storm Water Permits as defined in RIPDES Rule 31 (b) (15).

*Municipal Separate Storm Sewer System (MS4)-* A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural and man-made channels and watercourses, piped storm drains, retention and detention basins, and other drainage structures), owned or operated by the Town, or proposed for ownership or operation by the Town, and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage. (Also known as the ‘storm drainage system’.)

*Non-Storm Water Discharge-* Any discharge to the storm drain system, or that has the potential to enter the storm drain system, that is not composed entirely of storm water.

*Operator-* The party or parties that either individually or taken together have the day-today operational control over the facility activities and the ability to make modifications to such activities.

*Owner-* The party or parties that either individually or taken together has legal title to any premise.

*Person*- Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutants*- Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal and pet wastes; soil, sediment/ fines resulting from land disturbing activities; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*RIPDES*- Rhode Island Pollution Discharge Elimination System means the Rhode Island system for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing point source discharge permits and imposing and enforcing pretreatment requirements pursuant to Title 46, Chapter 12 of the General Laws of Rhode Island and the Clean Water Act.

*Storm Water*- Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Storm Water Management Program Plan (SWMPP)*- the municipal document describing a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, protect water quality, and satisfy the water quality requirements of the Federal Clean Water Act and Rhode Island Water Quality Standards; and which includes the following six minimum control measures: Public Education and Outreach, Public Involvement/ Participation, Illicit Discharge Detection and Elimination, Construction Site Storm Water Runoff Control, Post Construction Storm Water Management, and Pollution Prevention and Good House Keeping in Municipal Operations. *Storm Water Pollution Prevention Plan (SWPPP)*- A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

*Watercourse*- A natural or man-made surface drainage channel or body of water (including a lake or pond) through which a water flow occurs, either continuously or intermittently.

*Waters of the State*- Surface and ground waters within the boundaries of the State of Rhode Island and subject to its jurisdiction.

## **Sec. 6.21.4 Discharge Prohibitions**

### **(a) Prohibition of Illicit Discharges**

No person shall throw, drain, or otherwise discharge or cause to be discharged into the municipal storm drainage system any pollutant or non-storm water discharge unless such a non-storm water discharge is outlined in Part I.B.3 of the MS4 General Permit as an Allowable Non-Storm Water Discharge, or is authorized by a specific RIPDES permit. The allowable non-storm water discharges are permitted if deemed not to be a significant contributor of pollutants to the municipal storm drainage system. Allowable non-stormwater discharges will not be permitted under any circumstance when said discharge adversely affects a municipal right-of-way or stormwater system.

Reports of illegal dumping, hazardous waste and material spills, and other complaints will be investigated under the purview of this ordinance, and Ordinance No. 28, and other applicable State and Federal laws.

The commencement, conduct, or continuance of any illicit discharge to the storm drainage system is prohibited.

### **(b) Prohibition of Illicit Connections**

The construction, use, maintenance or continued existence of illicit connections to the municipal storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4 or any watercourse, or allows such a connection to continue.

Improper connections in violation of this ordinance must be disconnected, and if necessary, redirected to an approved onsite wastewater management system upon approval of the RIDEM, or to the sanitary sewer system.

## **Sec. 6.21.5 Right of Entry**

Entry to Perform Duties Under this Ordinance.

To the extent permitted by State law, or if authorized by the owner or other party in control of the property, the Director, and/or his designees may enter upon privately owned property for the purpose of performing their duties under this ordinance and may

make or cause to be made such inspections, surveys, testing, or sampling as the Director deems reasonably necessary.

#### **Sec. 6.21.6 Inspections and Monitoring**

The Director shall be permitted, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter the dischargers premise(s) where a regulated activity is conducted, or where records must be kept related to storm water compliance;
2. Have access to and copy, at reasonable times, any records related to storm water compliance;
3. Inspect at reasonable times any equipment, practices, or operations related to storm water compliance; and
4. Take samples, perform testing, or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring compliance with this ordinance or as otherwise authorized by the CWA or R.I. law.
5. Require that the owner or occupant of the property locate any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm drain system; and to identify the drain or conveyance as storm drain, sanitary sewer, or other, and that the outfall location or point of connection to the storm drain system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director.

#### **Sec. 6.21.7 Suspension of MS4 Access**

(a) Suspension due to Illicit Discharges in Emergency Situations. The Director may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened non-storm water discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State, or to minimize danger to persons. (b) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director will notify a violator of the proposed termination of its MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director.

### **Sec. 6.21.8 Requirement to Secure a RIPDES Permit**

The Director shall refer to RIDEM all non-storm water discharges not authorized in accordance with Part I.B.3 of the MS4 General Permit or by a specific RIPDES Permit, which the Director has deemed appropriate to continue discharging to the MS4, for consideration of an appropriate permit.

### **Sec. 6.21.9 Industrial and Construction Activity Discharge.**

Any person subject to an industrial or construction activity RIPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director prior to the allowing of discharges to the MS4, or as a condition of a subdivision map, site plan, building permit, or development or improvement plan.

### **Sec. 6.21.10 Requirement to Prevent, Control and Reduce Storm Water Pollutants by the use of Best Management Practices**

Upon confirmation of a violation of this ordinance, the Director may require, in an attempt to prevent, control, and reduce storm water pollutants, any person engaged in activities or operations, or owning facilities or property which has or may result in future pollutants entering storm water, the storm drainage system, or waters of the State shall develop and implement, at their own expense, a Storm Water Pollution Prevention Plan prescribing Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment found to be in violation of this ordinance shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense. The SWMPP shall be subject to review by the Town and/or RIDEM for approval, and the cost of such review shall be at the owner or operator's expense.

### **Sec. 6.21.11 Notification of Spills**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in unauthorized discharges or pollutants discharging into storm water, the storm drain system, or waters of the State from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). In the event

of a release of non-hazardous materials, said person shall notify the Director no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within two (2) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Nothing in this section shall preclude any owner/lessee from compliance with relevant provisions of the Rhode Island Clean Water Act, R.I.G.L. 46-12-1, et seq. or other applicable laws or regulations.

### **Sec. 6.21.12 Enforcement**

Notice of Violation: Whenever the Director finds that any person has violated a prohibition or failed to meet a requirement of this Ordinance, the Director may order compliance by written notice of violation to the land owner and/or responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
5. Payment of a fine to cover administrative and remediation costs; and
6. The implementation of source control or treatment BMPs; and
7. The development and approval of a Storm Water Pollution Prevention Plan

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

### **Sec. 6.21.13 Administrative Orders**

The Director is authorized to issue the following administrative orders at any time he/ she deem such action appropriate to secure timely and effective compliance with this Ordinance or a discharge permit or order issued pursuant to this Ordinance, whether or not any previous notifications of violation have been provided to the user.

*A. Cease and Desist Order:* The Director may issue an order to cease and desist a violation or an action or inaction which threatens a violation and to direct the user to comply forthwith or to take such appropriate remedial or preventive action as may be needed to properly address the violation or threatened violation, including halting operations and terminating the discharge.

*B. Consent Order:* The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user. Such orders shall include specific actions to be taken by the user and specific time frames to correct a violation or to remove the threat of a violation. A consent order may also direct that a user provide improved operation and maintenance of existing discharge facilities, conduct additional self-monitoring, or submit appropriate reports or management plans.

#### **Sec. 6.21.14 Abatement by Town**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, than the Town or a contractor designated by the Director shall enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Town or designated contractor to enter upon the premises for the purposes set forth above.

#### **Sec. 6.21.15 Cost of Abatement of the Violation**

Within thirty days after abatement of the violation by or under the direction of the Director, the owner of the property will be notified by the enforcement agency or municipality of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the Director, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this section shall become liable to the Town by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 12 percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

#### **Sec. 6.21.16 Injunctive Relief**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Director may petition for a temporary, preliminary, or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.



### **Sec. 6.21.17 Violations Deemed a Public Nuisance**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Town.

### **Sec. 6.21.18 Criminal Prosecution**

Any person that has violated or continues to violate this Ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500 dollars per violation per day and/or imprisonment for a period of time not to exceed five (5) days. The Director may recover all attorney's fees, court costs, and other expenses associated with enforcement of this Ordinance, including sampling and monitoring expenses.

### **Sec. 6.21.19 Remedies Not Exclusive**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. of 10/3/16)

## **Section 6.22 Post-Construction Stormwater Control**

### **Section 6.22.1 Purpose**

- (a) Unmitigated storm water from areas altered by development may pose public health and safety threats. Potential contaminants in storm water runoff may include suspended solids, nitrogen, phosphorus, hydrocarbons, heavy metals, pathogenic organisms (bacteria and viruses), and road salts.
- (b) This article establishes the administrative mechanisms necessary for the town to ensure proper storm water management of runoff from new development and redevelopment projects. The ordinance from which this article is derived is written to work in conjunction with the Rhode Island Department of Environmental Management's General Permit, Rhode Island Pollutant Discharge Elimination System (RIPDES) Storm Water Discharge from Small Municipal Separate Storm Sewer Systems and from Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s.
- (c) This ordinance is responsive to Rhode Island General Law **45-61.2-1 Findings**. – (a) The general assembly hereby recognizes and declares that:

- (1) Stormwater, when not properly controlled and treated, causes pollution of the waters of the state, threatens public health, and damages property. Stormwater carries pollutants into rivers, streams, ponds, coves, drinking water aquifers and Narragansett Bay;
- (2) Stormwater reaches the state's waters by streets, roads, lawns and other means. As a result, public use of the state's natural resources for drinking water, swimming, fishing, shellfishing and other forms of recreation is limited and in some cases prohibited;
- (3) Development often results in increased stormwater runoff by increasing the size and number of paved and other impervious surfaces within the state, and decreasing the amount of natural surface areas that naturally control stormwater runoff through natural filtration and groundwater recharge systems;
- (4) Development in the Town of North Smithfield will strive to maintain pre-development groundwater recharge and infiltration on site to the maximum extent practicable;
- (5) Demonstrate that post-construction stormwater runoff is controlled, and that post-development peak discharge rates do not exceed pre-development peak discharge rates; and
- (6) Use low impact-design techniques as the primary method of stormwater control to the maximum extent practicable.

### **Section 6.22.2 Definitions.**

For the purposes of this section, the following words and terms shall have the meanings respectively ascribed, unless the context otherwise requires:

*Applicant* means any person proposing a development project in accordance with this article. The applicant must be the person who holds a valid purchase and sales agreement for the real property associated with said development project.

*Authorized enforcement agent* means the building official, zoning officer, or other town official authorized to enforce standards in accordance with this article.

*Best Management Practice (BMP)* means any structural and nonstructural means applied to a development project with the intent of controlling storm water flow and quality. Best management practices include, but are not necessarily limited to, means of storm water management described in with the Rhode Island Stormwater Design and Installation Standard Manual (RISDISM), as amended. Use and acceptability of best management practices is at the discretion of the town.

*Development project* means any construction, reconstruction, demolition, or removal of structures, roadways, parking, or other paved areas, utilities, or other similar facilities, including any action requiring a building permit by the town.

*Low-impact development* means a best management practice intended to maintain or replicate predevelopment hydrology through the use of site planning, source control, and small-scale structures integrated throughout the site to prevent, infiltrate and manage storm water as close to its source as possible. Low-impact development practices include, but are not necessarily limited to, those described in the state storm water design and installation standards manual, as amended. use and acceptability of low-impact development practices is at the discretion of the town.

*Owner or operator* means any person who holds legal title to any real property, development project or structural best management practice; or has possession or control of any real property, development project or structural best management practice through any agent, executor, administrator, trustee or guardian of the estate of a holder of a legal title.

*Person* shall include an individual, trust, firm, joint stock company, corporation (including a quasi-governmental corporation), partnership, association, syndicate, municipality, municipal or state agency, fire district, club, non-profit agency or any subdivision, commission, department, bureau, agency or department of state or federal government (including any quasi-governmental corporation) or of any interstate body.

*Storm water management plan* means a plan that prescribes site design elements and construction practices, that if employed, improves area water quality by preventing harmful pollutants from being carried by stormwater runoff into local water bodies.

*Storm water* means the surface discharge of water associated with a precipitation event or snowmelt.

### **Section 6.22.3 Applicability**

This article shall apply to all subdivision and land development applications that disturb one acre or more of land. No person shall engage in development projects without receiving approval from the building official and or Planning Board unless specifically exempted by Section 6.22.4.

### **Section 6.22.4 Exemptions**

The following development projects do not require written approval pursuant to this article:

- (1) Construction, alteration, or use of any additions to existing single-family or two-family homes or related structures, when determined by the building official to be insignificant, and such construction, alteration and use does not exceed 1 acre of land, does not occur within 200 feet of any watercourse or coastal feature, and the slopes at the site of land disturbance do not exceed ten percent.
- (2) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private or commercial agricultural or silvicultural purposes.
- (3) An excavation which exhibits all of the following characteristics:

- a. Is less than four feet in vertical depth at its deepest point as measured from the average elevation of the natural ground surface.
  - b. Does not result in a total displacement of more than 50 cubic yards of material on any lot, land, parcel or subdivision.
  - c. Has no slopes steeper than ten feet vertical in 100 feet horizontal (ten percent).
  - d. Has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation from occurring including seeding or sodding, and provided that all disturbed surface areas which will be exposed for a period of time in excess of 30 days shall be covered with a suitable temporary protective ground cover until permanent ground cover is in place.
- (4) Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots, provided that all of the following conditions are met:
- a. The aggregate area of activity does not exceed 1 acre.
  - b. All bare surface area is promptly seeded, sodded, or otherwise effectively protected from erosive actions.
- (5) Grading, filling, removal or excavation activities and operations undertaken by the town under the direction and supervision of the Director of Public Works for work on streets, roads or rights-of-way dedicated to public use; provided, however, that adequate and acceptable erosion and sediment controls are incorporated in engineering plans and specifications and employed. Appropriate controls shall apply during construction as well as after the completion of such activities.
- (6) Use of a home garden in association with residential use.

**Section 6.22.5 Variance**

The building official reviewing an application under this article may:

- (1) Vary requirements of this article when strict implementation of the requirements will create an unnecessary hardship or are not feasible.
- (2) Allow use of an innovative management practice where strict adherence to existing criteria would be costly or of negligible environmental benefit.
- (3) Allow use of an innovative management practice where the innovative practice is expected to have an environmental benefit, which cannot be practicably realized using standardized management practices.

**Section 6.22.6 Submissions and Approvals**

- (a) In accordance with this article, all persons must obtain approval from the building official prior to engaging in any development project, unless exempted by section 6.22.4. To obtain approval applicants must demonstrate compliance with all policy, standards and requirements of this article to the satisfaction of the building official.

Applicants may demonstrate compliance via submission of materials and documentation including but not limited to a storm water management plan, site plan and maintenance agreement in accordance with this article. Plans will be reviewed in conjunction with site plan reviewed by the building official.

- (b) Pre-application meetings may be requested by the applicant and held at the discretion of the town for the purpose of informing the representatives of construction projects of any local requirements, state environmental permitting requirements, and any additional limitations that may be imposed.

### **Section 6.22.7 Technical Standards**

All applicants are required to develop and submit a storm water management plan prepared by a professional engineer licensed in the state. All storm water management plans must address storm water management on a site-by-site basis and all requirements of this article. All storm water management practices shall be consistent with the RISDISM and the state soil erosion and sediment control handbook, as amended.

- (1) *Performance standards.* Storm water management plans shall incorporate structural and nonstructural best management practices for water quality control, in accordance with the state storm water design and installation standards manual. Development in special resource protection waters or watersheds of impaired waters as defined pursuant to the state water quality regulations may be held to higher standards. As part of such higher standards, low-impact development shall be used as the primary method of storm water control to the maximum extent practicable to manage water quality and maintain groundwater recharge to predevelopment levels.
- (2) *Disallowed storm water best management practices.* The placement of storm water structures within a floodplain shall be avoided. If there is no alternative, the applicant must show what effects, if any, the tailwaters created by the floodplain will have on the outflow and effective storage capacity of the storm water best management practice.
- (3) *Facilitation of maintenance.* Facilities that require maintenance shall be designed to minimize the need for regular maintenance, facilitate required maintenance, and ensure accessibility of components that require maintenance. At a minimum, all storm water management plans must incorporate best management practices with appropriate maintenance design in accordance with the state storm water design and installation standards manual, as amended.
- (4) *Flood protection.* Storm water management plans shall demonstrate that a proposed project provides for protection of life and property from flooding and flood flows. Water quantities must be controlled in accordance with the RISDISM, as amended, or a municipally approved regional storm water management plan for the watershed in which the project site is located. Storm water management plans shall demonstrate incorporation of the following standards into the proposed project:

- a. Control and maintenance of post-development peak discharge rates from the 1-year, 2-year, 10-year, 25-year, and 100-year storm events to predevelopment levels.
  - b. Downstream analysis of the 100-year storm event and control of the peak discharge rate for the 100-year storm to mitigate downstream impacts.
  - c. Discharge from any storm water facility must be conveyed through properly constructed conveyance system to provide for nonerosive flows during all storm events. The proposed storm water conveyance system consisting of open channels, pipes, and other conveyance devices shall at a minimum accommodate the runoff from a 25-year storm event. The storm water conveyance system must provide for nonerosive flows to receiving waters.
- (5) *Surface water and groundwater.* Storm water management plans shall, in accordance with the RISDISM, as amended, demonstrate that during development and post-development, all receiving waters will be recharged in a manner closely resembling predevelopment conditions and that the developed site will retain hydrological conditions that closely resemble of those prior to disturbance. The goal of the storm water design shall be that hydrologic conditions in each subwatershed match predevelopment conditions.

Where practicable, development and redevelopment projects should aim to reduce runoff volumes. This may include minimizing and eliminating impervious surface areas such as roads, parking, paving or other surfaces, encouraging infiltration of noncontaminated runoff, preventing channelization, encouraging sheet flow, and where appropriate, preserving, enhancing or establishing buffers along surface water bodies and tributaries.

#### **Section 6.22.8 Stormwater Management Plans**

- (a) *Calculations.* In addition to the information required for the site plan the following information must also be included with the application, where applicable:
- (1) The area of each subwatershed shall be identified on final site plans.
  - (2) The area of impervious surfaces (including all roads, driveways, rooftops, sidewalks, etc.) for each sub-basin as identified in the state storm water design and installation standards manual, as amended.
  - (3) Weighted curve numbers as determined using urban hydrology for small watersheds (USDA Soil Conservation Service, 1986 or as amended).
  - (4) Invert elevations for inlets and outlets. In addition, invert elevations shall be provided for all basins including permanent and/or flood pool stages, including peak discharge rates for each stage.
  - (5) The total volume capacity for all flood control and water quality best management practices (e.g., infiltration basin, detention basins, wet ponds, etc.). Volumes must be segregated into permanent and flood pool stage volumes where applicable. Furthermore, the volumes of all sediment storage (basins, forebays, etc.) areas must also be provided.

- (6) Predevelopment and post-development peak discharge rates and runoff volumes for the 1-year, 2-year, 10-year, 25-year, and 100-year frequency storm events for each subwatershed to each separate water or discharge point. The water quality volume (WQV) must also be calculated for each subwatershed. All relevant variables such as curve numbers and time of concentration, along with the supporting computations and worksheets must be included. The entire site shall be included in an evaluated subwatershed.
  - (7) Supporting calculations to demonstrate that the proposed development project will meet section 6.22.7.
- (b) *Narrative description.* As part of the storm water management plan, the applicant shall include a discussion of the protection of environmental resource functions and values. The following outline is provided as guidance for preparing a narrative description for the storm water management plan. Depending on the size and scope of the proposed project, the amount of information required by the town may vary; therefore, it is advised to consult the town for specific requirements.
- (1) Site description. General topography, soil types, current vegetative composition and relative abundance, existing infrastructure, and/or adjacent properties, identification of major resources (e.g., wetlands, groundwater, surface waters, etc.), name of receiving water(s), potential water quality and/or hydrologic impacts on resources.
  - (2) Site input data. Watershed characteristics, area of all impervious surfaces, total area of site, annual mean rainfall, runoff coefficients, curve numbers for various land uses, peak discharge rates.
  - (3) Land use planning and source control plan.
  - (4) Best management practices. Identify the type of best management practice(s) employed both during and post construction and justification for selection, including any deviation from the state storm water design and installation standards manual, as amended, and the potential effect on pollutant removal efficiency.
  - (5) *Technical feasibility.* Include sizing, location, hydraulic and environmental impacts. Alternatives, which were considered but determined not to be feasible, should also be discussed.
  - (6) Maintenance schedule of best management practices to be used, both during and post construction including frequency of inspection and maintenance.

**Section 6.22.9 Inspections for Stormwater Best Management Practices (BMPs)**

The town shall have the right to inspect best management practices constructed after the passage of the ordinance from which this article is derived. Inspections shall address whether best management practices have been installed in accordance with approved storm water management plans.

### **Section 6.22.10 Operation and Maintenance Requirements for BMPs**

- (a) *Routine operation and maintenance and repair procedures.* Routine maintenance shall be performed on a regular basis to ensure proper performance and may include such routine procedures as training of staff, periodic inspections, grass cutting elimination of mosquito breeding habitats, and pond maintenance in accordance with a storm water management plan approved pursuant to this article. Repair procedures may be required to correct a problem or malfunction of a best management practice and to restore the management practice's intended operation and safe condition. Repairs may include such procedures as structural repairs, removal of debris, sediment and trash removal, erosion repair, snow and ice removal, fence repair, mosquito extermination, and restoration of vegetated and nonvegetated linings.
- (b) *General operation and maintenance standards for storm water best management practices.* Maintenance design and maintenance procedures for all best management practices shall be documented in storm water management plans in accordance with the state storm water design and installation standards manual, as amended; or manufacturer's specifications. A maintenance schedule for each type of best management practice must be included in the storm water management plan. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible party's name, address, and telephone number. The owner, as well as all future owners, shall be required to implement the maintenance schedule of the best management practices. If the storm water facility is to be deeded to the town, the applicant must obtain a letter from the town acknowledging maintenance responsibility and intent of ownership.

### **Section 6.22.11 Maintenance Agreements**

- (a) Maintenance agreements shall provide written, contractual documentation, which demonstrates compliance with this article and legal arrangements for the upkeep of storm water facilities to assure their proper function and safety in accordance with this article.
- (b) After final construction is completed, the owner or responsible person shall maintain "as built" plans of storm water management practices located on site. The plans must show the final design specifications for all storm water management facilities and must be certified by a professional engineer.
- (c) Maintenance agreements, which describe maintenance schedules and requirements, must be developed for each storm water management facility unless the facility is dedicated to and accepted by the town. Schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of the town. At a minimum, maintenance frequency should be in accordance with the RISDISM, as amended.
- (d) Right of entry. Upon the presentation of credentials and other documents, as may be required by law, or if authorized by the owner or other party in control of the property, the Director of Public Works, Building Official, Zoning Officer, and other town representatives designated by the Building Official, Zoning Officer, or Director



of Public Works may enter upon privately owned property for the purpose of performing their duties under this article and may make or cause to be made such inspections as the town deems reasonably necessary.

- (e) Record keeping for maintenance activities. Maintenance agreements shall include provisions for maintenance record keeping. All activities conducted in accordance with a maintenance agreement must be recorded in a work order and inspection log. Timely updates of the log shall be the responsibility of the storm water management facility owner or other responsible party pursuant to this article. Review of the maintenance and inspection log shall be completed by the town to determine the effectiveness of operation, maintenance and safety activities. Reviews shall occur as part of each on-site inspection. Additional reviews may be made as deemed appropriate by the town.
- (f) Responsibility for maintenance to assure function and safety. Appropriate maintenance to assure function and safety of storm water management facilities shall be the responsibility the owner or may be assumed by another party via a written contractual arrangement in accordance with this article.
- (g) Alterations to maintenance agreements. Any alterations in maintenance responsibility or alterations to maintenance agreements must be either reviewed and approved by the planning board (as applicable) or building official or designee. If portions of the land serviced by a storm water management facility are to be sold, written contractual arrangements shall be made to pass all responsibility of the maintenance agreement to the purchaser and shall be subject to review and approval of the department of public works or designee. All alterations to maintenance agreements shall be made and recorded in accordance with this article.

#### **Section 6.22.12 Application Fees**

The town shall be empowered to collect fees from permit applicants, which are commensurate with the cost of administering this article.

#### **Section 6.22.13 Notification of Noncompliance**

If the authorized enforcement agent finds a violation of this article then a written notice from the authorized enforcement agent to compel correction shall be transmitted to the owner or operator. Such notice shall set forth the nature of corrections required and the time limit within which corrections shall be completed. Failure to comply with the required corrections within the specified time limit shall be considered a violation of this chapter.

#### **Section 6.22.14 Appeal of Notice of Noncompliance**

Any person receiving a notice of noncompliance may appeal the determination of the authorized enforcement agent. The appeal must be received within 30 days from the date of the receipt of the notice of noncompliance. The appeal shall be in writing and contain a detailed basis upon which the appeal was taken. The authorized enforcement agent shall then determine whether to accept the appeal or proceed to cause summons of the appellant in accordance with section 6.22.15.

### **Section 6.22.15 Penalties for Violation**

Any person who shall violate any provision of this article shall be punished in accordance with section 16.1. The authorized enforcement agent may, at the discretion of the court, undertake measures necessary to abate the violation and restore the property at the owner or operators expense.

### **Section 6.22.16 Cost of Abatement of the Violation**

Within 30 days after abatement of the violation by or under the direction of the authorized enforcement agent, the owner or operator will be notified by the authorized enforcement agent of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the authorized enforcement agent, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this section shall become liable to the Town by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 12 percent per annum shall be assessed on the balance beginning on the 31st day following discovery of the violation.

### **Section 6.22.17 Revocation or Suspension of Approval**

The approval of a storm water management plan under this chapter may be revoked or suspended by an authorized enforcement agent and all work on the development or redevelopment project halted for an indefinite time period after written notification is transmitted by the authorized enforcement agent to the owner or operator for one or more of the following reasons:

- (1) Violation of any condition of the approved plan, or specifications pertaining thereto.
- (2) Violation of any provision of this article.
- (3) The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or property of others, or contrary to the spirit or intent of this article.

### **Section 6.22.18 Remedies not Exclusive**

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agent to seek cumulative remedies. (Ord. of 6/13/2017)

