

## \SECTION 5.

### DISTRICT USE REGULATIONS

#### Section 5.1 Establishment of Districts

For the purpose of this ordinance, the Town of North Smithfield is hereby divided into the following eleven (11) zoning districts:

District	Symbol	Description
Residential	REA	Rural Estate Agricultural
Residential	RA	Rural Agricultural
Residential	RS	Residential - Suburban
Residential	RU	Residential - Urban
Business	BN	Business - Neighborhood
Business	BH	Business - Highway
Business	LC	Limited Commercial
Mixed Use	MU-1	Mixed Use - Commercial
Mixed Use	MU-2	Mixed Use – Industrial
Manufacturing	M	Manufacturing
Open Space	OS	Open Space

Additionally, there are three (3) Overlay Districts: Groundwater Aquifer, Historic, and Solar Photovoltaic Overlay. **Overlay District use regulations shall take precedence over the regulations of the underlying zoning district.** All other provisions of the underlying zoning district which are not superseded by these overlay districts shall remain in full force and effect.

Each of the Overlay Zoning Districts established by the provisions of this ordinance was created with a specific intent as follows:

**Groundwater Aquifer Protection Overlay District (GAP).** This overlay district, which is shown on the North Smithfield Groundwater Aquifer Protection Overlay District (2012) on file in the office of the Town Clerk, and includes all land in the Town identified as a groundwater reservoir, groundwater recharge area, water supply basins (GAA classification), community well-head protection areas, and town-owned non-transient, non-community wellhead protection areas (schools). is established to fulfill the purposes of Section 9, Groundwater Aquifer Protection Overlay District. Said map is hereby declared to be part of this Ordinance.

**Historic District Overlay Zone (HD).** This district is established to preserve structures of historic or architectural value as defined in Section 14, Historic District Zoning.

**Solar Photovoltaic Overlay District.** See subsection a, purpose, of Section 5.7.11.

(Ord. of 5-21-2018; Ord. of 4-1-2018)

## **Section 5.2. Intent of Each Zoning District**

Each of the underlying zoning districts established by the provisions of this ordinance are created with specific intent as follows:

**Rural Estate Agricultural (REA).** This district is established to provide protection to areas where the conservation of water bodies and streams are of significant importance; where development may be threatened by flood, or would increase the danger of flood elsewhere and where limited agricultural pursuits and low density residential uses are compatible with open space objectives.

**Rural Agricultural (RA).** This district is established to allow limited, orderly growth in areas where facilities necessary for intensive, urban-type development appear unlikely in the near future. It is designed to permit some conservation objectives, many agricultural pursuits and to allow the orderly transition from agriculture to low density residential use. Conservation development by design and the placement of structures which may facilitate more efficient rezoning in the future is strongly encouraged within the district.

**Residential - Suburban (RS).** This district is established to provide areas where medium-low density residential uses now appear feasible because community facilities such as public water or sewers are likely in the foreseeable future.

**Residential - Urban (RU).** This district is established to provide for a somewhat broader range of urban housing types and for higher residential densities. It is anticipated that facilities necessary for urban living will service most of these districts within the near future.

**Business - Neighborhood (BN).** This district is established to provide areas for the retailing of convenience goods and furnishing of some personal services. It is primarily intended to serve the day-to-day needs of persons living nearby, although the secondary function of serving community-wide needs is also permitted.

**Business - Highway (BH).** This district is established to provide areas for commercial establishments that depend primarily on a great volume of vehicular traffic. Typical uses include those which offer accommodations and services to motorists, specialized retail outlets, and commercial amusement enterprises.

**Limited Commercial (LC).** This district is established to provide areas for commercial establishments, light industry and office uses. It is intended to serve community-wide needs and accommodate specialized retail and wholesale establishments which require outdoor storage of materials.

**Manufacturing (M).** This district is established to provide areas suitable for industrial development, research and certain transportation, storage and utility uses. In addition, certain

commercial services catering primarily to the needs of industry and its employees are permitted. In order to maximize the potential of this district, incompatible uses which require extensive improvements are not permitted.

**Mixed Use – Commercial (MU-1).** This district is intended to provide for compact, planned village-mixed use development of a village nature with existing commercial, but not big -box retail, with a mix of small-scale businesses such as restaurants, coffee shops, bookstores, retail shops, and service industries.

**Mixed Use – Industrial (MU-2).** This district is intended to provide for compact, planned village-mixed use and light industrial development where buildings should be clustered, campus-style, around shared open space amenities, with parking located to the side and rear of structures.

**Open Space (OS).** This district includes properties owned by the Town, State or Federal government presently used for public recreation or conservation purposes. It also includes quasi-public or privately-owned land where development rights or conservation easements have been conveyed, or for which there is a reasonable expectation of long-term use for open space conservation or recreation, such as Audubon Society or North Smithfield Land Trust lands. Certain limited residential, recreational, agricultural, and educational uses are permitted.

(Ord. of 4-1-2019)

### **Section 5.3 Interpretation of Use Table and Symbols**

The status of uses which appear in the table of district use regulations vary from district to district as indicated by the symbol appearing under the appropriate column heading. The interpretation of symbols shall be as follows:

Y - The use is permitted by right.

S - The use may be permitted as a Special-use under the provisions of Section 19.22 of this ordinance.

Y<sub>T</sub> - The use shall be permitted under provisions of this Ordinance for a limited time as customarily appropriate to the use, not to exceed one (1) year.

N - The use is not permitted.

Where any proposed use is not listed in this section or in Section 21, Definitions, it shall be the duty of the Zoning Enforcement Officer to determine if the use is substantially similar to any existing use. If the Officer determines that the proposed use is not substantially similar to any existing use, then such use shall be prohibited in all zones. A decision of the Officer, either to classify a proposed use within an existing use contained in the table below, or to prohibit the use, shall be appealable to the Zoning Board as set forth in Section 18.

Uses permitted by right or by special-use must also comply with all other aspects of this Ordinance, such as the dimensional regulations and on-site parking requirements. Environmental constraints and infrastructure limitation may further restrict a parcel's buildout and use. For example, the minimum lot areas listed in the table may not be adequate in certain

cases to meet state standards for on-site sewage disposal; a larger lot area may be specified by the Department of Environmental Management as part of the approval of an individual septic disposal system.

Uses listed in the following table may also be governed by the Groundwater Aquifer and Historic overlay districts, or by the provisions of Section 8, Flood Hazard Areas. Any uses involving materials having a health hazard rating of 2,3,or 4 or a flammability hazard rating of 1,2,3,or 4 as defined by NFPA 325M shall require a Special-use Permit.

Uses permitted by right involving the construction of multiple uses or units will require review approval by the Planning Board as a Land Development Project. The process associated with the review and approval of a Land Development project is contained in the Town of North Smithfield's Land Development and Subdivision Regulations.

**Section 5.4. District use ~~table~~ regulations.**

**ZONE**

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
<b>5.4.1. Agricultural Uses</b>											
1. Pets & Watchdogs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
2. Animals, non-commercial raising (excluding pets, watchdogs, apiary)	Y	Y <sup>1</sup>	Y <sup>1</sup>	S	S	S	S	S	N	N	N
3. Apiary	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
4. Chicken hens per ordinance	Y	Y	Y	N	N	N	N	N	N	N	N
5. Livestock, commercial raising, except pig and/or mink	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N	N	N	N	N	N	N
6. Crops & Trees, non-commercial raising	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
7. Crops & Trees, commercial raising	Y	Y	S	S	Y	Y	Y	N	N	N	S
8. Greenhouse & Nursery, commercial	S	S	S	N	Y	S	S	Y	N	N	N
9. Farm Stand	Y	S	S	N	Y	S	Y	N	Y	Y	N
10. Farm Retail Sales Building	Y	S	N	N	Y	N	Y	N	Y	Y	N
11. Farm and Farm-Related Products, retail sales	Y	S	N	N	Y	N	Y	N	Y	Y	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
12. Natural Christmas Tree Sales	Y <sup>?</sup>	Y <sup>?</sup>	N	N	Y	Y	Y	Y	Y	N	N
13. Animal Hospital or Veterinary Facility	Y	Y	N	N	Y	Y	Y	N	N	N	N
14. Livestock, commercial raising, pig and/or mink	N	N	N	N	N	N	N	N	N	N	N
15. Kennel or Animal Boarding	Y <sup>1</sup>	Y <sup>1</sup>	N	N	N	N	N	N	N	N	N
16. Medical Marijuana	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.2. Residential uses</b>											
1. Dwelling, single-family detached	Y	Y	Y	Y	N	N	N	N	N	N	N
2. Dwelling, accessory	Y	Y	Y	Y	N	N	N	N	N	N	N
3. Dwelling, duplex	S	Y	Y	Y	N	N	N	N	N	N	N
4. Dwelling, multi-family & apartments; 3 to 6 units with no more than 12 bedrooms <sup>2,4</sup>	N	S	S	Y	N	N	N	N	Y	Y	N
5. Dwelling, multi-family & apartments; 7 or more units with greater than 12 bedrooms <sup>2,4</sup>	N	N	S	S	N	N	N	N	Y	Y	N
6. Dwelling, attached for operator or owner of a principal business or manufacturing use	N	N	N	N	S	S	S	S	Y	Y	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
7. Home Occupation, performed by The resident of the premises utilizing no more than 200 sq. ft. of the area of one floor	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N
9. Bed and breakfast <sup>4</sup>	N	S	S	Y	Y	Y	N	N	Y	N	N
10. Dormitory for a permitted use <sup>4</sup>	S	S	S	S	N	N	N	N	S	S	N
11. Transient lodging, not to exceed 8 guest bedrooms <sup>4</sup>	N	N	N	N	Y	S	N	N	Y	Y	N
12. Transient lodging, exceeding 8 guest bedrooms <sup>4</sup>	N	N	N	N	Y	N	N	N	Y	Y	N
13. Mobile Home, park	N	N	N	N	N	N	N	N	N	N	N
14. Loft, commercial artist	Y	Y	Y	Y	Y	Y	N	N	Y	Y	N
15. Community Residences up to 5 bedrooms Community residences greater than 5 bedrooms <sup>4</sup>	Y	Y	Y	Y	N	N	N	N	Y	Y	N
16. Elderly Housing, limited care facility <sup>4</sup>	N	N	Y	Y	N	N	N	N	Y	Y	N
17. Residential Care and Assisted Living <sup>4</sup>	Y	Y	Y	Y	N	N	N	N	Y	Y	N
18. Halfway House	N	N	N	N	N	N	N	N	N	N	N
19. Transient Residential Facility	N	N	N	N	N	N	N	N	Y	N	N
20. Mobile Home, single unit	N	N	N	N	N	N	N	N	N	N	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
21. Residential Cooperative Cultivation	N	N	N	N	N	N	N	N	N	N	N
22. Patient Cultivation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
23. Caregiver Cultivation	N	N	N	N	N	N	N	N	N	N	N
24. Tiny house on Wheels	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.3. Office uses</b>											
1. Office, home	Y	Y	Y	Y	N	N	S	N	Y	Y	N
2. Office, temporary real estate (up to one year)	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	N
3. Office, accessory to a wholesale or manufacturing use	N	N	N	N	Y	Y	Y	Y	Y	Y	N
4. Office, construction trailer	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	Y <sup>T</sup>	S <u>N</u>
5. Office, building under 3,000 sf. GLA	N	N	N	N	Y	Y	Y	N	Y	Y	N
6. Office, building 3,000 sf. or greater GLA	N	N	N	N	Y	N	Y	Y	Y	Y	N
<b>5.4.4. Public and semi-public uses</b>											
1. School, public or private including college or university <sup>4</sup>	S	S	N <u>S</u>	N <u>S</u>	S	N <u>S</u>	N <u>S</u>	S	S	S	N



USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
2. Day Care Center / Nursery School, up to 12 children	Y	Y	Y	Y	S	S	S	S	Y	Y	N
3. Day Care Center / Nursery School, over 12 children <sup>4</sup>	S	S	S	S	S	S	S	S	S	Y	N
4. Day Care, family day care home	Y	Y	Y	Y	S	S	S	S	Y	Y	N
5. School, trade or professional utilizing heavy machinery for instructional purposes	N	N	N	N	N	N	N	Y	N	S	N
6. School, trade or professional not utilizing heavy machinery for instructional purposes	N	N	N	N	S	N	N	Y	Y	Y	N
7. Tutoring, utilizing less than 200 sq. ft.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
8. Religious institution or place of worship	S	S	S	S	Y	Y	S	S	Y	Y	N
9. Cultural Activities, including library, museums, aquariums	S	S	S	S	S	S	N <a href="#">S</a>	N	Y	Y	<a href="#">S</a> <a href="#">N</a>
10. Rest Home, Convalescent Home, Nursing Home <sup>3,7, 4</sup>	Y	Y	Y	Y	S	N	N	N	Y	Y	N
11. Hospital or Health Services Facility greater than 5,000 sq. ft. <sup>4</sup>	N	N	N	N	Y	N	N	N	S	S	N
12. Fire, Police, or Rescue Station	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
13. Sewage or Water Plant, municipal	N	N	N	N	Y	Y	S	Y	Y	Y	N
14. Sewage or Water Plant, non-municipal	N	N	N	N	N	N	N	N	N	S	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
15. Landfill	N	N	N	N	N	N	N	N	N	N	N
16. Incinerator	N	N	N	N	N	N	N	N	N	N	N
17. Government, other municipal uses	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	S
<del>18. Government, municipal garage or utility</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>Y</del>	<del>Y</del>	<del>N</del>	<del>Y</del>	<del>N</del>
19. Hall, general purpose used for recreation, social or other intermittent functions – not serving alcohol	N	S	S	S	Y	S	S	N	Y	N	N
20. Hall, general purpose used for recreation, social or other intermittent functions – serving alcohol	N	N	N	N	N <u>S</u>	N <u>S</u>	N	Y <u>S</u>	S	N	N
21. Cemetery	S	S	S	S	N	N	N	N	N	N	S <u>N</u>
22. Community Center	N	S	S	S	Y	Y	S	N	Y	N	N
23. Penal Facility or Prison	N	N	N	N	N	N	N	N	N	N	N
24. Rehabilitation Facility, drug or alcohol	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.5. Open recreation</b>											
1. Commercial Bathing Facility, outdoors	S	S	S	S	S	S	S	N	S	N	S <u>N</u>

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
2. Public Parks, playgrounds, picnic groves, open land refuges and preserves, etc.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
3. Golf Course, <del>minimum of 3 holes</del> <u>maximum of 9 holes</u>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	<u>N</u> <u>S</u>	<u>N</u> <u>S</u>	N	N	N	N	N	N	<u>S</u> <u>N</u>
4. Country Club- <sup>4</sup>	<u>Y</u> <u>S</u>	<u>Y</u> <u>S</u>	N	N	N	N	N	N	N	N	<u>S</u> <u>N</u>
5. Riding Academy or Stable, commercial	Y	N	N	N	N	N	N	N	N	N	<u>S</u> <u>N</u>
6. Amusement Park, commercial	N	N	N	N	N	N	N	N	N	N	<u>S</u> <u>N</u>
<del>7. Carnival or Circus</del>	<del>Y<sup>F</sup></del>	<del>Y<sup>F</sup></del>	<del>N</del>	<del>N</del>	<del>S</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>S</del>
<del>8. Fairground or Exposition Grounds</del>	<del>Y<sup>F</sup></del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>S</del>
9. Day Camp	S	S	N	N	N	N	N	N	N	N	<u>S</u> <u>N</u>
10. Drive-in Theater	N	N	N	N	Y	N	N	N	N	N	N
11. Summer Theater or Amphitheater	<u>Y</u> <u>S</u>	N	N	N	N	N	N	S	<u>Y</u> <u>S</u>	N	<u>S</u> <u>N</u>
12. Recreation, outdoor commercial	S	S	N	N	S	N	N	S	S	S	<u>S</u> <u>N</u>
<b>5.4.6. Restaurants and entertainment</b>											
1. Restaurant/Banquet Facility (principal sales - food):											

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
(a) seating capacity of up to 50 people	N	N	N	N	Y <u>Y</u> <sup>4</sup>	S	N	N	Y <u>S</u> <sup>4</sup>	N	N
(b) seating capacity of 51-299 people <sup>8</sup>	N	N	N	N	S	N	N	Y	S	N	N
(c) seating capacity of 300+ people <sup>8</sup> <sub>4</sub>	S <u>N</u>	N	N	N	S	N	N	Y <u>S</u> <sup>4</sup>	N	N	N
2. Restaurant - drive thru/take out (no inside dining)	N	N	N	N	Y	N	N	N	N	N	N
3. Restaurant - drive thru and inside eating <sup>8</sup> <sub>4</sub>	N	N	N	N	Y	N	N	N	N	N	N
4. Night Club, Tavern, Lounge (no adult entertainment)	N	N	N	N	S	N	N	N	S	N	N
5. Night Club, Tavern, Lounge (adult entertainment)	N	N	N	N	N	N	N	N	N	N	N
6. Lunchroom or Cafeteria (accessory use to a permitted use with no exterior advertising)	S <u>N</u>	S <u>N</u>	N	N	Y	Y	Y	Y	Y	Y	N
8. Theater or Concert Hall	N	N	N	N	S	N	N	N <u>S</u>	Y	N	N
9. Recreation, indoor commercial	N	N	N	N	S	S	S	S	S	S	N
10. Casino or Racetrack	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.7. Retail business and service</b>											

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
1. Health & Fitness Facility	N	N	N	N	Y	Y <u>S</u>	S	N	Y	S	N
2. Adult Entertainment Specialty Shops <sup>6</sup>	N	N	N	N	N	N	N	N	N	N	N
3. Engine Repair, non-automotive excluding heavy equipment	N	N	N	N	Y	N	N <u>Y</u>	N <u>Y</u>	N	Y <u>N</u>	N
4. Automotive, fueling area; gas stations	N	N	N	N	S	S	S	N	S	S	N
5. Automotive, carwash <sup>4</sup>	N	N	N	N	Y	N	N	N	S	N	N
6. Automotive, light repair garage (excluding body work)	N	N	N	N	Y	S	S	Y	N	Y <u>N</u>	N
7. Automotive, heavy repair garage (excluding body work)	N	N	N	N	Y	N	S	Y	N	Y <u>N</u>	N
8. Automotive, rental, up to 5 vehicles	N	N	N	N	Y	S	S	S	S	S	N
Automotive, rental, over 5 vehicles	N	N	N	N	Y	S	S	S	S	S	N
9. Automotive, sales	N	N	N	N	Y	N	N	N	S	N	N
10. Package Store (where alcoholic beverages are sold)	N	N	N	N	Y	N	N	N	S	N	N
11. Funeral Home or Mortuary or Crematorium	N	N	N	N	S	S	N	N	N	N	N
12. Crematorium, only in conjunction with a cemetery	S	S	S	S	N	S	N	N	N	N	S
13. Radio or Television Studio	N	N	N	N	Y	Y	Y	Y	Y	Y	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
14. Amateur Radio antenna and/or tower, less than 70 feet in height	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
15. Broadcast radio and/or television towers	N	N	N	N	N	N	N	S	N	N	N
16. Cellular Communications Antenna Array on an existing structure or building (subject to restrictions of Section 17)	N	N	N	N	Y	Y	N	Y	Y	Y	S
17. Cellular Communications Tower – Monopole up to 125 feet in height (subject to the restrictions of Section 17)	S	N	N	N	Y	N	N	Y	S	Y	S
18. Cellular Communications Tower – Monopole over 125 feet in height and up to 200 feet in height (subject to the restrictions of Section 17)	S	N	N	N	S	N	N	Y	N	S	S
19. Cellular Communications Tower – Lattice or Guyed, any height up to 200 feet in height (subject to the restrictions of Section 17)	N	N	N	N	N	N	N	S	N	N	N
20. Retail Sales in an Open Lot	N	N	N	N	S	S	S	S	N	N	N
21. Shopping Center, up to 15 acres	N	N	N	N	Y	N	N	N	N	N	N
22. Propane Tanks, wholesale or retail filling	N	N	N	N	S	N	N	S	N	S	N
23. Retail Sales, under 3,000 sf GLA <sup>7</sup> with drive-thru	N	N	N	N	Y	N	Y	N	N	N	N
24. Retail Sales, under 3,000 sf GLA <sup>7</sup> without drive-thru	N	N	N	N	Y	Y	Y	N	Y	N	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
25. Service Establishments, under 3,000 sf GLA <sup>7</sup> With drive-thru	N	N	N	N	Y	N	Y	N	N	N	N
26. Service Establishments, under 3,000 sf. GLA <sup>7</sup> without drive-thru	N	N	N	N	Y	Y	N	N	Y	Y	N
27. Retail Sales/Service, 3000 to 20,000 sf. GLA <sup>7</sup> with drive- thru	N	N	N	N	Y	N	Y	N	N	N	N
28. Retail Sales/Service, 3000 to 20,000 sf. GLA <sup>7</sup> without drive-thru	N	N	N	N	Y	N	Y	N	Y	Y	N
29. Retail Sales/Service, over 20,000 to 40,000 sf. GLA <sup>7</sup> with drive-thru	N	N	N	N	Y	N	N	N	N	N	N
30. Retail Sales/Service, over 20,000 to 40,000 sf. GLA <sup>7</sup> without drive-thru	N	N	N	N	Y	N	N	N	N	N	N
31. Bank or Financial Institution, with drive-thru	N	N	N	N	Y	S	Y	N	S	N	N
32. Bank or Financial Institution, without drive-thru	N	N	N	N	Y	Y	Y	N	Y	N	N
33. Compassion center	N	N	N	N	N	N	N	N	N	N	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
<b>5.4.8. Wholesale business and storage</b>											
1. Wholesale Business and Storage of Nonflammable and Non-explosive Material in a Building	N	N	N	N	S	N	S	Y	N	Y	N
2. Open Lot Storage, building materials and machinery excluding retail sales	N	N	N	N	N	N	S	N	N	S <sup>5</sup>	N
3. Open Lot Storage, serviceable automotive and boat equipment excluding retail sales <sup>3</sup>	N	N	N	N	N	N	S	N	N	S <sup>5</sup>	N
4. Open Lot Storage, solid fuel, sand and gravel excluding retail sales	N	N	N	N	N	N	N	Y <sup>5</sup>	N	N	N
5. Open Lot Storage, junk and salvage material excluding retail sales	N	N	N	N	N	N	N	N	N	N	N
6. Storage of Flammable, Hazardous, or Explosive Materials, not integral to a manufacturing process	N	N	N	N	N	N	N	N	N	N	N
7. Retail Outlet for a Wholesale or Storage Use, including the sale of ice, fuel oil, coal, wood on site	N	N	N	N	S	N	S	S	N	S	N
8. Self-Storage Facility	N	N	N	N	S	S	S	N	N	S	N
9. General Warehouse	N	N	N	N	N	N	Y	Y	N	Y	N
10. Non-Residential Cooperative Cultivation	N	N	N	N	N	N	N	N	N	N	N



USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
11. Licensed Cultivator	N	N	N	N	S	N	S	S	N	N	N
<b>5.4.9. Service industries</b>											
1. Laundry or Dry Cleaning Plant <sup>4</sup>	N	N	N	N	N	N	N	Y	N	S	N
2. Furniture, Carpet, and Rug Cleaning Plant	N	N	N	N	N	N	N	Y	N	S	N
3. Auto Body or Paint Shop	N	N	N	N	S	N	N	Y	N	S	N
4. Blacksmith or Welding Shop	N	N	N	N	S	N	N	Y	N	S	N
5. Power Generating Station or Sub-station using fossil fuels (e.g., coal, oil, gas)	N	N	N	N	N	N	N	N	N	N	N
6. Waste-to-Energy Power Generation Station or Sub-station (e.g., methane, excluding burning solid waste)	N	N	N	N	N	N	N	S	N	N	N
7. Renewable energy power generation plant using water.	S	S	N	N	S	S	S	S	S	S	S
8. Roof-mounted solar photovoltaic systems as accessory use to residential or commercial buildings	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
9. Ground-mounted solar photovoltaic systems as accessory use to residential or commercial buildings	S	S	S	S	Y	Y	Y	Y	S	S	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
10. Ground-mounted solar photovoltaic systems for commercial use	S	S	S	S	S <sup>10</sup>	S	S <sup>10</sup>	S <sup>10</sup>	S	S	N
11. Renewable Energy Generated by Wind	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.10. Industrial uses</b>											
1. Retail Outlet for Industrial Operation	N	N	N	N	S <sup>9</sup>	N	Y	Y	Y	Y	N
2. Mining, Quarrying, Sand and Gravel Extraction, Loam Stripping, Stone Cutting	N	N	N	N	N	N	N	N	N	N	N
3. Recycling facility	N	N	N	N	N	N	N	S	N	N	N
4. Transfer Station	N	N	N	N	N	N	N	N	N	N	N
5. Light Industrial, including on-site retail outlet	N	N	N	N	S	N	Y	Y	Y	Y	N
6. Heavy Industrial, excluding on-site retail outlet	N	N	N	N	N	N	N	S	N	S	N
7. Noxious Industrial	N	N	N	N	N	N	N	N	N	N	N
<b>5.4.11. Transportation uses</b>											
1. Airport	N	N	N	N	N	N	N	N	N	N	N

USE	REA	RA	RS	RU	BH	BN	LC	M	MU 1	MU 2	OS
2. Landing Strip or Pad, private	N	N	N	N	N	N	N	N	N	N	N
3. Heliport	N	N	N	N	N	N	S	S	N	S	N
4. Parking, off-street as an accessory to a permitted use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
5. Parking, commercial off-street facility	N	N	N	N	Y	Y	Y	Y	Y	S	N
6. Rail or Motor Freight, terminal	N	N	N	N	S	N	S	Y	N	S	N
7. Rail or Bus Passenger, station	N	N	N	N	Y	N	N	Y	S	S	N
8. Taxi Cab, dispatching office	N	N	N	N	Y	Y	Y	Y	Y	Y	N
9. Taxi Cab, garage; limousine livery	N	N	N	N	Y	N	Y	Y	S	N	N
<b>5.4.12. Accessory uses</b>											
1. Any accessory use customarily incidental to a use permitted in the district and located on the same site	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
2. Any accessory use customarily incidental to a use permitted as a special use in the district and located on the same site	S	S	S	S	S	S	S	S	S	S	S

FOOTNOTE KEY

Y<sub>T</sub> The use shall be permitted under provisions of this ordinance for a limited time as customarily appropriate to the use and not to exceed one(1) year.

1. Special-use permit required for lots under five acres.

2. Falls under Section 5.6.3.7

3. See Section 6.2

4. Only in areas served by municipal water and sewers.

5. Must be screened by an opaque fence or hedge no less than seven feet in height.

6. Adult Specialty Shops shall not be located within 1,000 feet of a residential district, a house of worship, a school, or a playground. No explicit material or advertising shall be visible from the exterior of the building.

7. GLA: Gross Leasable Area. The Gross leasable area shall include indoor and outdoor space utilized for retail display and sale of goods. The gross leasable area of adjacent stores shall be aggregated in cases where the stores are (1) engaged in the selling of similar or related goods, wares, or merchandise and operate under common ownership or management; (2) share checkstands, a warehouse, or a distribution facility; or (3) otherwise operate as associated, integrated, or co-operative business enterprises.

8. Only in areas served by municipal water.

9. Light industrial only

10. Allowed by right within developed portions of existing developed sites of two or more acres.

**(Ord. of 4-1-2019)**

## Sec. 5.5. District dimensional regulations.

Note: Section 6 and subsections 5.6 and 9.3, where applicable, contain certain provisions, modifications, and limitations to the following dimensional regulations.

### 5.5.1. Residential districts.

			MINIMUMS						MAXIMUM HEIGHT OF MEAN SECTION	
			Lot Area <sup>1</sup> (sq. ft.)	Lot Frontage <sup>2</sup> (feet)	Front Depth (feet)	Rear Yard (feet)	Side Yards (each side) (feet)	Building Coverage <sup>3</sup> (percent)	Main Structure (feet)	Accessory Structures (feet)
<b>REA Residential District</b>										
	Single-family dwelling		120,000	300	40	40	25	20	35	25
	Other permitted or special-use permit uses		120,000	300	40	40	25	20	35	25
<b>RA Residential District</b>										
	Single-family dwelling		65,000	200	40	40	25	25	35	25
	Two-family dwelling		130,000	200	40	40	25	25	35	25
	Multifamily dwelling or apartment house (plus 20,000 sq. ft. for each bedroom)		65,000	200	40	40	25	30	35	25
	Other permitted or special-use permit uses		65,000	200	40	40	25	25	35	25
<b>RS Residential Districts</b>										
	Single-family dwelling		40,000	150	30	40	25	20	30	25
	Two-family dwelling		80,000	175	30	40	25	20	30	25
	Multifamily dwelling or apartment house (plus 6,000 sq. ft. for each bedroom)		40,000	200	30	40	25	30	30	25
	Other permitted or special-use permit uses		40,000	150	30	40	25	20	30	25
<b>RU Residential Districts</b>										
	Single-family dwelling		20,000	100	25	40	20	20	30	25
	Two-family dwelling		30,000	120	25	40	20	20	30	25
	Multifamily dwelling or apartment house (plus 4,000 sq. ft. for each bedroom)		6,000	200	25	40	20	20	30	25
	Other permitted or special-use permit uses		10,000	100	25	40	20	20	30	25

<sup>1</sup> Lot areas shown may not be adequate to meet state sanitation approval.

<sup>2</sup> Lot width shall be measured at front yard depth.

<sup>3</sup> Building coverage shall be measured as ground area of structure divided by total lot area.

4. For the purposes of calculating minimum lot and yard dimensions, area, density, maximum % coverage and the maximum number of lots or dwelling units permitted in a Conservation Development in any zoning

### 5.5.2. Nonresidential districts.

							MAXIMUM BUILDING HEIGHT	
			Minimum Yard Depths (in feet)			Main Structures	Accessory Structures	Maximum Floor Area
		Minimum Distances of Structure from Residential Zone Boundary ( <u>in feet</u> )	<u>Front</u>	<u>Rear</u>	<u>Side</u>	<u>(feet)</u>	<u>(feet)</u>	<u>Ratio</u> <sup>1</sup>
BH	Business District. Any permitted use <sup>2</sup>	25	25	30	15	35	20	0.25
BN	Business District. Any permitted use <sup>2</sup>	25	25	30	15	35	20	0.25
M	Manufacturing District. Any permitted use <sup>2</sup>	100	40	40	40	35	20	1.00
	Land Development Project. Any permitted use	100	-	-	-	35	20	0.25
LC	Limited Commercial. Any permitted use	25	30	15	15	35	20	0.25

<sup>1</sup> Floor area shall be measured as: Total Floor Area of Structure (excluding basement) divided by Total Lot Area.

<sup>2</sup> Any permitted agricultural, residential, public or semi-public use within BH, BN, or M Zones shall conform to the dimensional regulations of the nearest Residential Zone, rather than the dimensional regulations of BH, BN, LC, or M Zones. Where Residential Zones of different regulations are equidistant, the more restrictive dimensional regulations shall apply.

**(Ord. of 4-1-2019)**

### Section 5.5.3 Land Unsuitable for Development

5.5.3 Land unsuitable for development means land which has severe or very severe limitations for development. The following regulations shall apply to proposed future residential lots in (1) a conservation development and (2) a conventional development. Non-residential lots, and lots created for the purpose of development prior to the effective date of these amendments shall not be subject to the provisions of this subsection.

#### 5.5.3.1 Land Unsuitable for Development includes the following areas:

(a.) Fresh water wetlands, including that area of land (perimeter wetland) within fifty feet (50') of the edge of any bog, marsh, swamp, or pond, as defined in the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act, adopted

pursuant to Rhode Island General Laws Section 2-1-20.1. as amended.

(b.) Water bodies

(c.) Areas within a 100-year flood zone, as defined by FEMA;

(d.) Land within the right of way of any existing or proposed public or private street.

(e.) Land within any publicly or privately held easement on which above or below ground utilities, including but not limited to electrical transmission lines >69KV, are constructed.

(f.) Cemeteries.

**5.5.3.2 Lots in a Conservation Development.** When calculating the number of building lots or dwelling units in any conservation development, lots intended for single-family dwellings that are shown on 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), must contain the minimum contiguous developable lot area exclusive of land unsuitable for development as follows:

<b>Zoning District</b>	<b>Minimum Contiguous Developable Lot Area (sq. ft.)</b>
RU-20	20,000
RS-40	40,000
RA-65	65,000
REA-120	120,000

**5.5.3.3 Lots in a Conventional Development or Subdivision.** Lots in any conventional subdivision, in any residential zoning district, shall contain at least the minimum contiguous developable lot area required by Section 5.5.3.2 as land suitable for development (exclusive of land unsuitable for development).

## **Sec. 5.6. Special-use permits.**

**5.6.1. Application procedures for a special-use permit.** Except in the case of shopping centers and multifamily dwellings, apartments, which are covered in subsections 5.6.3.6. and 5.6.3.7., respectively, an applicant for a special-use permit shall pay the necessary fee at the time he presents all required exhibits, plans, and other required data to the Inspector. The Inspector shall review the application, pointing out any possible conflicts. If the application is in compliance, the Inspector shall issue duplicate applications for a Certificate of Zoning Compliance. The Inspector shall return one copy of the completed application for a Certificate of Zoning Compliance to the applicant along with all exhibits, plans, and other required data.

Should the Inspector determine that a special-use permit is required, the Inspector shall then deny the applicant building permits or the Certificate of Zoning Compliance and refer the applicant to the Board. The Inspector shall file the duplicate application for the Certificate of Zoning Compliance as a public record.

**5.6.2. Application requirements.** The application for a special-use permit, variances and appeals shall be accompanied by the following:

- (1) A letter, including the names and addresses of property owners of record (applicants) specifically indicating the portion of this ordinance under which the special-use permit, variance and/or appeal is sought and stating the grounds on which it is requested. A list of property owners within two hundred (200) feet of the property in question shall accompany the letter.
- (2) A radius plan of the site and of the surrounding area within two hundred (200) feet of the perimeter of the site drawn at a scale of one inch to fifty (50) feet showing a north arrow; designating existing streets, easements, monuments, stone walls, wooded areas, drainage features and contours; railroad and utility rights-of-way; the location of any sub-divided lands; and the location of any parks, other public open spaces or uses, residences, and other permanent structures. Sites encompassing large areas may use a radius map to a smaller scale than one inch to fifty (50) feet provided the specific area for which the special use or variance is being requested is at a scale of one inch to fifty (50) feet.
- (3) All plans submitted shall be stamped by a registered or licensed land surveyor or civil engineer with similar information showing the proposed development of the site.
- (4) The Board and the Inspector may require any additional information they deem necessary.

**5.6.3. Standards for designated special-use permits.** To accomplish the general purposes of this ordinance certain of the uses requiring a special-use permit under the provisions of this ordinance need further consideration because they are somewhat unique, highly specialized, or often present difficult zoning administration or enforcement problems. The effects of such uses on the surrounding environment often cannot be foreseen until a specific site has been proposed. It is also characteristic that such uses often require large land areas. The following supplemental regulations and standards have been designed in order to achieve more compatibility between such uses and neighboring development. The Board may also impose additional requirements in the public interest to cover circumstances unique to the selected site.

**5.6.3.1. Accessory uses.** The location, size and intensity of accessory uses which require special-use permits shall be restricted and determined in relation to the effects of such uses upon the environment, including effect upon traffic. In no such case shall such an accessory use predate the installation and operation of the principle use. When the principle use ceases to operate, the accessory use shall immediately cease.



**5.6.3.2. Drive-in theater, summer theater, amphitheater.**

- (a) The site shall contain at least five (5) acres.
- (b) The site shall have direct access to a public street.
- (c) All structures shall be set back at least one hundred (100) feet from any street or boundary line. Viewing areas and seating areas shall be set back at least fifty (50) feet from any street or boundary line.
- (d) All parking areas and access ways shall be adequately lighted; provided however, that such lighting shall be shielded to prevent glare or reflection onto neighboring properties or public streets.
- (e) Off-street parking spaces shall be provided in accordance with the provisions of this ordinance.
- (f) The following accessory uses may be permitted as incidental to and limited to patrons of the principle use:
  - (1) Amusement park, kiddy land (noncommercial).
  - (2) Refreshment stands or booth.
- (g) Or any drive-in theater.
  - (1) The theater screen shall be shielded in such a manner that the projected image cannot be observed from highways with State route designations within 2,500 feet.
  - (2) Off-street space for automobiles or patrons awaiting admission to the theater shall be equal to twenty (20) percent of the capacity of the viewing area. All entrances and exits shall be designed to provide one-way traffic patterns.

**5.6.3.3. Fairgrounds or exposition grounds.**

- (a) A site shall contain at least twenty (20) acres and shall have direct access to a public street.
- (b) All structures shall be set back at least fifty (50) feet from a lot line.
- (c) Adequate vacant area must be available on the site to provide parking space sufficient to handle all anticipated crowds.
- (d) Accessory uses consistent with the use of the grounds shall be permitted to the extent that they do not constitute a general retail sales outlet.

**5.6.3.4. Utility structures.** Public and private utility structures not specifically permitted as a matter of right in the various zones, pertaining to water, sewage, gas, telephone, and electric utilities; and police, fire, radio, and television stations, including broadcast antennae may be permitted as a special use.

(a) *Fencing and screening.* If findings indicate that a hazard may result or that interference with the development or use and enjoyment of surrounding properties may ensue, fencing or screening with a densely planted hedge or other shielding material may be required in a manner consistent with such findings.

(b) *Water works and sewerage treatment plants.* Application for water works or sewerage treatment plants shall be accompanied by a report and a recommendation from the appropriate governing agencies. Such recommendation as to design and construction type of treatment, source of water, standards for the quality of effluent shall be recorded in the minutes of the Board.

**5.6.3.5. Extraction of earth products.** As a condition precedent to the issuance of a license pursuant to section 11-37 of this Code,, Zoning Board of Review approval of a special-use permit for earth removal must be obtained. Earth removal shall mean the extraction, quarrying or removal of any soil, loam, sand, gravel, clay, shale, or other earth material from deposits of any tract of land on which it is found. Excluding, however, earth removal:

(a) Less than ten (10) cubic yards of material in the aggregate in any year from any lot;

(b) In grading land for construction of a roadway;

(c) For a subdivision in accordance with a plat plan or plans approved in accordance with an ordinance of the Town, or any duly authorized board of authority thereof, or for the construction of a building for which a building permit has been issued; provided, however, that the removal of such material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance does not exceed that actually displaced by the portion of such buildings, structures, streets, driveways, sidewalks, or paths or other appurtenances below finished grade.

Except as otherwise provided herein, as a condition precedent to granting of a special-use permit pursuant to this subsection, the applicant for such special-use permit shall submit to the Zoning Board of Review for their approval thereof:

(a) *Site plan.* A site plan at a scale of not less than one hundred (100) feet to the inch and with contours of not more than five (5) feet, prepared by a registered engineer, land surveyor or landscape architect and setting forth:

(1) Lot lines, ownership, abutters, adjacent public streets, watercourses, existing contours at intervals of not more than five (5) feet and location plan at a scale of not less than four hundred (400) feet to the inch;

(2) Proper provision for vehicular traffic, service roads, control of entrances and exits to highways;

(3) The relation of temporary and future buildings and operations machinery to the removal areas; delineation of removal areas and depths with estimates of cubic yards of material to be removed; fencing; method of removal; distance of excavation to street and lot lines.

(b) *Restoration plan.* A restoration plan prepared by a registered engineer, land surveyor or landscape architect at the same scale required for the site plan in subsection (a) above and setting forth:

(1) The existing contours of the tract of land with a contour interval not exceeding five (5) feet, based upon classifications of preliminary samples of the material to be removed;

(2) The final contours of the tract of land with a contour level not exceeding five (5) feet upon completion of earth removal operations; and

(3) The type of ground cover to be planted or applied upon completion of earth removal operations to effectively control wind and water erosion; provided however, if suitable fertile ground cover existed at the beginning of earth removal, enough of said ground cover to be held in reserve and reapplied for a minimum thickness of three (3) inches.

The said land restoration plan and its implementation applies to the conversion of the site and its planned restoration. It is, therefore, required that:

(1) Any land restoration plan correspond to a situation which could reasonably occur in the immediate future (zero to five years), and be revised as necessary as the existing physical character of the removal area changes;

(2) The land restoration plan or any part thereof which reasonably applied to an area, shall be put into effect within one year of cessation of normal earth removal operation and completed by the timetable of the restoration plan.

The decision of the Inspector shall be final in determining when a restoration plan shall be put into effect, either on the entire site or any portion thereof.

(c) *Operating conditions.*

(1) *Hours.* Earth removal operations shall be limited to the hours between 7:00 a.m. and 6:00 p.m. of any Monday, Tuesday, Wednesday, Thursday, Friday or Saturday (except a legal holiday) and earth removal on Sunday and on any legal holiday or for the hours prior to 7:00 a.m. or after 6:00 p.m. may be authorized by the Inspector for emergency purposes only.

(2) *Initiation or lateral expansion.* The initiation or lateral expansion of earth removal is hereby prohibited:

- (a) Within two hundred (200) feet of a public road;
- (b) Within two hundred (200) feet of neighboring lot lines.

(3) *Fencing.* Fencing shall be required of those portions of the boundary of the tract of land upon which earth removal is being conducted adjacent to zoned residential property, such fencing to be six (6) feet in height and effective to control access to the area in which such earth removal is being conducted. When an excavation will have a depth of more than fifteen (15) feet with a slope in excess of one to two (1:2), a fence at least six (6) feet high shall be erected to limit access to this area.

(4) *Reduction of dust; recording instruments.*

(a) Calcium chloride or oil shall be applied to reduce dust and mud on all non-hard surfaced roads to be used for vehicular ingress or egress to the tract of land on which earth removal is to be conducted.

(b) Where deemed appropriate by the Board, the installation, maintenance, and operation by the applicant of continuous recording instruments is required to measure the effectiveness of all equipment used for drilling, digging and hauling, to control or lessen noise, vibration, smoke, water pollution, odors, fly ash, dust, fumes, vapors, gases, and other forms of air pollution, toxic gases, heat, glare and fire or other safety hazards, and the Board also may require that such recording instruments be tested at reasonable intervals under the direction of the Inspector to determine their accuracy.

When the director of health determines specific dates, on a yearly basis, relative to seasonal changes in highest groundwater table elevation, such dates may be used by the Inspector. When groundwater determinations are made outside the wet season and percolation tests are required, such percolation tests shall follow the percolation test procedure as set forth in the D.O.H. regulations (R-23-SD 14.00-pl a.b.c.d.e.f. and SD 14.02). Where proposed "subsurface seepage system" is used in D.O.H. regulations, "excavation of earth material" shall be substituted.

(5) *Drainage, groundwater table elevation; permanent water bodies.*

(a) Drainage shall be provided to prevent the permanent collection and stagnation of surface or underground waters, and to prevent the flooding and erosion of surrounding property and the pollution of ponds and streams; and

(b) Earth removal shall not encroach closer than four (4) feet to the groundwater table.

Groundwater table elevation determinations shall be made on all land from which earth products

will be removed. Procedures for groundwater table elevation determinations shall be made in the same manner as required by the Department of Health in the "Rules and Regulations Establishing Minimum Standards Relating to Location, Design Construction and Maintenance of Individual Sewage Disposal Systems" (R23-1-SD15.00-01 and 02). Where "subsurface seepage system" is used in the D.O.H. regulations, "excavation of earth removal" shall be substituted. Where "director" or "agent of the director" is used in the D.O.H. regulations, "Inspector" shall be substituted;

(c) Permanent water bodies shall not be created as a result of earth removal activities.

The Inspector or his appointed designee shall witness all percolation and groundwater determinations and shall certify to the accuracy of technical data recorded. Any changes in such D.O.H. regulations relative to groundwater level determination and percolation tests from time to time shall be considered part of this section.

(6) *Off-street parking; posting of signs; access roads; truck routes.*

(a) Off-street parking shall be provided and utilized by all related vehicles.

(b) Any access to excavated areas or areas in the process of excavation shall be adequately posted with keep-out danger signs.

(c) Access roads shall be constructed with a curve so as to help screen the operation from public view.

(d) All trucking routes and methods shall be subject to the approval of the chief of police, and such routes be cleaned, repaired and/or resurfaced by the earth removal operator where such is required by the Town Council.

(7) *Explosives.* The use of explosives shall be in accordance with the regulations for storage or handling of explosives as set forth by the State of Rhode Island.

(d) *Certificate of compliance.* A certification by a registered engineer, landscape architect or registered land surveyor that completion of earth removal operations complies with the restoration plan.

(e) *Noncompliance.* If the plan set forth in subsection (b) above is not complied with, the Town is authorized and empowered to undertake and complete such plan and the owner of said tract of land shall reimburse the Town and the Town shall have a lien on said tract of land for such expenses.

(f) *Bond.* A bond surety required per acre of said tract of land to insure compliance with the restoration plan and reasonable additional amounts as required by the Zoning Board or Town Council to insure repair to Town roads for damage by any hauling operations.

**5.6.3.6. Shopping centers.** The purpose of these regulations is to encourage the effective and timely development of land for commercial purposes in accordance with the objectives and policies of the Comprehensive Plan; to assure suitable design in order to protect the property values and the residential environment of adjacent neighborhoods; and to minimize traffic congestion on the public streets (see Site Plan Review).

(a) *Procedure.* Prior to submitting an application for a shopping center to the Board, development plans shall be submitted to the Planning Board for site plan review. Subsequent to receiving site plan approval, the applicant shall submit approved site plans and supporting documentation to the Board. The Board shall hold a public hearing in accordance with section 9 and shall grant or deny the special-use permit. Strict adherence to the conditions set by the Planning Board, and the Board are necessary for issuance of Certificates of Zoning Compliance and building permits. Such building permits must be requested within one (1) year of the date of Board approval. The Board may extend its approval for one (1) year periods after public hearings for good cause shown.

(b) *Development standards.*

(1) *Permitted uses.* Any nonresidential use permitted in the BN or BH zone is permitted as a principal use of land in a shopping center.

(2) *Site area.* A shopping center shall be located on a parcel of land having an area of at least ten (10) acres.

(3) *Maximum lot coverage.* The total ground area occupied by all principal buildings, together with all accessory buildings, shall not exceed 25 percent of the total area of the parcel of land.

(4) *Height restriction.* No principal building shall exceed thirty (30) feet in height; no accessory building or other structure shall exceed twenty (20) feet in height.

(5) *Building setback line.* Each land parcel shall have a building setback from all street lines of at least eighty (80) feet. A strip twenty (20) feet deep along the street line shall be maintained as a continuous landscape buffer strip except for access ways. The remaining area may be used for parking.

(6) *Side and rear yards.* The parcel of land shall have side and rear yards of at least fifty (50) feet in width. A strip twenty (20) feet in width or depth along side and rear lot lines shall be maintained as a landscaped buffer strip. The remainder of the area may be used for parking.

(7) *Special buffer requirement adjacent to residential areas.* Along any boundary line adjacent to a residential area, a buffer yard shall be at least one hundred (100) feet in depth, measured from the property line to a parking area.

(8) *Access and traffic control.*

(a) *Access barrier.* A shopping center shall be physically separated from each adjoining street by a curb or other suitable barrier against unchannelled motor vehicle ingress and egress. Such barrier shall be located at the edge of, or within, a twenty (20) foot deep strip along the property line. Except for the access ways permitted by (b) below, the barrier shall be continuous for the entire length of the property line.

(b) *Access ways.* A shopping center shall have not more than one access way for ingress and one access way for egress on any one street unless unusual circumstances demonstrate the need for additional access points. Each access way shall comply with the following requirements:

(1) The width of any access way leading to a public street shall not exceed twenty five (25) feet at its intersection with the property line. Curb returns shall have a minimum radius of thirty (30) feet.

(2) At its intersection with the property line, no part of any access way shall be nearer than one hundred (100) feet to the intersection of any two street right-of-way lines, nor shall any part be nearer than fifty (50) feet to any side or rear property line.

(3) The location and number of access ways shall be so arranged that they will reduce traffic hazards as much as possible.

(9) *Off-street parking areas.* All off-street parking spaces and servicing drives shall be located within the boundaries of the property being developed as a shopping center. Off-street parking spaces shall be provided at the rate of at least three square feet of parking area to one square foot of gross floor area. Individual parking stalls shall be a minimum of 180 square feet. Spaces provided behind the stores or shops shall not be considered usable by the public and shall not be considered in calculating the minimum space required; provided however, that if the shopping center is so designed that all of the shops and stores face upon a central mall and all sections of the parking area are provided with adequate connecting internal drives, the location of parking areas may completely surround such shops and stores.

(10) *Off-street loading.* Each shop or store shall have a rear or side entrance that is accessible to a loading area and service drive. Service drives shall be a minimum of 26 feet wide and shall be in addition to and not part of the drives or circulation system used by the vehicles of shoppers. The arrangement of truck loading and unloading facilities for each shop or store shall be such that in the process of loading and unloading, no truck will block or extend into any other private or public drive or street used for vehicular circulation. Loading and delivery zones shall be clearly marked.

(11) *Lighting.* All parking areas and access ways shall be flood lighted at night during business hours. All outside lighting shall be arranged and shielded to prevent glare or reflection, nuisance, inconvenience, or hazardous interference of any kind on adjoining streets or residential properties.

(12) *Waste pens.* Each building shall be provided with an enclosed and covered waste pen of sufficient size to accommodate all trash and waste stored on the premises.

(13) *Trash burners and incinerators.* There shall be no trash burner or incinerator, or any burning of trash on the premises.

(c) *Application requirements.* In addition to the general application requirements, the applicant shall furnish the following information and exhibits concerning his proposed development:

(1) *Ownership.* All land in the proposed shopping center shall be in either single ownership or in unified control and shall contain no public streets or alleys. A shopping center site shall not lie on two sides of a public street or alley.

(2) *[Financial statement.]* An applicant's current financial statement.

(3) *Existing conditions.* A suitable sketch showing:

(a) Boundary line of the proposed shopping center, and the total acreage encompassed thereby.

(b) The size and location of existing sewers, water mains, culverts, manholes and other underground facilities within the tract.

(c) Generalized contour lines.

(d) Location, widths and names of all existing or prior platted streets, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements, and municipal boundary lines, within five hundred (500) feet of the tract.

(4) *Proposed conditions.* Preliminary sketches showing the following:

(a) Location, general layout and dimensions of principle and accessory buildings;

(b) Architectural sketches of the proposed buildings;

(c) Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;

(d) Traffic circulation within the confines of the shopping center;

(e) Location, arrangement and dimensions of automobile parking, bays, aisles, and loading spaces;



(f) Location, arrangement and dimensions of truck loading and unloading spaces and docks;

(g) Location and dimensions of pedestrian entrances, exits, walks, and walkways;

(h) Drainage and sanitary systems.

(5) *Preliminary site plan submission.* A preliminary site plan for the development of such property shall be presented to the Planning Board for review. The preliminary site plan, which may be shown on separate sheets, shall show the following, together with the appropriate dimensions:

(a) Proposed name of shopping center;

(b) Names and addresses of applicants and designer who made the plan;

(c) Location of legal description;

(d) Boundary line of proposed shopping center indicated by solid line, and the total acreage encompassed thereby;

(e) Location, width, and names of all existing or prior platted streets, railroad and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;

(f) North arrow;

(g) Scale of plan, one inch to 50 feet;

(h) Plan completion date;

(i) Contours of two foot intervals;

(j) Existing and proposed sewers, water mains, culverts, and other underground facilities and utilities within the tract, indicating pipe sizes, grades, manholes, and location;

(k) The stages, if any, to be followed in the construction of the shopping center;

(l) Location and general exterior dimensions of principal and accessory buildings;

- (m) Preliminary architectural drawings for all buildings;
- (n) Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- (o) A traffic flow map showing circulation patterns within the confines of the shopping center;
- (p) Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
- (q) Location, arrangement and dimensions of truck loading and unloading spaces and docks;
- (r) Location, and dimensions of pedestrian entrances, exits, and walks;
- (s) Drainage and sanitary system;
- (t) Location, height and materials of walls, fences and screen paintings;
- (u) Ground cover, finished grades, slopes, banks and ditches;
- (v) Location, size, height and orientation of all signs other than flat signs on building facades;
- (w) If it is proposed to restrict signs or to establish an association of merchants by means of lease provisions or covenants, the text of such provisions.

(6) *Action on the preliminary site plan.* Not more than 60 days after receipt of the preliminary site plan, the Planning Board shall determine whether the proposed shopping center would comply with all the requirements of this ordinance and if so, shall approve the preliminary plan and the final plan may be filed, or:

(a) Notify the applicant in writing how the plan must be amended to comply with the requirements of this ordinance. The applicant may, within thirty (30) days thereafter or within such further period as may be agreed to by the Planning Board, submit an amended preliminary plan containing the required changes. If an amended plan is not filed within the prescribed period, the original preliminary plan shall be considered disapproved. If an amended preliminary plan is filed within the prescribed period, the Planning Board shall approve or disapprove the plan with thirty (30) days after the date of the filing, or within such further period as may be agreed to by the applicant; or

(b) Notify the Zoning Board and the applicant in writing that the plan does not comply with the requirements of this ordinance, and is not susceptible to amendment. The applicant may then apply to the Board for a review of the Planning Board decision.

(7) *Final site plan submission.* Within one year after approval of the preliminary site plan, the applicant shall submit to the Planning Board a final site plan of either (1) the entire shopping center, or (2) the first stage of such center that is to be constructed. Such plan shall include appropriate dimensions, shall contain all information required by this ordinance for a preliminary plan, shall contain final architectural drawings for all buildings included in the final site plan, and shall contain any additional information required by the Planning Board.

(a) *Stage construction.* If the development of the shopping center is to be carried out in progressive stages, each stage shall be so planned that the requirements and intent of this ordinance shall be fully complied with at the completion of each stage. No final plan for the initial stage of development of any shopping center shall be approved unless such stage comprises of total ground floor area of at least 25,000 square feet and at least three of the designated principle uses.

(b) *Action on the final site plan; compliance with preliminary site plan.* No more than 30 days after receipt of a final site plan for a shopping center or for any stage thereof, the Planning Board shall determine whether such final plan is in compliance with the preliminary plan as approved. If the final plan is determined to be in compliance, and if all applicable requirements of this subsection are also complied with, the Planning Board shall recommend approval of the final plan to the Zoning Board. The Zoning Board may then direct the Inspector to issue the necessary permits. In all other instances the Planning Board shall recommend disapproval of the final plan and shall so notify the applicant in writing. The applicant may then apply to the Board for a review of the Planning Board decision. If the final plan is disapproved because of noncompliance with the preliminary plan, the final plan may thereafter be submitted to the Planning Board as an amended preliminary plan. The procedure for consideration of an amended preliminary plan shall be the same as that for an original preliminary plan.

(c) *Change of final site plan.* If the applicant wishes to make an amendment to an approved final plan, a written request shall be submitted to the Planning Board. If, in the opinion of the Planning Board, a requested change is sufficiently substantial, the Planning Board shall require the submission of an amended final plan. The procedure for the consideration of such written request or of such amended final preliminary plan shall be the same as that for the consideration of a final plan.

**5.6.3.7. Multifamily dwellings, apartments.** The purpose of these regulations is to allow, in residential areas, the development of multifamily dwellings and apartments which may utilize the natural amenities of the site to a greater extent; provide more varied housing types which are harmonious with neighboring residential uses; and will not overwhelm existing and planned community facilities and services. No multifamily structure(s) and apartment(s) shall be erected except in conformance with standards herein.

(a) *Development standards.*

(1) *Building design and location.* Where more than one principal structure is erected on a lot, it shall be set back a minimum of 25 feet from interior ways, 15 feet from parking areas; and 20 feet from other principal structures.

(a) *Attached dwellings (row houses, town houses, etc.).* No contiguous row of attached dwellings shall number less than three dwelling units, nor more than eight units, and minimum width of individual units shall not be less than 20 feet.

(b) *Apartments.* No portion of the upper half of the lowest habitable floor shall be set below ground level. No principal structure may be less than 60 feet in length; nor be of such a configuration that it would extend beyond a 150 foot square.

(2) *Water.* Municipal water shall be available at the site in sufficient quantity.

(3) *Sewer.* Municipal sewers shall be required. The Town shall reserve the option to require higher standards than those of the Rhode Island Department of Health and may exercise same in unsewered areas if competent engineering data indicates this to be advisable.

(4) *Parking.* All parking shall be at the side or rear of the structure for which it is intended and all parking spaces shall be paved. No parking shall be allowed within 25 feet of any lot line. No row of parking spaces shall exceed 100 feet without a landscape separation of at least ten feet in width. There shall be a separation of at least ten feet between rows.

(5) *Interior streets.* All interior streets shall be paved a minimum of 25 feet in width, and be free of obstructions and parking spaces. Right-of-way widths of collector streets shall have a minimum fifty-foot width; thirty-six-foot minimum for all others.

(6) *Road and parking area construction.* All areas, whether for public or private use which are paved for vehicular purposes, shall be constructed in accordance with Town subdivision regulations.

(7) *Access and egress.* On any one street there shall not be more than one opening for access or egress at 500 foot intervals.

(8) *Open space dedication.* Open space dedication to the public, if required, shall not exceed five percent of the site area.

(9) *Natural site amenities.* Developers shall preserve the maximum amount of natural site amenities required by the Town, such as wooded areas, streams, and overlooks. The Town may require as a precondition for building permits, restoration of natural areas indiscriminately cleared prior to submission of the preliminary plat.

(b) *Application requirements.* Application requirements shall be substantially as required for shopping centers in subsection 5.6.3.6(b).

(c) *Procedure.* Procedure for acquisition of building permits for multifamily

dwellings and apartments shall be essentially those required for shopping centers in subsection 5.6.3.6(c).

**5.6.3.8. Home occupation.** Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, provided that:

- (a) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 150 square feet of the dwelling unit shall be used in the conduct of the home occupation.
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, nonilluminated, and mounted flat against the wall of the principal building;
- (d) No home occupation shall be conducted in any accessory building except as a special-use permit;
- (e) There shall be no sales in connection with such home occupation;
- (f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (h) Does not include barber, beautician or hairdresser.

**5.6.3.9. Accessory family dwelling unit.** An accessory family dwelling unit providing independent living facilities for the sole use of one or more members of the family of the owner occupant of the principal residence. Provided further, however, that the applicant for a permit to construct an accessory family dwelling must sign an agreement restricting occupancy of such dwelling unit to family members and indemnifying the Town of North Smithfield from any cost to said town incurred in enforcing the terms of said agreement. An affidavit shall be filed with the building inspector's office and shall be updated yearly by January 31. The signed agreement shall be recorded in the land evidence records of the town at the expense of the applicant. The agreement shall run with the land so as to be applicable to and binding upon subsequent owners

and shall be enforceable against the applicant, his heirs, devisees, successors and assigns.

(a) *Development standards:*

1. Dwelling must be attached to the principal residence, and must be accessible through the same means of ingress and egress as the principal residence but, need not have a separate means of ingress and egress.

2. Dwelling unit shall not exceed 700 square feet.

3. Dwelling unit shall not have more than one bedroom.

4. Only one accessory family dwelling unit may be allowed in any single-family detached dwelling. No accessory family dwelling unit may be allowed in a two-family or multi-family dwelling.

5. Any utilities for the principal residence and the accessory unit will be common to both (i.e. electrical, sewerage, heating etc.).

6. The owner shall provide proof that the individual sewerage disposal system is adequate to support an additional bedroom.

(b) *Sale.* Upon the transfer of the property the new owner (s) shall have 60 days to sign an affidavit with the building inspector's office and then comply annually as aforementioned.

(c) *Amnesty period.* Owners of existing non-conforming accessory family dwelling units are not subject to the conditions of section 5.6.3.9, provided that all the appropriate inspections of the unit have been made by the building inspector by March 1, 1998, and provided that the owner can provide proof that the individual sewerage disposal system is adequate to support an additional bedroom.

Owners of non-conforming units discovered after March 1, 1998, will be in violation of the ordinance and subject to penalties as set forth in section 16, "Penalties for Violations."

**5.6.3.10. Wireless communications facilities (WCF).**

(1) *Purpose.* The purpose of this section is to regulate the placement of wireless communications facilities, limited to monopoles (towers), and related equipment and structures, telephone and cable television equipment and related equipment and the addition of communication equipment to existing structures. For the purpose of this section lattice towers and guyed towers are not permitted. The regulations serve to establish a procedure for application of Special Use Permits, establish development standards and location requirements and to encourage the co-location of equipment onto existing structures.

The goals of this section are to:

- a. Address the public safety concerns associated with the siting of wireless communications facilities;
- b. To preserve the character, appearance, property values, natural resources and historic sites of the town.
- c. Minimize the number of new facilities by encouraging co-location and use of "friendly" sites;
- d. Limit the height of telecommunication facilities;
- e. Encourage the siting of new facilities on town-owned properties which meet the criteria listed in subsection (5)(B)1., "Permitted Uses," when co-location is not possible and in areas where "friendly" sites are not suitable; and,
- f. Enhance the ability of carriers of telecommunication services to provide such services to the community quickly, effectively, and efficiently.

(2) *Applicability:*

(A) *New towers and facilities.* The requirements set forth in this section shall govern the location of all new telecommunication facilities and related equipment that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

(B) *Amateur radio antennas.* This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for antennas.

(3) *General guidelines and requirements:*

(A) *Submittals.* The following submittals shall be provided as part of the application for site plan review and special use permit:

1. A report provided by a professional radio frequency engineer describing the general design and capacity of the proposed installation, including:

- a. A description of the tower and the technical, economic and other reasons for the tower design.
- b. Describe the capacity of the tower including the number and type of transmitters and receivers that it can accommodate and the basis for the calculation of capacity.

c. Demonstrate that the tower and site comply with this regulation.

2. A site plan prepared by a Rhode Island licensed professional engineer at a scale of 1:40 which will show the following:

- a. Facility location, dimensions and tower height.
- b. Accessory building(s) for switching equipment.
- c. Topography (two-foot-contour interval).
- d. Fencing, landscaping and screening.
- e. Access and parking.
- f. Lighting.
- g. Areas to be cleared of vegetation and trees.
- h. Site boundaries.
- i. Description of adjacent uses.

3. Between the date of advertisement of the public meeting date, and the scheduled public meeting date, a balloon may be required to be deployed at the height of the proposed tower. All cost associated with balloon deployment will be borne by applicant.

4. Applicants proposing to erect wireless communication towers, accessory facilities and structures on land or structures shall provide evidence of contractual authorization from the owner(s) to conduct wireless communications services on the property. Applicants other than licensed carriers shall provide evidence that a licensed carrier will locate on the proposed facility once erected.

(B) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. In a Manufacturing (M) zone, telecommunication facilities shall be allowed as a principal use or, as an accessory use should there already be a principal use. In all zones other than the Manufacturing (M), only one principal use is allowed on a lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure. Towers and base facilities may not take away required parking spaces of an existing building.



(C) *Cell grid map.* Each applicant shall submit a map depicting the proposed cell grid, the coverage ring and site search ring for all existing, proposed wireless telecommunication facilities for North Smithfield, and for an area within ten miles of the border of North Smithfield. A map indicating the location of all "friendly" sites in North Smithfield (i.e. existing telecommunication towers, water towers, steeples, smoke stacks, electric transmission towers, radio and fire towers).

(D) *Evaluation of "friendly sites".* Each applicant shall submit an evaluation of "friendly" sites within the search area or within one mile of the proposed site whichever is greater. Specific information about location, height and design capacity of each site. Proof that owners of "friendly" sites within the search area have been contacted and that permission was sought to install a device on those structures, and that permission was denied, or that such locations do not satisfy requirements to provide the service needed. Failure to present evidence of a good faith effort on the part of the applicant to utilize existing facilities shall be grounds for denial of the application.

(E) *Co-location.* Each applicant shall demonstrate to the reasonable satisfaction of the planning board and zoning board that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower can accommodate the applicant's proposed antenna may consist of any of the following:

(1) Proof that owners of existing towers or structures\* within search area of the proposed tower location or within one mile, whichever is greater have been contacted and that permission was sought to install a device on those structures, and that permission was denied.

\*Structures include water tanks, steeples, smokestacks, buildings, fire towers, utility towers etc.

(2) No existing tower or structures are located within the search area of the proposed tower location or within one mile, whichever is greater.

(3) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

(4) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(5) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

Every telecommunication facility approved under this section shall be subject to the condition that the facility owner must allow co-location upon the structure by wireless communication caRAiers upon commercially reasonable terms and conditions and without unreasonable delay, if such co-location is technically feasible. It is expressly provided that any requirement imposed by

a facility owner which requires the payment of rent in excess of industry standards or which allows the co-location only if the requesting party provides comparable space on one of its structures to the owner shall be deemed to be commercially unreasonable.

(F) *Site justification statement.* Every application for special use permit shall be accompanied by a description of the narrowing process that eliminated other potential sites. The applicant shall also provide a written statement from a radio frequency engineer justifying the height of the proposed facility.

(G) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the state building codes as amended from time to time. If upon inspection, the building official concludes that a tower fails to comply with such codes and standards; and constitutes a danger to persons or property, then the building official shall proceed in accordance with Chapter 27.3 of Title 23 of the RIGL entitled state building codes.

(H) *ANSI standards.* Upon completion of construction, the applicant shall submit an annual report to the town building inspector which provides quantified electromagnetic field (EMF) measurements to current federal and American National Standards Institute (ANSI) standards or subsequent standards. If the project does not meet federal and ANSI standards, the permit may be modified or revoked.

(I) *Federal requirements.* Demonstrate that the tower complies with all applicable standards of the federal and state governments. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) to provide a written statement that the proposed tower complies with applicable regulations administered by the agency or that the tower is exempt from those regulations and a copy of the response from each agency shall be included. If such response is not received within 60 days, the application will be considered incomplete. The applicant shall send a subsequently received agency statement, if any, to the planning board.

(J) *Carrier notification.* All applicants shall send certified mail announcements to all other licensed carriers located in Rhode Island, declaring their sharing capabilities and siting needs. Except in cases where mechanical, structural or regulatory factors prevent them from sharing, applicants cannot be denied or deny space on a tower.

(K) *Abutter notification.* Abutters within one-quarter mile of the facility base shall receive notice by certified mail "return receipt requested" a minimum of 21 days in advance of the hearing for special use permit. The applicant shall compile and send notice to abutters and provide the building official with a detailed list of notifications sent and acknowledgments of receipt. A list of the completed mailings as outlined above, must be returned to the building official no less than seven days in advance of the hearing date. All cost associated with the abutter notification shall be borne by the applicant

(4) *Procedures:*

(A) A pre-application conference with the planning department is required before site plan review. The conference will serve to familiarize the applicant with the town's regulations. The planning department shall approve the site plan prior to submittal to the planning board for site plan review.

(B) Six copies of the application (site plans and all required submittals) shall be submitted to the planning department for review. A meeting before the planning board for site plan review shall be scheduled within 60 days of certification that an application is complete.

(C) Nine copies of the application for special use permit shall be submitted to the zoning board of review. A meeting shall be scheduled with the zoning board of review in accordance with subsection 9.2, "Special Use Permits; Conditions Governing Applications; Procedure" of this section.

(D) Building permits are required for all telecommunications towers, antenna and equipment shelters.

(5) *Permitted uses:*

(A) *General.* The uses listed in this subsection are deemed to be permitted uses and shall not require a special use permit. Nevertheless, all such uses are subject to the requirements of subsection 3 for site plan review.

(B) *Specific permitted uses:*

1. Telecommunication facilities including the placement of monopoles and additional buildings or other supporting equipment used in connection with said facility, in a Manufacturing (M) zoning district; provided, however, that the height of the proposed facility is less than 125 feet, that such facility is set back from any residential property line a minimum distance equal to 500 feet or three times the height of the facility whichever is greater; set back from any public right-of-way, any commercial or manufacturing structure or use equal to a distance one and one-half times the height of the facility; and the proposed site provides the opportunity to minimize the adverse visual effects of telecommunication facilities.

2. Telecommunication facilities including the placement of monopoles less than 125 feet and additional buildings or other supporting equipment used in connection with said facility on land occupied by existing Blackstone Valley Electric and Narragansett Electric transmission towers, provided however, that such facility is set back from any residential property line a minimum distance equal to 500 feet or three times the height of the facility whichever is greater; set back from any public right-of-way, any commercial or manufacturing structure or use equal to a distance one and one-half (1 1/2) times the height of the facility; and the proposed site provides the opportunity to minimize the adverse visual effects of telecommunication facilities.

3. Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, or other freestanding nonresidential structure)

that is 30 feet in height or greater, so long as said additional antenna adds no more than 20 feet to the height of said existing structure; and

4. Installing an antenna on any existing tower of any height, so long as the addition of said antenna adds no more than 20 feet in height of said existing tower.

5. Direct broadcast satellite antenna one meter or less in diameter, or home satellite dish of not more than one meter in diameter or measured diagonally.

(6) *Special use permits:*

(A) *General.* The following conditions shall require the application for a special use permits:

1. If the tower or antenna is not a permitted use under subsection 5 of this article or permitted to be approved administratively pursuant to subsection 5 of this article, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

2. In granting a special use permit, the zoning board of review may impose conditions, to the extent the board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties.

3. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by Rhode Island licensed professional engineer.

4. Any extension, addition of cells or construction of new or replacement towers or transmitters shall be subject to site plan review and amendment to the special permit, following the same procedure as for an original grant of a special use permit.

(B) *Factors considered in granting special use permits.* The zoning board shall consider the following factors in determining whether to issue a special use permit, although the board may waive or reduce the burden on the applicant of one or more of these criteria if they find that the goals of this section are better served thereby.

1. Height of the proposed tower;

2. Proximity of the tower to lot boundaries;

3. Nature of uses on adjacent and nearby properties;

4. The opportunity for natural screening of telecommunications facilities through a combination of reduced facility height due to site elevation, lot depth, natural vegetation or, topography.

5. Design of the tower, with particular references to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

6. Proposed ingress and egress; and

7. Availability of suitable existing towers for co-location and other structures as discussed in subsection (3)(C) and (D) of this article. The applicant shall submit a co-location statement as well as an evaluation of "friendly sites" as called for in subsection (3)(C).

(7) *Design standards.* The following design standards shall apply to all towers and antennas.

(A) *Setbacks and separation:*

1. Towers must be set back from any residential structure or lot line a minimum distance of 500 feet or three times the height of the tower whichever is greater.

2. Towers must be set back a distance equal to one and one-half (1 1/2) the height of the tower from the lot line of any adjoining commercial or manufacturing structure or use.

3. Towers shall not be located within 1,000 feet of a school facility.

4. Accessory facilities must satisfy the minimum zoning district setback requirements for accessory structures.

(B) *Landscaping and screening.* The applicant must demonstrate that the tower or antennas are located within a given site so as to minimize the visual impact. Existing on-site vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for the landscaped screening requirement. Appropriate screening shall be installed at all tower sites to screen views from adjacent properties and streets. Planting shall be of such a height and density to ensure screening. Screening shall consist of plant and/or tree material accepted by the town planner. Screening shall occupy ten percent of the minimum established setback requirement, but shall not be less than five feet in width unless located in or abutting a residential district or historic district which will require that it not be less than ten feet in width. Screening may be waived on those sides or sections which are adjacent to undevelopable lands. The owner of the property shall be responsible for all maintenance and shall replace any dead plantings within 30 days.

(C) *[Traffic ways.]* Traffic associated with the tower and accessory facilities shall not adversely affect abutting ways and access shall be provided to a site by a roadway which respects the natural terrain, does not appear as a scar on the landscape, and is approved by the zoning board of appeals and the fire chief to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and steep slopes.

(D) *[Fencing.]* Communication towers shall be enclosed by a fence with one-inch wire mesh no less than eight feet in height or more than ten feet in height from finished grade. Access shall be through a locked gate.

(E) *[Lighting.]* Communication towers shall not be artificially lighted except as required for public safety purposes, by the Federal Aviation Administration (FAA), or by the Town of North Smithfield.

(F) *[Signs.]* No signs shall be allowed on any communication tower except as required for public safety purposes, by the Federal Communication Commission (FCC) or by the town. All signs shall conform with the sign requirements of the Zoning Ordinance.

(G) *[Equipment shelters.]* Equipment shelters shall be limited to one per provider, but shall not exceed ten shelters per tower. If more than one use, the equipment shelters shall be connected by a common wall. Each shelter shall not exceed 275 square feet in size and ten feet in height, and shall be of the same design and color as each other.

(H) *[Color.]* The color of the paint or finish is to be determined by the planning board.

(I) *[Designed to maximize uses.]* The tower shall be designed to accommodate the maximum number of uses technologically practical.

(8) *Removal of abandoned telecommunication facilities.* All unused telecommunication facilities and structures which have not been used for one year shall be considered abandoned and shall be dismantled and removed at the owner's expense. The owner of such facility shall remove same within 90 days of receipt of notice from the building official. The applicant shall post a bond which shall be re-evaluated every two years, to cover the cost of removal and restoration of the site if appropriate. If such antenna or tower is not removed within 90 days, the town may take the necessary action to remove the facility at the owner's expense.

(9) *Exemptions.* The following types of wireless communications towers are exempt from this section 5.6.3.10:

1. Amateur radio towers used in accordance with terms of any amateur radio service license issued by the Federal Communications Commission, provided that:

a. The tower is not used or licensed for any commercial purpose; and

2. Towers and antennas erected on land or structures owned by the Town of North Smithfield for public safety and other telecommunication purposes.

(10) *Definitions:*

*Aboveground level (AGL):* A measurement of height from the natural grade of a site to the

highest point of structure.

*Antenna:* The surface from which wireless radio signals are sent and received by a personal wireless service facility.

*Camouflaged:* A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

*Carrier:* A company that provides wireless services.

*Co-location:* The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carriers.

*Cross-polarized (or dual-polarized) antenna:* A low mount that has three panels flush mounted or attached very close to the shaft.

*Elevation:* The measurements of height above sea level.

*Environmental assessment (EA):* An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

*Equipment shelter:* An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

*Fall zone:* The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

*Friendly sites:* Existing sites with potential for use as antennae platform.

*Functionally equivalent services:* Cellular, personal communication service (PCS), enhanced specialized mobile radio, specialized mobile radio and paging.

*Guyed tower:* A tower that is tied to the ground or other surface by diagonal cables.

*Height:* The distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

*Lattice tower:* A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

*Licensed carrier:* A company authorized by the FCC to construct and operate a commercial mobile radio service system.

*Monopole:* The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

*Mount:* The structure or surface upon which antennas are mounted, including the following four types of mounts:

1. *Roof-mounted.* Mounted on the roof of the building.
2. *Side-mounted.* Mounted on the side of the building.
3. *Ground-mounted.* Mounted on the ground.
4. *Structure-mounted.* Mounted on a structure other than a building.

*Omnidirectional (whip) antenna:* A thin rod that beams and receives a signal in all directions.

*Panel antenna:* A flat surface antenna usually developed in multiples.

*Personal wireless service:* The three types of services regulated by this Model Bylaw.

*Radio frequency (RF) engineer:* An engineer specialized in electrical or microwave engineering, especially the study of radio frequencies.

*Radio frequency radiation (RFR):* The emissions from personal wireless service facilities.

*Commentary:* It is RFR, not all EMF, that is regulated by the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency radiation (FCC Guidelines).

*Security barrier:* A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespassing.

*Separation:* The distance between one carrier's array of antennas and other carrier's array. (Ords. (two) of 3-16-98)

#### **5.6.3.11. Medical Marijuana.**

It is the intent of this section to regulate and provide zoning standards for the cultivation and distribution of medical marijuana as allowed by the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act. (See RIGL 21-28.6-1 et seq.)

##### **(a) Patient cultivation.**

Patient cultivation shall be permitted in all residential, and in instances of legal non-conformance, commercial, manufacturing and industrial zoning districts in the Town of North Smithfield. Patient cultivation shall not be allowed unless each of the following criteria has been met:



(1) Patient cultivation shall only be allowed at the patient cardholder's primary residence when being conducted in a residential zoning district. If the patient cardholder does not own the subject property, the owner(s) of the subject property shall provide written acknowledgment and approval of the proposed use, which shall be appropriately notarized prior to review and approval by the Town.

(2) The patient cardholder shall apply for the appropriate approvals and inspections by the local Fire Chief. The Fire Chief shall approve the application for permits pursuant to RIGL 23-28.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the local Fire Chief and not subject to review by any party other than the cardholder.

(3) The patient cardholder shall apply for a zoning certificate, and the patient cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code.<sup>[1]</sup> The Building Official shall approve the application for permits pursuant to RIGL 23-27-100.1 et seq. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder.

*[1] Editor's Note: See Ch. 90, Building Construction, Art. I, State Building Code.*

**(b) In addition to the requirements above, the patient cardholder shall demonstrate to the Building Official that the following requirements have been met:**

(1) That the area used for growing is secured by locked doors;

(2) That the area used for growing has two means of egress;

(3) That the area used for growing shall not be within 10 feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;

(4) That the area used for growing shall have proper ventilation to mitigate the risk of mold;

(5) That the area used for growing shall have carbon filters installed to reduce odors;

(6) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(7) Zoning certificates, Fire Department inspection and/or review, or building/trade permits, are not required for patient cardholders cultivating marijuana by natural means that do

not make modifications to existing electrical capacity, mechanical or plumbing services in their place of primary residence in a residential zoning district.

(8)        Possession limits. Patient cultivation possession limits shall be as follows unless otherwise stated in the Rhode Island General Laws:

	<b>Mature Plants</b>	<b>Immature Plants (Seedlings) and Unusable Marijuana</b>
Patient cardholder	12 plants	12 plants

**(c) Licensed Cultivator.**

Licensed cultivators shall be allowed in the Manufacturing District by Special Use Permit. Accordingly, a Zoning Board of Review determination is required which shall consider an advisory opinion from the Town's Planning Board. The following minimum information shall be depicted on site plans:

- (1) Building size in addition to zoning building envelope information. Class size shall be in accordance with Section 1.5 Licensed Cultivator Application and Licensing Provisions of the Rhode Island Department of Business Regulation, Chapter 800 Marijuana, Subchapter 05 Medical Marijuana, Effective January 1, 2017 as amended (hereafter referred to as DBR Regulations).
- (2) Landowner and company owner if different.
- (3) Proposed loading, unloading, and parking areas
- (4) Hours of operation.
- (5) Lighting and security plan in accordance with DBR Regulations 1.5(F)(2)(a) and (c).
- (6) Alarm system must link to municipal law enforcement in accordance with DBR Regulation 1.5(F)(3)(c).
- (7) Emergency notification and reports must be submitted to municipal law enforcement in accordance with DBR Regulation 1.5(7)(a)(b).
- (8) Interior floor plan depicting all electrical, plumbing and HVAC equipment that enables the Town to regulate operation requirements, manufacturing and extraction, sanitation and workplace safety conditions, odor control, pesticide use, and marijuana product and byproduct disposal in accordance with the following DBR Regulations respectively 1.5(I)(4)(6)(7)(8) and (9).
- (9) Scaled site plan containing a radius map to ensure facilities are not less than 1,000 feet from public or private school property lines in accordance with DBR Regulation 1.5(D)(4).
- (10) Signage plan.
- (11) Marijuana extraction. The use of butane, propane, or other compressed gases and solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

**(d) Enforcement.**

- (1) Any person or organization found to be in violation of this article shall be subject to enforcement in accordance with Zoning Section 7 and Penalties according to Section 16.
- (2) All unpermitted pre-existing cultivation shall be required to comply with this ordinance.
- (3) Notices of violation shall be rectified within (90) ninety days.
- (4) All uses permitted under this ordinance shall fully comply with all licensing requirements of the Town of North Smithfield and laws of the State of Rhode Island.

**Section 5.7 Solar Photovoltaic System Installations**

5.7.1 Purpose

5.7.2 Applicability

5.7.3 Definitions

5.7.4 Requirements for Accessory Use Solar Photovoltaic Systems

5.7.5 Requirements for Ground-Mounted Solar Photovoltaic Systems

5.7.6 Ground-Mounted Solar Photovoltaic System Procedure and Submission Requirements

5.7.7 Improvement Guarantees for Ground-Mounted Solar Photovoltaic Systems

5.7.8 Decommissioning of Unused or Abandoned Solar Photovoltaic Systems

5.7.9 Enforcement

5.7.10 Conflict and Severability

**Section 5.7.1 Purpose**

The purpose of this section is to regulate solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, are compatible with the general neighborhood in which they are located and provide adequate financial assurance for the costs of decommissioning and removal.

Further, by way of geographic location of solar photovoltaic systems, it shall be the intention of this ordinance to incentivize solar power production away from forested areas, and towards existing developed sites. Accessory use of solar arrays (i.e. net metering behind the meter) shall

be encouraged for developed properties by allowing such uses by right in BH, BN, LC, and M zone districts.

### **Section 5.7.2 Applicability**

This section applies to all solar photovoltaic systems constructed or substantially modified after the effective date of this ordinance.

### **Section 5.7.3 Definitions**

- (a) Accessory use. For the purpose of this section, accessory use shall imply net metering, 'behind the meter', electrical energy generated for the purpose of self-supplying electrical energy to an existing land use.
- (b) Applicant. An owner or authorized agent of the owner submitting an application. An authorized agent is someone authorized in writing by the owner.
- (c) Engineer. A registered Rhode Island Professional Engineer
- (d) Height. The height of a solar photovoltaic system measured from pre-development grade to the highest point of any portion of the system.
- (e) Historic Site. Any site, structure, district or archaeological site which is included on a Local, State, or National Register of Historic Places or which is established by qualified testimony as being of historic significance.
- (f) Ground-Mounted Solar Photovoltaic System: A Solar Photovoltaic System that has its electricity-generating solar panels mounted on racks or frames that are attached to ground based mounting supports.
- (g) Non-Participating Landowner. Any landowner holding title in fee, other than a Participating Landowner whose land is located in the Town of North Smithfield or in an adjoining municipality adjacent to the proposed solar photovoltaic site.
- (h) Occupied building. Any residence, school, hospital, house of worship and any other building regularly occupied by or used by one or more persons on a regular basis. Buildings ordinarily used for storage, such as garages, sheds, and the like, are not occupied buildings even though they may be entered for brief periods on a daily basis.

- (i) **Owner-Operator.** The Owner-Operator is the legal entity that owns the solar photovoltaic system and its accessories and is responsible for the operation of the solar photovoltaic system.
- (j) **Participating Landowner.** One or more persons that hold title in fee to the property on which a solar photovoltaic system is to be constructed and operated.
- (k) **Roof-Mounted Solar Photovoltaic System:** A Solar Photovoltaic System that has its electricity-generating solar panels mounted on the rooftop of a residential or commercial building.
- (l) **Setback line or lines.** A line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.
- (m) **Solar Photovoltaic System:** A power system designed to supply usable solar power by means of photovoltaics. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling and other electrical accessories. Solar Photovoltaic systems convert light directly into electricity and shouldn't be confused with other technologies, such as concentrated solar power or solar thermal, used for heating and cooling.

#### **Section 5.7.4 Requirements for Accessory Use Solar Photovoltaic Systems**

Residential zone districts. All ground-mounted accessory use solar photovoltaic systems within REA, RA, RS, and RU zone districts, shall meet or exceed the following applicable requirements a thru i, in addition to typical special use permit requirements.

Non-residential zone districts. All rooftop or ground-mounted accessory use solar photovoltaic systems within the BH, BN, LC, and M zone districts, shall be allowed by right for existing, developed commercial or industrial sites. In the BH, LC or M zone, depending on the acreage limitation shown in Section 5.4.9.10, this may include commercial, non-accessory use (for profit) solar photovoltaic systems. In such instances, building permit applications shall meet or exceed the following applicable requirements and shall be addressed in the application:

- (a) No accessory use solar photovoltaic system may be constructed or substantially modified without first obtaining a building permit.

- (b) Setbacks and building coverage – Setbacks and building coverage shall conform to the setbacks and building coverage as specified for the zone in which the accessory ground-mounted solar system is installed. The area for the solar system shall be treated as part of the total lot building coverage.
- (c) Fencing – A security fence shall be installed and maintained surrounding all components of accessory ground-mounted solar systems. The fence shall be not less than six feet and not more than ten feet high.
- (d) Signs – Clearly visible warning signs concerning voltage shall be placed along the security fence. The signs shall identify the owner and have a 24-hour phone contact for emergencies. These signs shall be exempt from the requirements of Section 6.17 Sign Regulations.
- (e) Accessory use solar photovoltaic systems shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts.
- (f) Roof-mounted systems - roof setback: For maintenance and fire prevention safety the solar panels and mounts shall be set back from the edge of the roof and the top of the ridge line a minimum of 18 inches.
- (g) Systems within developed BH, LC, or M zone district areas shall include design provisions for safe lighting in the case of parking lots, snow removal, utility connections and parking space requirements. Compliance with zoning parking requirements shall be maintained in the event support structures compromise existing parking spaces.
- (h) No installation or operation of an accessory use solar photovoltaic system shall result in any form of trespass at any time. Solar reflection onto a neighboring property from the ground level up to 35 feet (or any existing building that is above 35 feet) or noise generation above ambient beyond a lot line on which a solar photovoltaic system is located or increased shading upon a neighboring property shall be considered a trespass.
  - (1) Solar Reflection. Accessory use solar photovoltaic systems shall be designed and operated to eliminate solar reflection from the ground level up to 35 feet (or on any existing building that is above 35 feet) upon all neighboring properties.
  - (2) Noise Generation: Accessory use solar photovoltaic systems shall not generate noise above ambient beyond a lot line on which a solar photovoltaic system is installed.
  - (3) If after completion and operation of the roof-mounted solar photovoltaic system, solar reflection or noise or shading produced by the solar photovoltaic system is found to

exist upon neighboring properties, the Building/Zoning Official shall shut down the solar photovoltaic system and have it covered, if necessary, to prevent reflection. Testing shall be at Applicant's, Participating Landowner's or Owner-Operator's expense.

- (i) Nothing contained herein shall have the effect of waiving or limiting the building official's authority to enforce codes with respect to examination of the system, including plans, computations, specifications, and field inspections.

### **Section 5.7.5 Requirements for Ground-Mounted Solar Photovoltaic Systems**

All non-accessory use ground-mounted solar photovoltaic systems shall meet or exceed the following requirements and shall be addressed in the application:

- (a) No solar photovoltaic system may be constructed or substantially modified without first obtaining a special-use permit. No solar photovoltaic system shall be permitted within 250 feet of an historic site or historic structure.
- (b) In order to be eligible for a solar photovoltaic system, the parcel in question must be at minimum six (6) acres in size, the parcel must be vacant. Furthermore, the proposed solar array (inside fenced area) must not exceed thirty percent (30%) of the gross lot area, or exceed six (6) acres, whichever is less.
- (c) Provided dimensional lot area and frontage requirements can be met, a lot may be subdivided to create a vacant parcel to support a solar system provided all appurtenance structures and connections are located entirely within the vacant property.
- (d) Setbacks.
  - (1) Consistent with Section 5.7.5 (g) Visual Buffer and Setback, all solar arrays must be set back a minimum of 100 feet from property lines.
  - (2) Water Bodies and Wetlands: Setbacks must comply with state environmental regulations.
- (e) No installation or operation of a solar photovoltaic system shall result in any form of trespass at any time.
  - (1) Solar Reflection. Solar photovoltaic systems shall be designed and operated to eliminate solar reflection from the ground level up to 35 feet (or on any existing building that is above 35 feet) upon all neighboring properties.

- (2) Noise Generation: Solar photovoltaic systems shall not generate noise above ambient beyond a lot line on which a solar photovoltaic system is installed. Specifically, there shall be a 0db increase over the ambient levels at the Applicant's property boundary lines. The ambient sound shall be determined with pre-application acoustical testing of said sound levels at the property boundary lines, said testing to account for day and evening levels. This standard shall apply to all solar photovoltaic systems in the aggregate that are proposed to be located at the site. After installation, testing shall be performed to confirm compliance by measuring sound levels at the property lines with the solar photovoltaic system in operation and with the solar photovoltaic system shut down to confirm no increase in ambient noise. Testing shall be at Applicant's/Participating Landowners/Owner-Operator's expense.
- (3) The Applicant has the burden of showing that the solar photovoltaic system will not have a significant adverse impact on neighboring property. A failure to meet this burden of proof shall result in denial of the solar photovoltaic system application. If after completion and operation of the solar photovoltaic system, solar reflection or noise produced by the solar photovoltaic system is found to exist upon neighboring properties, the Building/Zoning Official Inspector shall order a shut-down of the solar photovoltaic system and have it covered, if necessary, to prevent reflection. Testing shall be at Applicant's, Participating Landowner's or Owner-Operator's expense.
- (f) Wildlife, fauna access and migratory patterns to remain unaffected. A solar photovoltaic system and its required fencing shall not have an unreasonable adverse effect on fauna's natural access for feeding, nesting, breeding, transit and migratory patterns. A solar photovoltaic system and its required fencing shall not have an unreasonable adverse effect on rare, threatened or endangered wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the Zoning Board of Review shall consider pertinent application materials and the written comments and/or recommendations, if any, of the North Smithfield Conservation Commission, Planning Board, Rhode Island Department of Environmental Management, and other environmental groups or organizations the Board deems, in its discretion, credible on such matters.
- (g) Visual Buffer and Setback – All components of the solar photovoltaic system shall be set back from the property line a minimum of 100 feet. Within the 100-foot minimum setback a permanent all season green buffer shall be planted. The green buffer shall be composed of evergreen vegetation. The green buffer shall completely obscure the solar



photovoltaic system and fencing from all neighboring properties. The green buffer shall be planted with mature plants/trees such that the buffer is complete upon proposed start-up of the solar photovoltaic system. The permission to operate [Certificate of Occupancy] shall not be issued until the green buffer is complete.

- (1) The green buffer shall be maintained to provide continuous year-round visual obstruction of the solar photovoltaic system. The green buffer shall be trimmed or/or re-planted to keep it from infringing on neighboring properties and from providing a way over the security fencing.
- (h) Fencing – A security fence shall be installed and maintained surrounding all components of the solar photovoltaic system. The fence shall be no less than six feet and no more than ten feet tall. The fence shall be inside the Visual Buffer and Setback.
- (i) Signs. Clearly visible warning signs concerning voltage shall be placed along the security fence. The signs shall identify the owner and have a 24-hour phone contact for emergencies. These signs shall be exempt from the requirements of Section 6.17 Sign Regulations.
- (j) Maximum Height. The maximum height of any component or appurtenance structure of the ground-mounted solar photovoltaic system shall be 15 feet.
- (k) Utility Connections, Electrical Components. Utility connections for the solar photovoltaic system shall be installed underground on the subject property. Electrical transformers for utility interconnections may be above ground if required by the utility provider. All electrical components of the solar photovoltaic system shall conform to all relevant and applicable local, state and national codes, laws and regulations.
- (l) Appurtenant Structures. Appurtenant structures, such as equipment shelters, transformers, and substations shall be within the security fencing. All appurtenant structures shall be shielded from view by the green buffer.  
Storage buildings shall not be permitted on the solar photovoltaic system site.
- (m) Environmental Sensitivity - In addition to any requirements of Section 17, to the maximum extent practicable, all ground mounted solar voltaic installations shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize alterations of and negative impacts to natural features, historic and cultural resources, and scenic areas. Any grading or site preparation must, to the extent possible, conform to the natural topography of the area. Excavation of material including gravel, sand and rock is strictly prohibited unless it is necessary to properly

locate the solar photovoltaic installation, and such excavation shall only be that which is minimally necessary. The applicant shall conduct and pay for a site analysis conducted prior to the conceptual site planning process.

- (n) Other considerations. In deciding whether to grant a special-use permit and height variance for a solar photovoltaic system, the Zoning Board of Review may consider relevant matters not expressly mentioned in this section including the adverse impacts on scenic vistas and interference with electromagnetic communications, such as telephone, radio, and television. The Board may impose special conditions reasonably necessary to remove or alleviate any potential adverse impacts that it determines.
- (o) Maintenance. Solar photovoltaic systems shall be maintained in good condition. Such maintenance shall include painting, structural repairs, integrity of security measures, maintenance of green buffer and maintenance of drainage and runoff systems. Solar photovoltaic systems shall be inspected for structural integrity, security measures and maintenance of drainage and runoff systems by an Engineer at least once each year. The inspection report shall be submitted annually to the Building/Zoning Office on the anniversary of the issuance of the building permit.
- (p) On-site Inspections and Construction Control
  - (1) An Engineer shall certify to the Building/Zoning Official that he/she has observed and inspected the following work and it complies to the construction documents. Upon acceptance of the certification the Building/Zoning Official shall record a confirmation of completion. Such records shall certify that the work has been performed in a manner consistent with the approved plans and specifications for the following phases of construction as a minimum:
    - i. Soil condition and analysis
    - ii. Drainage and runoff systems
    - iii. Footings
    - iv. Structural integrity of mounting systems
    - v. Fire Prevention, Detection and Alarm Systems
    - vi. Electrical Systems
    - vii. Mechanical Systems
    - viii. Field reports, test data and related documentation

ix. Photos

(2) Nothing contained within construction control shall have the effect of waiving or limiting the building official's authority to enforce codes with respect to examination of the contract documents, including plans, computations and specifications, and field inspections.

(q) Liability Insurance: The Applicant shall maintain a current general liability policy during the construction phase of the Solar photovoltaic system that covers bodily injury and property damage with minimum limits of Two Million Dollars (\$2,000,000.00) per incident/per occurrence. The Applicant shall provide the Zoning Board of Review with a valid certificate of insurance listing the Town of North Smithfield as additionally insured.

### **Section 5.7.6 Ground-Mounted Solar Photovoltaic System Procedure and Submission Requirements**

All ground-mounted solar photovoltaic systems shall follow the procedure and submission requirements herein:

(a) Site Plan Review. The application for solar photovoltaic systems shall be reviewed by the Planning Board under the Site Plan Review regulations, as a minor land development, however, with a public hearing and in accordance with R.I. General Laws 45-24-49. The Planning Board shall then submit its opinions to the Zoning Board of Review for further action on the application. Such opinions shall be advisory to the Zoning Board of Review. The Building/Zoning Official and the Town Planner shall not have the authority to exempt the application from Site Plan Review under Section 17.1.2 or any requirements of Section 17 Review Process.

(b) The following information shall be provided to the Planning Board and Zoning Board of Review as part of an application for a special-use permit to install a solar photovoltaic system:

(1) A completed application form including:

- i. Identification of the Participating Land Owner(s), the person(s) or entity(s) that will be operating, owning and constructing the solar photovoltaic system, their full names, addresses and contact information.

- ii. The proposed site address, plat and lot numbers, zone and owners of the proposed solar photovoltaic system site and any contiguous parcels owned by the Participating Landowners.
  - iii. The current use of the land site, owners and addresses of owners of the parcels that abut the proposed site or abut parcels of Participating Landowners that are contiguous with the proposed site. A view shed analysis and map must be provided.
  - iv. A plan, signed and stamped by an Engineer, drawn to scale, showing where the solar photovoltaic systems will be located on the lot.
- (c) In addition to the information required under Section 5.7.5 and 5.7.6, the following information shall be provided with an application for a solar photovoltaic system:
- (1) All drawings submitted shall be signed and stamped by an Rhode Island licensed Engineer. At least one original copy of each drawing shall be provided at each review.
  - (2) Description. A description of the proposed solar photovoltaic system that includes the aggregate generating capacity of all proposed solar photovoltaic systems, manufacturer's specifications for solar panels, mounting systems, inverters, transformers and other noise generating equipment (including but not limited to the make, model, capacity, sound emission levels) and a description of the associated facilities.
  - (3) Site Plan. Plan shall show the proposed location of each solar photovoltaic system and associated facilities.
  - (4) Electrical Design. One or three-line electrical diagram detailing the solar photovoltaic installation, associated components and electrical interconnection methods, with all current state electrical code compliant disconnects and over current devices.
  - (5) Written evidence that the provider of the electrical service to the property has approved connection of an electric generation facility to the electricity grid, if such connection is proposed.
  - (6) Complete description of emergency and normal shutdown procedures.
  - (7) Soil analysis confirming that the soil conditions are suitable for the designed mounting system signed and stamped by an Engineer.

- (8) Environmental Factors. The environmental impact of the proposed solar photovoltaic system shall be analyzed by a professional environmental company. The impact analysis shall be performed and paid for by the Applicant. The analysis shall be specific to the site in terms of at risk species of concern and their habitats. The following shall be addressed:
- i. Constraints imposed by environmental and archeological regulations.
  - ii. The presence of animal species of concern and/or critical habitat for these species.
  - iii. The impact on access ways for fauna transit and access to feeding/nesting/watering areas.
  - iv. Presence of plant communities of concern.
  - v. Presence of critical areas of species congregation, such as; maternity roosts, hibernation sites, staging areas, winter ranges, nesting sites, and migration stopovers.
  - vi. The potential impact of habitat fragmentation.
  - vii. For projects requesting dimensional relief for size, a 1-to-1 tree replacement of only those existing, native trees that are to be compromised which are of 20-inch diameter or greater. Said trees may be replaced by newly-planted trees of 3-inch diameter caliper at breast height anywhere in Town.
- (9) An operation and maintenance plan, describing the general procedures for operational maintenance of the solar photovoltaic system or maintenance of access roads and storm water controls. If applicable, the plan shall also describe the provisions for remote monitoring in the proposed maintenance and inspection schedule.
- (10) Decommissioning Plan, as a condition of approval, the landowner shall grant a municipal lien for all costs necessary to remove the entire solar array including all appurtenance structures along with costs related to landscaping to pre-existing conditions. As a condition of approval, the landowner shall also be named as the responsible party, along with the developer, for the removal and restoration of the property.

### **Section 5.7.7 Improvement Guarantees for Ground-Mounted Solar Photovoltaic Systems**

#### **(a) Definition and Purpose**

- (1) A “Public Improvement” includes any installations, alterations, maintenance and repair of utilities and of town infrastructure including public roads and rights of way that must be utilized to access the site. This term includes all requirements of the transportation plan. An “Improvement Guarantee” is a security instrument or cash accepted by the Town to ensure that all public improvements, are properly protected..

(b) General Procedures

Prior to issuing a certificate of occupancy for the solar photovoltaic system, the Town shall inspect public improvements used to access the construction site and require the Applicant to repair any improvements as requested by the Town. The Town reserves the right to require an improvement guarantee as defined by RIGL 45-23-32 and the Town’s Land Development and Subdivision Regulations which derive authority from RIGL 45-23-46.

**Section 5.7.8 Security cash bond for the decommissioning of Unused or Abandoned Ground-Mounted Solar Photovoltaic Systems**

- (a) Prior to the issuance of a permit under this Ordinance, the Applicant shall deposit in the form of cash with the municipality, the full estimated cost of dismantling and removal of the solar photovoltaic system, including the cost necessary to return the property to its pre-siting condition, which the municipality shall place in an interest-bearing escrow account. A solar photovoltaic system that is not generating electricity for six (6) consecutive months shall be deemed discontinued. In the event the solar photovoltaic system has not generated electricity for a period of 6 months, the Building/Zoning Official shall notify the Owner-Operator of the solar photovoltaic system that the solar photovoltaic system has been deemed abandoned. The solar photovoltaic system shall be removed from the property by the Applicant/Owner-Operator within 120 days of receipt of notice from the Building/Zoning Official unless an appeal has been filed. If, however, the solar photovoltaic system is not removed within this time period, the municipality shall withhold the escrowed funds. These funds shall be used to pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation. If funds remain after the necessary expenditures, the municipality shall reimburse the Applicant, owner, successor, or assigned. If additional funds are required, the Town reserves its right to pursue funds through a recorded municipal lien against the landowner’s property, as required as a condition of approval, in section 5.7.6.c.10.

- (b) Decommissioning shall be overseen and certified by the Town's peer review engineer before funds are released at the applicant's and or owner's cost and expense.
- (c) The Town's peer review engineer shall determine a cost per megawatt for each application that is inclusive of consumer price index trends established by the Federal Bureau of Labor Statistics in effort to predict construction cost escalation to support said decommissioning in future years. The cost of this peer review shall be borne by the Applicant..
- (d) At least 30 days before a solar photovoltaic system is scheduled to be decommissioned, the Owner-Operator shall notify the Building/Zoning Official by certified mail of the proposed date of discontinued operations in plans for removal. The Owner-Operator is responsible for securing any necessary state and local permits prior to the dismantling of a solar photovoltaic system.

#### **Section 5.7.9 Enforcement**

Violations of this Section shall be enforced by the Building/Zoning Official.

#### **Section 5.7.10 Conflict and Severability**

- (a) If there is a conflict between the provisions of this Ordinance and any other state or local ordinance, the more stringent provision shall apply. If there is a conflict between a provision of this Ordinance and that of another provision of the Zoning or Subdivision Ordinance, the provision of this Ordinance shall apply
- (b) The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance provision.

#### **Section 5.7.11. Solar Photovoltaic Overlay District:**

- a. Purpose:** The purpose of this section is to create an overlay district in which a large scale solar photovoltaic system may be installed by right and governed in a coordinated manner with the Town's existing regulations and comprehensive plan, including the implementation of special land use controls, proper rural planning, development tools and the implementation and administration of the Town's Code of Ordinances. Based on the Comprehensive Plan Land Use element, the areas and large tracts of rural land designated within this overlay district may be better preserved with a lesser impact on the community as a whole or immediate surrounding neighborhoods if permitted to be

utilized for renewable energy rather than be left to private development or redevelopment. It is recognized that renewable energy is encouraged and deemed desirable within the Town provided that appropriate standards for installation and design are incorporated and applied. For these reasons the Town has determined it appropriate to created certain overlay districts to permit, govern and monitor the installation and design of large scale solar photovoltaic systems.

**b. Definition:** For the purpose of this section, large scale solar photovoltaic systems shall consist of the following

- 1.** A utility-scale Ground-Mounted Solar Photovoltaic System for the purpose of selling energy and energy credits to an electric utility company, a municipality, or any other third party consumers of energy, which area size exceeds six (6) acres and thirty (30%) percent of the gross lot area.

**c. Overlay district:** The Solar Photovoltaic Overlay District (SPOD) is hereby established and constructed as an overlay district. Expansion of the overlay district, whether by administrative, minor or major subdivision, shall be considered an amendment to the Town's zoning code and subject to review by the Town Council and Planning Board in accordance with RIGL 45-24-51. Within the areas identified herein and construed and considered as part of this overlay district, large scale solar photovoltaic systems shall be permitted as a use by right. This overlay district shall be limited to the following area as shown on Map 1, Large scale solar overlay zone. The area is generally bound by three electrical utility rights of way to the east, west and north, and bounded southerly by Iron Mine Hill Rd. Said zone shall be set back 100' from utility rights of way and maintain a 500' setback from Iron Mine Hill Rd.

- i.** If any portion of a lot overlaps into the overlay zone, only that portion within the overlay zone is eligible for solar array.
- ii.** Notwithstanding any other dimensional provision to the contrary, a setback of 100 feet shall apply and be measured from the overlay zone line as depicted on Map 1.
- iii.** The following Maps and lots, either in part or entirety, fall within the overlay zone:

012-132	012-136-B	017-175
013-107-A	017-130	016-097
012-137	016-005	016-006
012-156-A	013-052	013-051
012-270	013-012	013-010-A
012-306	012-326	



- d. Schedule.** A large scale solar photovoltaic system development approved pursuant to this ordinance shall expire unless construction is started within twelve (12) months and completed within thirty-six (36) months of final plan approval unless a longer period and/or phased period for development is agreed to by the town council and the applicant.
- e. Development Incentives to the Town.** All requests for development of large scale solar photovoltaic systems should be designed to foster and promote compatibility with the general character of the Town and be consistent with the comprehensive plan. The development shall ensure that a primary concern will be buffering for the surrounding residential land uses; proposed development should not materially increase the light impact on the nearby neighborhoods; the proposed development should not materially increase noise impact on the nearby neighborhoods; and the development should be of the most benefit to the Town in terms of tax revenue and preservation of rural areas. In doing so, the proposed development shall provide the Town with an incentive proposal, above the minimum rates established by RIGL 44-5-3 that will contribute to the Town financially and/or enhance the services the Town provides as well as negate any expenses or costs the Town incurs because of the installation and development of a large scale Solar Photovoltaic system.
- i.** Request for approval from the Town Council for a tax agreement (e.g. PILOT and any other impact fees and development incentives etc.) shall be included as part of the Preliminary Plan Application, pursuant to R.I. Gen. Laws §§45-23-50.1, if applicable, and 45-23-41.
- f. Designs and General Standards of Applicability:** For purposes of the Solar Photovoltaic Overlay District (SPOD), the design and general standards of this Sections 5.7.5; 5.7.6; 5.7.7; shall be applicable to any large scale Solar Photovoltaic System developed and installed in the SPOD overlay district, as provided for herein. Within the SPOD all regulations of the underlying district shall continue to be in full force and effect, except where the regulations herein supersede such underlying requirements or provide alternatives to such requirements.
- g. Development Review:** For purposes of the Solar Photovoltaic Overlay District (SPOD), any proposed large scale solar photovoltaic system shall be reviewed by the Town of North Smithfield Planning Board as a Major Land Development as provided for in R.I. Gen. Laws § 45-23-39 and the Town's subdivision regulations, with the understanding that the proposed project has already been deemed to be consistent with the Town of North Smithfield Comprehensive Plan, and a permitted use by the enactment of this ordinance; thereby, not requiring a special use permit from the Town of North Smithfield Zoning Board of Review, as set forth in Section 5.7.6(d). For purpose of the SPOD, the first sentence of 5.7.5 (a) shall not apply. Section 5.7.5 (c) shall not apply. Section 5.7.5 (e)(2) shall not apply, except in areas in which the large scale solar photovoltaic system

abuts residential property, in those instances “pre-application acoustical testing” shall not apply rather ambient sound testing shall be conducted after all site preparation and before installation of the solar array panels. Section 5.7.5 (d) (1) and the first sentence of 5.7.5 (g) shall not be applicable to internal property lines of a utility-scale Ground-Mounted Solar Photovoltaic System that includes multiple properties. For purpose of the SPOD, Section 5.7.8, Decommissioning, shall require approval by the Town Council as part of the Preliminary Plan Application to the Planning Board. Surety shall be in the form of either a combination of bond, cash, and/or property liens, to ensure adequate financial protection exists to support dismantling of an abandoned system. The Planning Board may provide a waiver of the requirements of Section 5.7, as requested.

- h. Conflict of Laws:** If there is a conflict between the provisions of this amendment and any other local ordinance, the provisions of this amendment shall apply. In the event there is a conflict between a provision of this amendment and that of any other provision of the Town’s Subdivision Regulations and/or Zoning Ordinances, the provisions of this amendment shall apply.
- i. Effective Date:** This Ordinance shall take effect upon passage.

(Ord. of 12-16-2019)