

ARTICLE I PURPOSE AND AUTHORITY

Article 1.1. Purpose

The purpose of these regulations is to establish procedural and substantive provision for the subdivision and development of land that will, consistent with the provisions of the Comprehensive Community Plan and the Zoning Ordinance, accomplish the following:

Protect the public health, safety and welfare of the community;

(1) Provide orderly, thorough and expeditious review and approval of land developments and subdivisions;

(2) Promote high quality and appropriate design and construction of land developments and subdivisions;

(3) Promote the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;

(4) Promote land development and subdivision design that is well-integrated with the surrounding neighborhoods with regard to natural and built features, and concentrates development in areas that can best support intensive use by reason of natural characteristics and existing infrastructure;

(5) Encourage local design and improvement standards to reflect the intent of the community comprehensive plans with regard to the physical character of the various neighborhoods and districts of the municipality;

(6) Promote thorough technical review of all proposed land developments and subdivisions by appropriate local officials;

(7) Encourage local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and

(8) Encourage the establishment and consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

Article 1.2. Authority for Adoption

Under the authority of Title 45, Chapter 23, General Laws of RI - 1992, as amended, entitled "Development and Subdivision Review Act" 45-23-25 through 45-23-74 and under the authority of Article XII, Section 2.1, 2.2, and 2.4 of the Home Rule Charter of the Town of North Smithfield, the Planning Board is authorized and empowered to adopt, modify and amend rules and regulations regarding and restricting the platting or other subdivision of land within the Town of North Smithfield.

Article 1.3. Construction and Intent

- (A) These regulations are not intended to supersede, abrogate, or interfere with any provision of any ordinance of the Town of North Smithfield.
- (B) These regulations are intended to be interpreted so as to be consistent with, and further the implementation of, the Comprehensive Community Plan and the Rhode Island Land Development and Subdivision Review Enabling Act of 1992. Consistency with the Comprehensive Plan means in accordance with the goals, policies, procedures, maps and other policy statements in the plan.
- (C) If any section or subsection of these regulations is held invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the remainder of these regulations.

Article 1.4. Consistency

- (A) In the instance of uncertainty in the construction or application of any section of these regulations, the regulations shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies, procedures, maps and other policy statements of the North Smithfield Comprehensive Plan.
- (B) These regulations shall be construed in a manner which is consistent with the legislative, findings, intents and purposes of Rhode Island General Laws Title 45, Chapter 23.

Article 1.5. Required Findings

The Planning Board shall make positive findings on the following standard provisions, as part of the proposed project's record prior to approval:

1. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
2. The proposed development is in compliance with the standards and provisions of the North Smithfield Zoning Ordinance;
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
4. Subdivision, as proposed will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable (see definition of Buildable Lot). Lots with such physical constraints to development

may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans;

5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement; and,
6. Except for administrative subdivisions, findings of fact must be supported by legally competent evidence on the record which discloses the nature and character of the observations.

Article 1.6. Effective Date

These regulations shall take effect on October 1, 2015 and shall supersede all other subdivision regulations in effect at the time of such adoption.

Article 1.7. Vested Rights Continuation of Prior Regulations

Subdivisions which have been submitted to the Planning Board for approval under the provisions of the Regulations in effect prior to May 18, 2006 may be continued to be reviewed by the Planning Board and approved under those Regulations in accordance with the following:

- (A) *Final Approvals.* Any subdivision which, at the time of adoption of these amendments, has received final approval, or final approval with conditions, from the Planning Board, may initiate or construct any part of the development, or record said plans in accordance with the Subdivision Regulations in effect at the time final approval was granted. The Planning Board, may, in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the Regulations in effect at the time of final approval.
- (B) *Preliminary Approvals.* Any subdivision which, at the time of adoption of these amendments, has received preliminary approval, or preliminary approval with conditions, from the Planning Board, may continue to be reviewed by the Planning Board in accordance with the Subdivision Regulations in effect at the time preliminary approval was granted provided any one of the following conditions has been met:
 1. The final plat, including all the material required in the Final Plat Checklist, is filed with the Planning Department within one (1) year from the date of preliminary approval; or,
 2. The subdivision is located within an area and is of a nature to be within the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM) and the preliminary plans as approved by the Planning Board have been filed with RIDEM for approval as required by the Freshwater Wetlands Act.

(C) Master Plan Approvals. Any subdivision or development which at the time of adoption of these amendments, has received Master Plan approval, or Master Plan approval with conditions, from the Planning Board, may continue to be reviewed in accordance with the zoning requirements, conceptual layout and all the conditions shown on the approved Master Plan drawings and supporting materials provided the following condition has been met.

1. The Preliminary Plan, including all the material required in the applicable Preliminary Plat Checklist, is filed with the Planning Department within one (1) year from the date of Master Plan approval, or within any approval time period granted as an extension by the Planning Board.

Any applicant who has not received Preliminary Plan or Master Plan Approval prior to the adoption of the Amended Subdivision Regulations on October 15, 2015 shall be subject to the amendments contained therein.

Article 1.8. Short Title

Article 1.9. Severability These Land Development and Subdivision Regulations of North Smithfield, Rhode Island may also be referred to as the LD&SR.

If any provision of this chapter or of any rule, regulation or determination made thereunder, or the application thereof to any person, agency or circumstances, is held invalid by a court of competent jurisdiction, the remainder of the chapter, rule, regulation, or determination and the application of such provisions to other persons, agencies, or circumstances shall not be affected thereby. The invalidity of any section or sections of this chapter shall not affect the validity of the remainder of the chapter.