

ARTICLE IX ADMINISTRATION AND AMENDMENTS

9-1 *Administrative Officer*

- (A) Administration of these Subdivision and Land Development Regulations shall be under the direction of the Administrative Officer, who shall report to the Planning Board. The Director of the Planning Division of the Town of North Smithfield is hereby designated as the Administrative Officer.

- (B) The duties and responsibilities of the Administrative Officer shall include, but shall not be limited to:
 - 1. Coordination of the review, approval, recording, and enforcement provisions of these regulations. The officer is responsible for coordinating the enforcement efforts of the zoning enforcement officer, the building inspector, planning department staff, the city or town engineer, the department of public works and other local officials responsible for the enforcement or carrying out of discrete elements of the regulations.

 - 2. Coordination of the review and approval procedures for subdivisions and land development projects with adjacent municipalities as is necessary to be consistent with applicable federal, state, and local laws and as directed by the Planning Board

 - 3. Enforcement of these Regulations as provided in Article VIII *Violations and Penalties* shall be under the direction of Administrative Officer.

 - 4. The Administrative Officer serves as the chair of Advisory Review meetings.

9-2 *Meetings/Decisions, Records*

All records of the Planning Board proceedings and decisions shall be documented and kept permanently available for public review. Completed applications for proposed land development and subdivisions projects under review by the Planning Board, shall be available for public review. Participation in a Planning Board meeting or other proceedings by any party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transaction where there is an improper personal benefit, or malicious, wanton, or willful misconduct. All final written comments to the Planning Board from the Administrative Officer, municipal departments, state and federal agencies, and local commissions shall be part of the permanent record of the development application.

9-3 *Alternate Members*

As set forth in Section 9-3 *Quorum and Votes*, the Board shall include two (2) alternate members. They shall be designated as the first (1st) and second (2nd) alternate members. These alternate members shall sit and shall actively participate in hearings. The first (1st) alternate shall vote if a member of the board is unable to serve at a hearing and the second (2nd) shall vote if two (2) members of the Board are unable to serve at a hearing. In the absence of the first (1st) alternate member, the second (2nd) alternate member shall serve in the position of the first (1st) alternate.

9-4 *Precedence of Approvals Between Planning Board and Zoning Board*

Where an applicant requires both a variance from the local zoning ordinance and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain conditional Zoning Board relief, and then return to the Planning Board for subsequent required approval(s). Where an applicant requires both a special-use permit under the local zoning ordinance and Planning Board approval, the applicant shall first obtain an advisory recommendation from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional special-use permit from the Zoning Board and then return to the Planning Board for subsequent required approval(s).

9-5 *Precedence of Approvals Between Planning Board and Town Council*

Where an applicant requires both Planning Board approval and Council approval for a zoning ordinance or zoning map change, the applicant shall first obtain an advisory recommendation on the zoning change from the Planning Board, as well as conditional Planning Board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional zoning change from the Council, and then return to the Planning Board for subsequent required approval(s).

9-6 *Signing and Recording of Plats and Plans*

- (A) All approved final plans and plats for land development and subdivision projects shall be signed by the appropriate Planning Board official with the date of approval. Plans and plats for major land developments and subdivisions shall be signed by the Planning Board Chairperson attesting to the approval by the Planning Board. All minor land development or subdivision plans and plats and administrative plats shall be signed by the Planning Board or the Board's designated agent.

- (B) Upon signature, all plans and plats shall be submitted to the Administrative Officer prior to recording and filing. The material to be recorded for all plans and plats shall include all pertinent plans with notes thereon concerning all the essential aspects of the

approved project design, the implementation schedule, special conditions placed on the development by the Town, permits and agreements with state and federal reviewing agencies, and other information as required by the Planning Board.

- (C) Other parts of the applications record for subdivisions and land development projects, including all meeting records, approved master plan and preliminary plans, site analyses, impact analyses, all legal agreements, records of the public hearing and the entire final approval set of drawings shall be kept permanently by Administrative Officer.
- (D) The Administrative Officer shall notify the statewide "911" emergency authority and the local police and fire authorities servicing the new plat with the information required by each of the authorities.
- (E) The subdivider shall provide the Administrative Officer with a minimum of five (5) copies of the approved plat or plans for recording purposes; two (2) copies shall be black ink on mylar, three (3) copies shall be on heavy white drawing paper.

9-7 *Changes to Recorded Plats and Plans*

- (A) For all changes to the approved plans of land development projects or subdivisions subject to this act, an amendment of the final development plans is required prior to the issuance of any building permits. Any changes approved in the final plan shall be recorded as amendments to the final plan in accordance with the procedures established for recording of plats in Section 9-7 *Signing and Recording of Plats and Plans*.
- (B) Minor changes, as defined below, to a land development or subdivision plan must be approved administratively, by the Administrative Officer after notification of the Planning Board, whereupon a permit may be issued. Such changes may be authorized without additional public hearings, at the discretion of the Administrative Officer. All such changes shall be made part of the permanent record of the project application. This provision shall not prohibit the Administrative Officer from requesting a recommendation from the Planning Board. Denial of the proposed change(s) shall be referred to the Planning Board for review as a major change. No minor changes, revisions, amendments, modifications or infield revisions to Recorded Plats and Plans will be allowed without the express written approval of both the Administrative Officer and the Director of Public Works.
- (C) For the purpose of these regulations, the term "minor changes" shall mean any change which, in the opinion of the Administrative Officer, is consistent with the intent of the original approval. Such minor changes shall include, but are not necessarily limited to the following:
 - 1. Amendments to utility plans which are acceptable to the Director of Public Works or to the appropriate utility company;

2. Lot line revisions which can be reviewed and approved as an Administrative Subdivision according to the provisions of Article III *General Requirements*;
 3. Amendments to grading plans or drainage plans which are acceptable to the Director of Public Works and which do not require approval of any state or federal reviewing authorities;
 4. Amendments to construction plans which are required because of unforeseen physical conditions on the parcel being subdivided;
 5. Modifications to any construction plans for off-site improvements which are acceptable to the Director of Public works; or,
 6. Modifications which are required by outside permitting agencies such as, but not limited to the Department of Environmental Management and the Department of Transportation.
- (D) Major changes, as defined below, to a land development or subdivision plan may be approved, only by the Planning Board and must follow the same review and public hearing process required for approval of preliminary plans as described in Article III *General Requirements*.
- (E) For the purpose of these regulations, the term "major changes" shall mean changes which, in the opinion of the Administrative Officer are clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:
1. Changes which would have the effect of creating additional lots or dwelling units for development;
 2. Changes which would be contrary to any applicable provision of the Zoning Ordinance or which require a Variance or Special Use Permit from the Zoning Board of Review; or,
 3. Changes which may have significant negative impacts on abutting property or property in the vicinity of the proposed subdivision or land development project.

9-8 Amendments

- (A) These regulations may be adopted, repealed or amended by the Planning Board under the following procedures:
1. Notice of a public hearing on any proposed adoption or amendment shall be given in a newspaper of general circulation within the Town at least once a week for three (3) successive weeks prior to the date of such hearing, which may include the week in which the hearing is to be held. The newspaper notice shall be

published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles. The advertisement shall:

- a. Specify the date, time and place of the public hearing;
 - b. Indicate that adoption, amendment or repeal of the North Smithfield Subdivision and Land Development Regulations is under consideration;
 - c. Contain a statement of the proposed amendment that may be printed once in its entirety, or may summarize or describe the matter under consideration;
 - d. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and,
 - e. State that the proposed amendment may be further altered or amended prior to the close of the public hearing without further advertising; as a result of further study or because of view expressed at the public hearing. Any alterations amendments must be presented for comment in the course of the hearing.
2. Notice of the public hearing shall be sent to the following:
- a. The associate Director of the Division of Planning of the Rhode Island Department of Administration, two (2) weeks prior to the public hearing.
 - b. The city or town planning board of any municipality where there is a public or quasi-public water source, or private source that is suitable for use as a public water source, located within two thousand (2000) feet of North Smithfield's boundaries. Notice shall be sent by first class mail.
 - c. The governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or a surface watershed that is used or is suitable for use as a public water source located within North Smithfield or within two thousand (2,000) feet of Woonsocket's boundaries, provided that the governing body of the state or municipal water department or agency, special water district, or private water company has filed with the North Smithfield building inspector a map survey showing the area of surface water resources and/or watershed, and parcels of land within two thousand (2,000) feet of the areas of surface water resources and/or watershed, pursuant to R.I. Gen. Laws Sec. 45-24-53(E).
 - d. The Planning Board shall conduct a public hearing at the date, time and place specified in the newspaper advertisement notices. At the hearing,

opportunity shall be given to all persons interested to be heard upon the matter of the proposed regulations.

- e. Printed copies of these regulations, including all appendices, shall be available to the general public and shall be revised to include all amendments. A reasonable charge may be made for copies. Upon publication of any adoption or amendment, copies shall be sent to the planning division of the Rhode Island Department of Administration, and to the state Law Library.

9-9 Administrative Fees

The following administrative fees are required to be paid by an applicant for the review and hearing of applications, before the North Smithfield Planning Board and/or concerning the North Smithfield Subdivision Regulations:

- (A) *Administrative Subdivision.* \$100

- (B) *Minor Subdivision and Minor Land Development No Public Improvements.*
 - 1. Pre-application & Conceptual Review \$200
 - 2. Preliminary Plan \$500 + \$25 per lot/dwelling unit
 - 3. Final Plan \$300

- (C) *Minor Land Development and Minor Subdivision With Public Improvements.*
 - 1. Pre-application & Conceptual Review \$600 + \$25 per lot/dwelling unit
 - 2. Master Plan \$600 + \$25 per lot/dwelling unit
 - 3. Preliminary Plan \$600 + \$25 per lot/dwelling unit
 - 4. Final Plan \$600

- (D) *Major Land Development and Major Subdivision*
 - 1. Pre-application & Conceptual Review \$600 + \$25 per lot/dwelling unit
 - 2. Master Plan \$600 + \$25 per lot/dwelling unit
 - 3. Preliminary Plan \$600 + \$25 per lot/dwelling unit
 - 4. Final Plan \$600

All filing fees specified above shall be paid to the Town of North Smithfield by the subdivider at the time of filing the application for subdivision approval with the Administrative Officer.

- (E) *Workshops/Special Meetings (requested by the application/petitioner).* Two hundred dollars (\$200.00) plus the cost of advertisement.

- (F) *Notice and Advertising Costs.* The applicant shall be responsible and liable for all costs, advertising, and notice requirements.
- (G) *Inspection Fees.* For any project not subject to project peer review fees, two (2) percent of the performance bond or Two (2) percent of the total estimated cost of all required improvements shall be paid to the Town of North Smithfield Planning Department by the subdivider for inspection of Subdivisions and Land Development projects involving public improvements. All inspection fees shall be paid in full before construction begins on any improvements requiring inspection.
- (H) *Engineering Review Fees.* The applicant shall be responsible for the cost of all engineering reviews required by the Board.
- (I) Reinstatement / Extensions - Applications for extension of approvals or deadlines established by these Regulations shall pay a reinstatement/ extension fee equal to the administrative filing fee for the review stage of approval that expired. See Section 7-3.

9-10 Project Review Fees

- (A) Applicability - In addition to an Administrative Fee, for all subdivisions and land development projects, including conservation developments, but specifically excluding those types of subdivisions specified in Section 4-1 (B) 7, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. The fee shall ultimately equal the actual cost to the Town for such consultant. In hiring outside consultants, the Town may engage engineers, planners, lawyers, landscape architects, architects, or other appropriate professionals able to assist the Board and to ensure compliance with all relevant laws, ordinances, and regulations. Such assistance may include, but shall not be limited to, analyzing an application, design review of applications to determine consistency with the Comprehensive Plan; determining consistency with the purposes and design standards for conservation developments; assessing the economic, archaeological, traffic or environmental impact of a development proposal, review of unique site features including trees; reconciling plan lot lines with the North Smithfield plat/zoning maps; or for monitoring and inspecting a project or site for compliance with all applicable regulations, conditions and stipulations. Project Review Fees are separate from, and in addition to, fees imposed by the Town for inspecting a project during construction or implementation as provided in Section 9-10 (G).
- (B) Determination of Applicability by Planning Board - The Planning Board shall determine whether or not a project review fee must be paid by the applicant. This determination may be made at the pre-application conference, but no later than the master plan stage of review for a major land development project or major subdivision; or at the time of Informal Concept Review, if conducted, for a minor land development project or minor

subdivision. If an Informal Concept Review meeting is not held, no project review fee shall be required.

- (C) Submittal - Initial Project Review Fees shall be submitted at the time of the submittal of the Master Plan application (for major subdivisions or land development projects) and at the time of the submittal of the preliminary application (for minor subdivisions or land development projects). These fees shall be held in custody by the Finance Director (Escrow Account). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
- (D) Schedule of Initial Project Review Fees - The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Subdivision and Land Development Regulations, and any checklists which may have been compiled from time to time for the benefit of applicants. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable Initial Project Review Fees shall be collected to be held in the Escrow Account, and not the sum of those fees.

\$1000 for each lot or dwelling unit for the first five lots or dwelling units, (whichever is greater) including existing dwellings, if present; plus \$200 for each lot or dwelling unit thereafter.

- (E) Replenishment - When the balance in an applicant's Escrow Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board may require restoration of the escrow account balance to cover the cost of the remaining project review.
- (F) Handling of Project Review Fees - The Project Review Fee is to be held in an escrow account as established by the Finance Director. No interest shall accrue on any funds held in this escrow account.
 - 1. Outside consultants retained by the Town to assist in the review of an application shall be paid from this account.
 - 2. Project Review Fees may be used by the Town for the purposes stated in Section 9-11 (A) at any time during the review process.
 - 3. Project Review Fees shall be turned over to the Finance Director by the Administrative Officer to be held in an Escrow Account.
 - 4. The Finance Director shall prepare a report for the Administrative Officer on activity in the Escrow Account upon request.
 - 5. An accounting of an applicant's funds held in the Escrow Account may be requested by the applicant at any time. The Finance Director shall respond to the request in a timely fashion.
 - 6. An applicant may request the Administrative Officer to provide an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.
 - 7. Excess fees in the Escrow Account shall be returned to the applicant or the applicant's successor in interest. For the purpose of this section, any person or

entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest. Excess fees shall be returned at the conclusion of the review process, to be determined by the Administrative Officer as either:

- (a) With the disapproval of a Subdivision or Land Development Plan; or,
- (b) With the final approval of a Subdivision or Land Development Plan; or,
- (c) If fees are proposed to be used to monitor the construction of a site, with the release of the performance bond or other financial guarantees at the end of construction; or,
- (d) If no financial guarantee is used, and if fees are proposed to be used to monitor the construction of a site, with the final inspection and approval of construction by the Town.

(G) Disqualification - The choice of a consultant hired by the Town for the review of an application may be appealed as provided in Article X.

1. Three circumstances may disqualify the selected consultant. These conditions constitute the only grounds for an appeal.
 - (a) Conflict of interest: A consultant shall not have a financial interest in the project under review, or be in a position to financially benefit in some way from the outcome of the pending review process.
 - (b) Lack of appropriate qualifications: A consultant shall possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.
 - (c) Business relationship: The consultant has conducted business with an applicant within the past eighteen (18) months.
2. The required time limits for action upon an application by the Planning Board shall be extended by duration of the appeal.