

Chapter 10

LAND AND PLANNING GROWTH MANAGEMENT

Article I. Growth Cap Quotas

- Sec. 10-1. Purpose.
- Sec. 10-2. Findings.
- Sec. 10-3. Issuance of residential building permits.
- Sec. 10-4. Growth cap quota.
- Sec. 10-5. Initial quota.
- Sec. 10-6. Subsequent quotas.
- Sec. 10-7. Effective date.
- Sec. 10-8. Exemptions from the quota.
- Sec. 10-9. Priority issuance.
- Sec. 10-10. Procedure for issuance of building permits.
- Sec. 10-11. Limitation on permits issued.
- Sec. 10-12. Appeals.
- Sec. 10-13. Expiration date.
- Secs. 10-14--10-30. Reserved.

Article II. Impact Fees

- Sec. 10-31. Impact fees authorized.
- Sec. 10-32. Findings.
- Sec. 10-33. Intent.
- Sec. 10-34. Definitions.
- Sec. 10-35. Imposition of public facilities impact fee.
- Sec. 10-36. Calculation of the impact fee.
- Sec. 10-37. Payment of fee.
- Sec. 10-38. Capital facilities impact fee trust fund established.
- Sec. 10-39. Use of funds.
- Sec. 10-40. Vested rights.
- Sec. 10-41. Refund of fees paid.
- Sec. 10-42. Exemptions.
- Sec. 10-43. Effective date.
- Secs. 10-44--10-60. Reserved.

Article III. Municipal Subsidy Program for Low and Moderate Income Housing

- Sec. 10-61. Findings of fact.
- Sec. 10-62. Definitions.
- Sec. 10-63. Eligibility.
- Sec. 10-64. Designation of units.
- Sec. 10-65. Selection of municipal government subsidy.
- Sec. 10-66. Length of affordability.
- Sec. 10-67. Low income housing.
- Sec. 10-68. Monitoring and compliance.
- Sec. 10-69. Housing quality.

- Sec. 10-70. Tenure of housing.
- Sec. 10-71. Timing of construction.
- Sec. 10-72. Allowed income limits.
- Sec. 10-73. Occupancy of units.
- Sec. 10-74. Tax assessments.
- Sec. 10-75. Qualified program.
- Sec. 10-76. Severability.

ARTICLE I.

GROWTH CAP QUOTAS

Sec. 10-1. Purpose.

The purpose of growth management is to equitably allocate a limited number of new residential building permits over time, so as to minimize the burden on existing facilities and resources, whose adequacy is essential to the public health, safety and welfare, and in a manner which is consistent with the North Smithfield Comprehensive Community Plan. It is the intent of this article to allow controlled growth in relation to the existing and future capacity of town facilities and the school district.
(Ord. of 1-7-08, § 1)

Sec. 10-2. Findings.

The town planner and growth management consultants have conducted a study to develop a growth management program, consistent with the comprehensive community plan. The study is entitled Town of North Smithfield, Rhode Island, Growth Management Program, and was adopted by the town council on January 7, 2008. The town council finds that this study, together with the footnotes and sources, establishes the basis for the town's growth management program, and all are incorporated herein by reference.
(Ord. of 1-7-08, § 2)

Sec. 10-3. Issuance of residential building permits.

Issuance of building permits authorizing creation of one or more dwelling units, as defined by the North Smithfield Zoning Ordinance, through new construction or change of use shall be allowed only under the procedures and requirements set forth herein. A permit is equivalent to a dwelling unit. Applicants for such residential building permits shall be authorized to proceed in the manner specified herein, and in accordance with the priority assigned to them. The total number of dwelling units authorized to begin construction in any quarter shall not exceed the calculated quota as established in section 10-4 of this article.
(Ord. of 1-7-08, § 3)

Sec. 10-4. Growth cap quota.

It has been determined by the town council, that the quota established in Section E of the aforementioned Town of North Smithfield, Rhode Island, Growth Management Program shall be the growth cap quota. There shall be a finite number of residential building permits for each quarter of each year. For purposes of this article, a quarter is defined as a three-month period that begins on the first day of January, April, July or October and a year

is defined as a calendar year.
(Ord. of 1-7-08, § 4)

Sec. 10-5. Initial quota.

From the date of adoption by the town council of this article to December 31, 2007, the total number of such permits shall be the growth cap quota minus the number of permits already issued from January 1, 2007, to the date of adoption. Thereafter, the number of residential permits to be issued shall be limited in accordance with the formula contained in Section E of the aforementioned Town of North Smithfield, Rhode Island, Growth Management Program.
(Ord. of 1-7-08, § 5)

Sec. 10-6. Subsequent quotas.

Following the method established in section 10-5, the calculation of the formula for all subsequent quarters shall be performed by the town planner, in consultation with the building official, and shall be submitted to the town council, and posted in the office of the town clerk not less than 30 days prior to the commencement of the quarter for which the quota is to be applied. To assist the town planner in his her calculation, the town planner shall request, in writing that the superintendent of schools supply him her the number of available seats in the school district based on the current capacity less the actual enrollment as of October 1 of the school calendar year, and the increase in seat capacity, based upon any adopted plan of the school department. The town planner shall monitor the school department's overall capacity by checking with the superintendent of schools every first day of February, March, August, and November to determine if there are any changes in available seats. If there are no changes, the town planner shall notify the town clerk that the number of permits to be issued the next quarter will be the same as the previous quarter. If there are changes in seats, the town planner shall recalculate the quota and notify the town clerk of the new number of permits to be issued the next quarter. Notwithstanding any changes, the quota shall not change in the middle of any given quarter.
(Ord. of 1-7-08, § 6)

Sec. 10-7. Effective date.

For the purposes of this article, the effective date shall be the date of its enactment. Any application for a building permit creating one or more additional dwelling units submitted after the effective date of this article shall be subject to the review procedures set forth herein. Permit applications submitted before the effective date of this article shall not be subject to any of the quota limitations of this article. This article shall supersede any and all ordinances inconsistent herewith.
(Ord. of 1-7-08, § 7)

Sec. 10-8. Exemptions from the quota.

The following types of dwellings shall not be subject to the provisions of this article with regard to the calculated quota. These dwellings have been determined to have no or minimal impact upon the town's capacity or provide positive benefits to the town which are consistent with the comprehensive community plan.

The building official shall accept applications for construction of the dwellings listed below and shall act upon them without regard to the quotas, priority determination and procedures as set forth in this article. All such

permits issued shall be considered to be issued in addition to the calculated quota provisions of this article. Complete applications for construction of dwelling units so authorized shall be granted permits within the time limits prescribed in the Rhode Island State Building Code, regardless of the availability of permits within the quota.

- (1) *Vested rights.* An application to construct a dwelling is not subject to this section if allowed pursuant to vested rights provisions of the zoning ordinance.
- (2) *Elderly housing.* Dwellings which would contribute to meeting the year-round housing needs of elderly and disabled citizens through enforceable restrictions limiting occupancy to households whose members are 62 years of age or older.
- (3) *Retired adult communities.* Planned developments for retired citizens, with amenities, established through publicly enforceable restrictions limiting occupancy to residents whose members are 55 years of age or older.
- (4) *Multifamily dwellings.* Multifamily dwellings having zero-bedroom (studio) or one-bedroom units, and which do not exceed a total of 800 square feet floor area per dwelling unit.
- (5) Multifamily dwellings where the floor area exceeds 800 square feet per dwelling unit and created through conversion and rehabilitation of historic mills, that have obtained a special use permit from the zoning board. In order to grant such permit, the zoning board shall require proof by a qualified expert that less than one school age child will result from every ten such dwelling units due to the configuration of the unit such as artist's lofts and the like.
- (6) *Accessory family dwelling unit,* as defined in the zoning ordinance.
- (7) *Community residence.* Any community residence as defined by RIGL, Section 45-24-31.
- (8) *Low and moderate income (LMI) housing* as defined by RIGL, Section 45-53 so as long as the Town of Smithfield's ratio of LMI is less than ten percent of all housing units in the town, as defined by state agencies responsible for monitoring LMI units. Once the town reaches and exceeds ten percent LMI units, such housing shall be subject to the quota.

(Ord. of 1-7-08, § 8)

Sec. 10-9. Priority issuance.

Building permits shall be issued by the building official up to the maximum number permitted by the applicable calculated quota, in the order of priority assigned below. In the event of a tie, priority shall go to the application with the earlier date and time of the submission of a complete application. Pursuant to section 10-11, no single entity shall receive more than five permits in any given quarter.

- (1) In the event that, pursuant to section 10-8(8), the town meets or exceeds ten percent LMI units, the first priority shall go to low and moderate income (LMI) housing as defined by RIGL, Section 45-53.

- (2) The second priority shall be given to applications for construction of a new single-family detached dwelling, except that it shall be the first priority as long as LMI units are exempt pursuant to section 10-8(7), and provided that:
 - a. The applicant owned the lot to be built before the effective date of this article; or
 - b. The lot to be built upon was subdivided from a larger parcel before the effective date of this article.

This priority level shall not apply:

1. If the applicant has previously received a permit for a new single-family detached dwelling in North Smithfield; or
 2. The lot to be built upon was under common ownership with a lot or parcel that has previously received a building permit for a new single-family detached dwelling in North Smithfield within two years prior to the date of application.
- (3) The next priority shall be given to applicants whose application for construction of a dwelling has been denied for four consecutive quarters because of the provisions of this article.
 - (4) The remainder of the quota shall be issued to any other applications in the order of complete applications received.

(Ord. of 1-7-08, § 9)

Sec. 10-10. Procedure for issuance of building permits.

(a) Applications for building permits for construction of one or more dwelling units shall be submitted to the building official, who shall adhere to the following procedure in reviewing and issuing permits:

- (1) *Completeness.* The building official shall, upon receipt of an application submitted, examine the application, plans and all materials for completeness, which shall include all plans and materials required for a building permit under the applicable provisions of the zoning ordinance and the Rhode Island State Building Code. If said application, plans and materials are complete, the building official shall stamp it indicating the date and time of official receipt by the town.
- (2) *Incomplete applications.* If the application is incomplete and does not contain all plans and materials as required by the zoning ordinance and the Rhode Island State Building Code, the application, plans and materials shall be returned to the applicant, within 15 days, who will be informed by the building official what is missing from the submission in order to qualify as a complete application.

(b) The building official shall not issue permits for any dwelling units in excess of the quota unless such units are exempt, as provided in section 10-8. The building official shall keep track of all permits issued plus complete applications submitted during the most recent quarter, beginning with the effective date of this article. If, within any quarter, the number exceeds the quota, additional building permits shall no longer be issued.

Applications for additional permits shall be accumulated for action at the beginning of the next quarter, and shall be prioritized and issued under the ensuing quarter.

(c) At the beginning of any subsequent quarter, the building official shall add the total number of complete applications on file that had not yet been issued, but had accumulated from the previous quarter, to the total number of permits issued during the previous three quarters. In the event that the resulting sum (current quarter applications plus the previous three quarters' accumulation) is fewer than the annual quota as defined herein, accumulated permits shall be issued up to the quarterly quota limit and new applications may be processed to such limit. In the event that the resulting sum exceeds the annual quota, the accumulated permits shall not be issued and no further permits shall be issued for that quarter.

(d) The accumulation of applications may continue from one quarter to the next and permits issued within the limitations described in subsection (c) above. Under no circumstances shall the number of building permits, other than those exempt dwellings, exceed the annual quota.

(e) In the event that the number of building permits issued in any one year does not reach the annual quota, there shall be no carryover of permits to the following year.
(Ord. of 1-7-08, § 10)

Sec. 10-11. Limitation on permits issued.

In order to assure that permits for residential building construction are equitably distributed among all qualified applicants, no more than five building permits for dwelling units shall be granted to either any single applicant (including any related entity as defined below), or to any owner (including any related entity) of any single subdivision or land development project, within any quarter if doing so would result in denial of a permit for any other applicant. This limitation shall apply even if the lots in any one subdivision are sold to different entities.

"Related entity" means: with respect to a specific person, group of people, or corporation ("party"): (1) such party's spouse or parents, children, grandparents, grandchildren or siblings (blood or adopted); (2) a trustee of a trust for the benefit of such party, or for the benefit of any person identified in item 1 above; (3) a corporation, partnership, firm, business or entity of which 15 percent or more of the voting interest is owned by such party, or any person identified in either item 1 or item 2 above; or (4) a person who is an officer, director, trustee, employee or partner of any entity referred to in item 2 or item 3 above.

(Ord. of 1-7-08, § 11)

Sec. 10-12. Appeals.

Any decision by the building official to carry out the purposes of this article may be appealed by an aggrieved party to the zoning board of review. The appeal shall be taken within 20 days following an action by the building official to enforce the provisions of this article and shall specify the grounds for such appeal. The building official shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the planning board. The procedure for any appeal including a public hearing shall be in accordance with the North Smithfield Zoning Ordinance.

(Ord. of 1-7-08, § 12)

Sec. 10-13. Expiration date.

This article shall expire on December 31, 2012 and shall be reviewed for applicability by the planning board no later than December 31, 2008.
(Ord. of 1-7-08, § 13)

Secs. 10-14--10-30. Reserved.

ARTICLE II.

IMPACT FEES

Sec. 10-31. Impact fees authorized.

This article authorizes the establishment of an impact fee on land development in North Smithfield for providing new and or expanded capital facilities within North Smithfield which are necessitated by such new development.
(Ord. of 1-7-08, § 1)

Sec. 10-32. Findings.

(a) In accordance with RIGL Title 45 Chapter 45-22.4, the town council finds that an equitable program is needed for the planning and financing of public facilities to serve new growth and development in the Town of North Smithfield in order to protect the public health, safety and general welfare of the citizens of this town.

(b) It is therefore the public policy of the town and in the public interest to assess, impose, levy and collect fees defined herein as impact fees for certain new development within the town's jurisdictional limits.

(c) It is the intent of the town council by enactment of this amendment to:

(1) Ensure that adequate public facilities are available to serve new growth and development;

(2) Ensure that new growth and development does not place an undue financial burden upon existing taxpayers;

(3) Promote orderly growth and development by establishing uniform standards to require that those who benefit from new growth and development pay a proportionate fair share of the cost of new and/or upgraded public facilities needed to serve that new growth and development.

(d) The Town of North Smithfield must improve and expand its public facilities in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety, and welfare of current and future citizens.

(e) The State of Rhode Island through the enactment of Rhode Island Comprehensive Planning Act of 1988 and the Zoning Enabling Act of 1991 (RIGL Section 45-24-30) has sought to encourage North Smithfield to enact innovative development regulations and techniques. Title 45 Chapter 45-22.4 specifically enables the town council to adopt impact fee ordinances.

(f) The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.

(g) The fees established by this article are derived from, based upon, and do not exceed the costs of providing for such facilities necessitated by new land developments for which the fees are levied. Such costs are established by the town's capital needs assessment, including the comprehensive school facilities master plan for schools.

(h) The report entitled "Town of North Smithfield, Rhode Island, Growth Management Needs Assessment for Impact Fee Schedule and Ordinance," dated January 7, 2008 sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of facilities in North Smithfield.
(Ord. of 1-7-08, § 2)

Sec. 10-33. Intent.

(a) The fees established by this article are consistent with and are intended to assist in the implementation of the North Smithfield Comprehensive Plan.

(b) The purpose of this article is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public educational sites and facilities, as mandated by the state.
(Ord. of 1-7-08, § 3)

Sec. 10-34. Definitions.

As used in this section, the following words have the meanings stated in this section:

Capital improvements means improvements with a useful life of ten years or more, which increases or improves the service capacity of a public facility.

Capital improvement program means that component of the town's budget or the regional school district's master plan that sets out the need for public facility capital improvements for educational facilities, the costs of the improvements, and proposed funding sources. A capital improvement program must cover at least a five-year period and should be reviewed at least every five years;

Developer means a person or legal entity undertaking development, including any one person commencing a subdivision or land development project which may reasonably be expected to place students in the public schools, place additional burdens on the town's educational facilities and which requires the issuance of a building permit for one or more residential buildings;

Impact fee means the charge imposed upon new development by the Town of North Smithfield to fund all or a portion of the public facility's capital improvements affected by the new development from which it is collected;

Proportionate share means that portion of the cost of system improvements which reasonably relates to the service demands and needs of the project; and

Public facilities means:

- (1) Roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and local components of state and federal highways;
- (2) Storm water collection, retention, detention, treatment, and disposal facilities, flood control facilities, bank and shore projections, and enhancement improvements;
- (3) Parks, open space areas, and recreation facilities;
- (4) Police, emergency medical, rescue, and fire protection facilities;
- (5) Public schools, including those capital projects undertaken by the town or regional school district to accommodate existing and future North Smithfield school-age pupils. Such facilities may be located within North Smithfield or within any regional area; and
- (6) Other public facilities consistent with a community's capital improvement program.

Capital costs of public facilities are expenditures for the acquisition of fixed assets or additions to fixed assets and expenditures for site acquisition, construction, design, site development, necessary off-site improvements, capital equipment pertaining to such facilities, and debt service to finance such capital costs.

Independent fee calculation study means the demographic and or capital facilities impact documentation prepared by a fee payer to allow the determination of the impact fee other than by the method established by this article.

(Ord. of 1-7-08, § 4)

Sec. 10-35. Imposition of public facilities impact fee.

(a) Any person applying after the effective date of this article, for any building permit which adds new dwelling units or is hereby required to pay a public facilities impact fee in the manner and amount set forth in this article.

(b) The requirement of funds for provision of public facilities shall be based upon needs as established by the capital improvement program and shall be consistent with the policies stated therein. The building official is charged with the administration of the section, under supervision and approval by the town administrator. The fee amount shall be based upon the following:

- (1) A fee schedule per single family residential dwelling unit and per square foot of nonresidential space is established by the town council by adoption of "Town of North Smithfield, Rhode Island, Growth Management. Needs Assessment for Impact Fee Schedule and Ordinance." dated January 7, 2008 pursuant to section 10-32(h) of this article. Said fee may be amended from time to time as conditions warrant, such as new capital expenses not reflected in the current "needs assessment."
- (b) The fee payer is required to pay the fee as established above. If a fee payer disputes the impact fee determined as described herein, then the fee payer may appeal the decision of the building official to the zoning board of review in accordance the zoning ordinance and may submit an independent fee calculation study for the land development activity for which a building permit is sought.

(Ord. of 1-7-08, § 5)

Sec. 10-36. Calculation of the impact fee.

The impact fee is set forth in section 4(B) of the needs assessment report and shall be the required methodology in this article.

(Ord. of 1-7-08, § 6)

Sec. 10-37. Payment of fee.

The fee payer shall be assessed the facilities impact fee required by this article upon application for a building permit, to the building official and shall be collected in full prior to the issuance of certificate of occupancy.

(Ord. of 1-7-08, § 7)

Sec. 10-38. Capital facilities impact fee trust fund established.

(a) There is hereby established a separate capital facilities impact fee trust fund to be administered by the finance director. All funds collected shall be properly identified and promptly deposited in a special proprietary fund, which shall be invested in government insured or government backed instruments only with all interest accruing to the trust fund and used solely for the purposes specified in this article.

(b) Within eight years of the date of collection, impact fees shall be expended or encumbered for the construction of public facilities capital improvements of reasonable benefit to the development paying the fees and that are consistent with the capital improvement program. The construction, expansion or renovation of new school facilities any where in the town or in any regional school district shall be deemed to be such reasonable benefit.

(c) Where the expenditure or encumbrance of fees is not feasible within eight years, the town may retain impact fees for a longer period of time if there are compelling reasons for the longer period. In no case shall impact fees be retained longer than 12 years.

(d) Funds withdrawn from this account must be used in accordance with the provisions of section 10-39 of this article.

(Ord. of 1-7-08, § 8)

Sec. 10-39. Use of funds.

(a) Funds collected from capital facilities impact fees and deposited in the capital facilities impact fee trust fund by the finance director are for the purpose of constructing such facilities as described in the needs assessment report. Such funds shall be spent solely to acquire, construct, expand, and equip the capital facilities identified in the report.

(b) Funds may be used to make refunds required by section 10-41 of this article.
(Ord. of 1-7-08, § 9)

Sec. 10-40. Vested rights.

Any application for a building permit (not foundation permit) that has been submitted and has been deemed complete prior to the adoption of this article, shall have vested rights to proceed with the application and receive a building permit or CO without requiring the payment of an impact fee.

(Ord. of 1-7-08, § 10)

Sec. 10-41. Refund of fees paid.

(a) Any funds not expended or encumbered by the end of the calendar quarter immediately following eight years, or 12 years if section 10-38(c) of this article applies, from the date the capital facilities impact fee was paid, shall be refunded to the current owner of record for the assessor's plat and lot for which the fee was paid. The refund shall include interest on the original fee amount, equal only to the actual interest that the finance director may have accrued through an investment account or similar interest bearing account.

(b) The town shall notify the said current owner of record by certified letter, return receipt requested, that a refund of impact fees are due for the reasons provided in subsection (a). Said current owner of record may respond and submit an application for a refund to the building official within one year from the date of receipt of the town's notice. Failure to respond within the specified time period shall indicate a waiver for such refund.

(c) If the town council were to act to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded as provided above. Upon the finding that any or all fee requirements are to be terminated, the town shall place a notice of termination and availability of refunds in a newspaper of general circulation within the Town of North Smithfield at least two times. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds may be transferred to the general fund and used for any public purpose. The town is released from this notice requirement if there are no unexpended or unencumbered balances within a fund or funds being terminated.

(Ord. of 1-7-08, § 11)

Sec. 10-42. Exemptions.

The following shall be exempted from payment of the impact fee. Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

- (1) Impact fees shall not be imposed for remodeling, rehabilitation, or other improvements to an existing structure where the use is not changed.

- (2) Impact fees shall not be imposed for the construction of accessory buildings or structures which will not add a dwelling unit.
- (3) Impact fees shall not be imposed for rebuilding a damaged structure, including the replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
- (4) Any new housing units that meet the definition of "affordable housing" by Rhode Island Housing are exempt from impact fees.

(Ord. of 1-7-08, § 12)

Sec. 10-43. Effective date.

Following the adoption of this article the impact fee shall be calculated as provided above and shall take effect on February 1, 2008.

Applications submitted and accepted as complete before February 1, 2008 shall not be subject to this amendment. This article shall supersede any and all ordinances inconsistent herewith.

(Ord. of 1-7-08, § 13)

Secs. 10-44--10-60. Reserved.

ARTICLE III.

MUNICIPAL SUBSIDY PROGRAM FOR LOW AND MODERATE INCOME HOUSING

Sec. 10-61. Findings of fact.

The town council finds that the housing component of the Town of North Smithfield Comprehensive Community Plan Five-year Update that the town, as of 2007, has 6.85 percent affordable housing, leaving the town with a deficit of 128 affordable housing units. The town council further finds that the housing and affordable housing component of the comprehensive community plan five-year update for the Town of North Smithfield states that there are no local programs to assist moderate income households. The town council further finds that the housing and affordable housing component of the comprehensive community plan five-year update for the Town of North Smithfield establishes as one of its goals that the town should provide a variety of housing that maintains the diversity of housing opportunities for moderate income households without ignoring the need for low income housing. The town council further finds that it is in the interest of the residents of the Town of North Smithfield to adopt a municipal government subsidy program for all major and minor subdivisions and major residential development.

(Ord. of 3-3-08, § 1)

Sec. 10-62. Definitions.

The following word, whenever used in this article, unless a different meaning clearly appears from the context, have the following meanings:

Affordable housing means residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief and insurance constitute no more than 30 percent of the gross household income for a moderate income household. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than 30 percent of the gross annual household income for household with 80 percent or less of area median income (AMI), adjusted for family size. Affordable housing shall include all types of year-round housing, including but not limited to, manufactured housing, housing originally constructed for workers and their families, accessory dwelling units, housing accepting rental vouchers and/or tenant based certificates under Section 8 of the United States Housing Act of 1937, as amended, and assisted living housing, where the sale or rental amount of such housing, adjusted for any federal, state, or municipal government subsidy, is less than or equal to 30 percent of the gross household income of the low and/or moderate income occupants of the housing.

Low or moderate income housing means any housing subsidized by the federal, state, or municipal government under any program to assist the construction or rehabilitation housing as low or moderate income housing, as defined in the applicable federal or state statute, or local ordinance whether built or operated by any public agency or any nonprofit organization, or by any limited equity housing cooperative or any private developer, that will remain affordable for 99 years of such other period that is either agreed to by the applicant and town but shall not be for a period of any less than 30 years from initial occupancy through a land lease through a land lease and/or deed restriction or prescribed by the federal or state or municipal subsidy program but shall not be for a period less than 30 years from initial occupancy through land lease and/or deed restriction.

Moderate income household means a single person, family, or unrelated persons living together whose adjusted gross income is more than 80 percent but less than 120 percent of the area median income, adjusted for family size.

Municipal government subsidy means assistance that is made available through a city or town program sufficient to make housing affordable, as affordable is defined in this article; such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance.
(Ord. of 3-3-08, § 2)

Sec. 10-63. Eligibility.

The provisions of this article shall apply to all major subdivisions and major residential land developments according to Rhode Island General Laws Chapter 45-53, titled Low and Moderate Income Housing, in the Town of North Smithfield.
(Ord. of 3-3-08, § 3)

Sec. 10-64. Designation of units.

The developer shall designate a minimum of 20 percent of the total number of units in the land development project with the exception of the Slatersville Mill and High Rocks Condominium projects. This 20 percent can be a combination of low and moderate income housing. A minimum of ten percent of the total number

of units in the Slatersville Mill must be affordable; 80 percent AMI or lower. A minimum of ten percent of the total number of units in High Rocks Condominium shall be affordable; of this ten percent 50 percent must be at 80 percent AMI or lower, and 50 percent can up to 120 percent AMI. This article applies to all subdivision activity and substantial rehabilitations and adaptive reuse that result in six or more units.

(Ord. of 3-3-08, § 4)

Sec. 10-65. Selection of municipal government subsidy.

The municipal government subsidy shall be a density bonus, where granted in accordance with the provisions of the zoning ordinance and/or internal subsidies and/or waiver of the building permit fee. The density bonus is not to exceed 25 percent of the total project units.

(Ord. of 3-3-08, § 5)

Sec. 10-66. Length of affordability.

Low and moderate income housing must be designated as such for a period of 99 years or such other period that is either agreed to by the applicant and town but shall not be for a period of less than 30 years from initial occupancy through a land lease or deed restriction. The affordability deed restriction must be renewed with each sale of the property. The right of first refusal shall lie with the Town of North Smithfield, and should the monitoring agent forego this right it would be offered to Rhode Island Housing a secondary right of refusal.

(Ord. of 3-3-08, § 6)

Sec. 10-67. Low income housing.

The planning board of the Town of North Smithfield may require the inclusion of low income housing units and/or provide a greater municipal subsidy when a development provides for low income housing. When considering the amount and/or type of subsidies granted by the planning board, they may consider, but not be limited to the following factors: any unique developments constraints including but not limited to project size, project location, and site size; economic feasibility and the amount of low income housing being proposed. The town planner may provide a recommendation regarding the municipal subsidy based upon the above considerations.

(Ord. of 3-3-08, § 7)

Sec. 10-68. Monitoring and compliance.

Rhode Island Housing, or an approved monitoring agent as approved by Rhode Island Housing, its successors or assigns shall monitor the units designated as low and moderate income housing units to insure compliance with the affordability requirements of the land lease and/or deed restriction.

(Ord. of 3-3-08, § 8)

Sec. 10-69. Housing quality.

The units created under the North Smithfield Municipal Subsidy Program must be physically consistent with the overall character of housing already established in the community. Every effort will be made to integrate affordable units into the surrounding community.

(Ord. of 3-3-08, § 9)

Sec. 10-70. Tenure of housing.

This article shall apply to both rental and ownership units, with rental units not to exceed 80 percent AMI.
(Ord. of 3-3-08, § 10)

Sec. 10-71. Timing of construction.

Within a project low and moderate income units must be built simultaneously or prior to construction of the market rate units.
(Ord. of 3-3-08, § 11)

Sec. 10-72. Allowed income limits.

For the purpose of creating ownership units a tiering of incomes is to be applied. Fifty percent of the affordable units in a project must be at 80 percent AMI or lower, and 50 percent can be negotiated with the planning board up to 120 percent AMI.
(Ord. of 3-3-08, § 12)

Sec. 10-73. Occupancy of units.

The affordable units created under this article must be the owner/renters primary residence.
(Ord. of 3-3-08, § 13)

Sec. 10-74. Tax assessments.

The Town of North Smithfield will assess low and moderate income units based on the deed restricted price, not the comparable value of a non deed restricted property for the life of the affordable deed restriction unless some other arrangement has been met with the Town of North Smithfield.
(Ord. of 3-3-08, § 14)

Sec. 10-75. Qualified program.

The municipal government subsidy program adopted by this article qualifies for the establishment of low and moderate income housing under the Rhode Island Low and Moderate Income Housing Act established pursuant to Title 45, Chapter 53 of the General Laws of Rhode Island.
(Ord. of 3-3-08, § 15)

Sec. 10-76. Severability.

If any provision of this article or of any rule, regulation or determination made there under, or the application thereof to any person, agency or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance, 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 article shall not affect the validity of the remainder of the ordinance.
(Ord. of 3-3-08, § 16)