

ARTICLE III. - DISTRICT REGULATIONS

Section 301. - Establishment and purpose of districts.

For the purposes of this ordinance, the zoning jurisdiction of the Town of Smithfield is divided into the following districts:

General use districts.

R-20A - Residential-Agricultural District. The purpose of this district is to provide for areas where the principal use of land is for low density residential and agricultural purposes. The regulations of this district are intended to protect the agricultural sections of the community from an influx of uses likely to render them undesirable for farms and future residential development.

R-10 - Single-family Residential District. The purpose of this district is to provide areas for conventional single-family neighborhoods. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included within this district.

R-8 - Single, Two, and Multi-family Residential District. The purpose of this district is to provide areas where a mixture of housing types are allowed, some as permitted and others as conditional or special uses, with proper review, site planning, and design controls. Planned unit developments are allowed in R-8 districts.

R-6 - High Density Single, Two, and Multi-family Residential District. The purpose of this district is to provide for older areas which have developed with a mixture of housing types at fairly high densities. Except in unusual circumstances, it will not be used in new areas, and additional property will not be considered for rezoning to this district.

R-MH - Mobile Home Residential District. The purpose of this district is to provide areas in which the principal uses of land are single-family dwellings, two-family dwellings, and mobile homes on individual lots. Multi-family dwellings and mobile home parks are special uses in this district.

O&I - Office and Institutional District. The purpose of this district is to provide areas for offices, institutional uses, and uses which are compatible with such uses.

B-1 - Central Business District. The purpose of this district is to provide for those uses which can provide and contribute to a strong retail and service core for downtown Smithfield.

B-2 - General Business District. The purpose of this district is to provide for those business areas adjacent to the downtown core as well as other intensive and extensive business areas in Smithfield.

B-3 - Highway Entranceway Business District. The purpose of this district is to allow commercial uses with proper regulations and safeguards to promote the safe and efficient movement of traffic, and the orderly development of land along major arteries leading into town, while enhancing and preserving the environmental and aesthetic qualities of these areas. The proper location, and development of the uses along these corridors will contribute to and enhance trade, tourism, capital investment and the general welfare.

I - Industrial District. The purpose of this district is to provide areas for those industrial uses which will be compatible with the Smithfield area and will not cause adverse effects for the area or adjacent uses.

AD - Airport District. The purpose of this district is to ensure the appropriate location, design, construction and maintenance of land uses compatible with air transportation facilities. Refer to Section 309 for development standards applicable in this district. (Ord. No. 301, § 1, 9-5-95)

Special use districts.

The purpose of these districts is to promote greater land use compatibility by allowing landowners to voluntarily place their property into classifications in which a special use permit is required as a prerequisite to any use or development. More specifically, the purpose of these districts is identical to that of the corresponding general use districts as indicated below, except that a special use permit is required as a prerequisite to any use or development, as provided in this ordinance.

<i>General use district</i>	<i>Corresponding special use district</i>
R-20A	R-20A-SUD
R-10	R-10-SUD
R-8	R-8-SUD
R-6	R-6-SUD
R-MH	R-MH-SUD
O&I	O&I-SUD
B-1	B-1-SUD
B-2	B-2-SUD
B-3	B-3-SUD
I	I-SUD
AD	AD-SUD

(Ord. No. 301, § 2, 9-5-95)

Overlay districts.

FFDs - these districts are established in Article XI of this ordinance.

FWDs - these districts are established in Article XI of this ordinance.

Interstate Overlay District (IOD) - this district is hereby established and is referenced in Article V of this ordinance. The purpose of this district is to allow certain types of signs along I-95 which would not be considered appropriate in other portions of the jurisdiction.

WS-IV-CA - Critical Area Overlay District. The regulations applicable in this district are established under section 308 of this article. (Ord. of 5-4-93(4), § 1)

WS-IV-PA - Protected Area Overlay District. The regulations applicable in this district are established under section 308 of this article. (Ord. of 5-4-93(4), § 1)

Historic Districts - reserved

Section 302. - Zoning map.

The boundaries of the districts are hereby established as shown upon the map accompanying this ordinance and made a part hereof, entitled, "Official Zoning Map, Smithfield, North Carolina." The zoning map and all the notations, references, and all amendments thereto, and other information shown thereon is hereby made a part of this ordinance and the same as if such information set forth on the map were all fully described and set out herein. The zoning map properly attested is on file in the Office of the Zoning Administrator and is available for inspection by the public.

In the creation, by this ordinance, of the respective districts, the Town Council has given due and careful consideration to the peculiar suitability of each and every such district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well-considered plan for the development of the Town.

Section 303. - Uncertainty as to boundaries.

The boundaries of such districts as are shown upon the map adopted by this ordinance are hereby adopted and the provisions of this ordinance governing the use of land and buildings, the height of buildings, the sizes of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon said map.

If uncertainty exists as to the boundaries of the use districts shown on the official zoning map which is not resolved by the ordinance or ordinances establishing and amending such boundaries, the following rules shall apply.

303.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

303.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

303.3 Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following such jurisdictional boundaries.

303.4 Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main track or tracks.

303.5 Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such centerlines.

303.6 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and if the shoreline is changed either naturally or as permitted by law, such a boundary shall be construed as moving with the actual shoreline.

303.7 Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted survey practices.

303.8 Boundaries indicated as parallel to or extensions of natural or manmade features indicated in subsections 303.1 through 303.7 above shall be so construed.

303.9 Distances not specifically indicated shall be determined by the scale of the official zoning map.

Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Article VII of this ordinance.

Section 304. - Amendments to the Official Zoning Map.

Amendments to the official zoning map shall be adopted by ordinance as provided in Article VIII. Promptly after the adoption of an amendment, the Zoning Administrator shall alter, or cause to be altered, the official zoning map to indicate the amendment. The Town Clerk shall enter in writing upon the face of the map a certification indicating the alteration and citing the date of adoption and the effective date of the amendment, as well as the book and page of record of the ordinance amending the map.

Section 305. - True copy to be maintained.

The Chairman of the Planning Board shall also maintain a true copy of the official zoning map which shall include thereon all matters shown on the official zoning map. The true copy shall have no legal effect except as provided in Section 306.

Section 306. - Replacement and preservation of Official Zoning Map and true copy thereof.

306.1 If the official zoning map is damaged, lost, or destroyed in whole or in part, the governing body may by resolution adopt the true copy in whole or in part as the official zoning map, and the Zoning Administrator and Town Clerk shall promptly prepare or cause to be prepared a new true copy of the official zoning map. From time-to-time, the governing body may by resolution adopt a new official zoning map if the prior map becomes difficult to interpret due to the number of amendments or other matters shown thereon, or if the governing body desires to replace the map for other reasons, provided that the new map is an exact copy of the prior map. If the new map is not an exact copy of the prior map, the Town Council may by ordinance adopt a new map as an amendment to this ordinance.

306.2 The Zoning Administrator shall preserve any and all remaining parts of all prior official zoning maps and true copies thereof together with all available records pertaining to their adoption, amendment, or repeal.

Section 307. - Regulations for districts.

307.1 Table of Permitted Uses. Uses allowed in the districts named in this ordinance shall be in accordance with the following table in which "x" signifies that the use is permitted as of right, "c" indicates that the use is a conditional use which requires approval of the Board of Adjustment, "s" indicates that the use is a special use which requires approval of the Town Council, and a blank indicates that the use is not permitted in that zoning district. Uses allowed in Special Use Districts shall be in accordance with Section 307.4.

307.1 Table of Permitted Uses.

Residential Districts

Use	Districts				
	R-20A	R-10	R-8	R-6	R-MH
Single-family dwellings	x	x	x	x	x
Two-family dwellings			x	x	x
Multi-family dwellings and townhouses			s	s	s

Manufactured homes, Class A on individual lots	x				x
Manufactured homes, Class B on individual lots	c				x
Mobile home parks					s
Family care homes as defined in GS 168-21 for handicapped persons as defined in GS 168, Article 3, provided that no such home may be located within a one-half (½) mile radius of an existing family care home	x	x	x	x	x
Bonafide farms and their customary appurtenances	x				
Rooming and boarding houses and bed and breakfast inns				x	
Schools, colleges, and universities	s	s	s	s	s
Nursery schools and day care establishments	c	c	c	c	c

(Ord. of 11-1-94, § 1; Ord. No. 424, 1-3-06)

Use	Districts				
	R-20A	R-10	R-8	R-6	R-MH
Places of worship	c	c	c	c	c
Parks and recreation areas	s	s	s	s	s
Public or neighborhood swimming pools	s	s	s	s	s
Public uses	s	s	s	s	s
Recreational buildings and facilities for residential developments	s	s	s	s	s
Country clubs	s	s	s	s	s

Golf courses	S	S	S	S	S
Public or neighborhood tennis courts	S	S	S	S	S
Convalescent, nursing, and rest homes	C		C		
Planned unit developments			S		
Accessory buildings, structures, and uses in accordance with Article II	X	X	X	X	X
Home occupations in accordance with Article II	X	X	X	X	X
Signs in accordance with Article V	X	X	X	X	X
Temporary uses in accordance with Article VII	C	C	C	C	C
Temporary office units in accordance with Article II	X	X	X	X	X
Animal kennels/boarding facilities including accessory grooming (Ord. No. 364, 10-3-00)	S				

Office and Institutional District

Use	District O&I
Barber or beauty shop	p
Offices	x
Research laboratories	c
Drugstores	c
Places of worship	x
Schools	x
Libraries	x
Museums	x
Art galleries	x
Junkyards	s
Parks	x
Playgrounds	x
Community centers	x
Cemeteries	x
Government buildings	x
Civic and fraternal meeting halls	c
Armories	x

Financial institutions	x
Studios for artists, designers, and photographers, and studios for the performing arts	x
Parking lots	x
Parking structures and underground parking garages	c
Floral and gift shops	x
Public uses not otherwise mentioned in this list	c
Funeral homes	c
Hotels	c
Motels	c
Convalescent, nursing, and rest homes	c
Hospitals	x
Clinics	x
Opticians and optical goods	x
Restaurants and cafeterias primarily for employees, patients, or students located in same building as another use and having no outside advertising or drive-in facilities	x
Residential uses	s
Accessory buildings, structures, and uses in accordance with Article II	x
Home occupations in accordance with Article II	x
Signs in accordance with Article V	x
Temporary uses in accordance with Article VII	c
Temporary office units in accordance with Article II	x
Mobile and modular office units in accordance with Article II	x
Newspaper printing and publishing services (Ord. No. 357, 7-11-00)	x
Commercial amusement uses as defined in section 1003 may include, but shall not be limited to:	s
1. Bowling alleys	
2. Arcade, game rooms	
3. Billiard halls	
4. Skating rinks	
5. Dinner theatres	
6. Any use which employs, as incidental or subordinate to the primary use of the property, more than five (5) coin-operated amusement devices	
With the exception that clubs, whether public or private, shall not be allowed in the B-1 (Business) zoning district. (Ord. No. 404, 9-3-02)	

B-1 District

Use	District B-1
All of the following, which have no drive-in windows:*	
Retail businesses	x
Professional offices	x
Restaurants	x
Movie theaters	x
Financial institutions	x
Barber and beauty shops	x
Shoe repair shops	x
Laundry and dry-cleaning establishments	x
Florists	x
Places of worship	x
Governmental uses	x
*Any use in the list above which has a drive-in window shall be a conditional use in this district.	
The following residential uses: multi-family dwellings, loft and studio apartments	s
Residential uses above first occupiable floor	x
Mixed use developments and unified commercial developments	s
Accessory buildings, structures and uses in accordance with Article II	x
Signs in accordance with Article V	x
Printing and publishing	s
Temporary uses in accordance with Article VII	s
Temporary office units in accordance with Article II	x
Mobile and modular office units in accordance with Articles II and VII	c
Commercial amusement uses as defined in <u>section 1003</u> may include, but shall not be limited to:	s
1. Bowling alleys	
2. Arcade, game rooms	
3. Billiard halls	
4. Skating rinks	
5. Dinner theatres	
6. Any use which employs, as incidental or subordinate to the primary use of the property, more than five (5) coin-operated amusement devices	
With the exception that clubs, whether public or private, shall not be allowed in the B-1 (Business) zoning district.	

Auction houses	x
	(Ord. No. 429, 8-9-06)

(Ord. No. 404, 9-3-02; Ord. No. 425, 1-3-06)

B-2 and B-3 Districts

Use	District B-2 B-3
Any retail or wholesale business, educational, medical, dental, optical establishment or service establishment excluding warehousing, or public use or utility or place of worship, or place of assembly, which is enclosed in a building and does not and will not emit smoke, odor, dust, fumes, glare, noise, radiation, or vibration from the building in which it is located, and does not and will not involve bulk storage of volatile materials or other fire hazards, and which does not have a drive-in window, except that commercial amusement uses are a special use even if they meet these conditions	x
Establishments of the types listed above which have outdoor sales, service or storage areas, drive-in windows, or would emit smoke, odor, dust, fumes, glare, noise, radiation, or vibration from the building in which they are located or involve possible fire hazards, except that the following are permitted uses in the districts indicated even though they involve outdoor sales, storage, or operations, provided such sales, storage, or operations do not encroach into required yards:	s
-Automobile sales	s
-Automobile service stations	x
-Bus stations	x
-Car washes	x
-Financial institutions having drive-in windows	x
-Parking lots	x
Parking structures and underground parking garages	s
Light manufacturing uses involving fewer than 35 employees and warehousing uses, including mini-storage warehouses	s
Minor shopping center	x

Major shopping center	s
The following residential uses: single, two, and multi-family dwellings, loft and studio apartments	s
Recreational vehicle parks	c
Accessory buildings, structures, and uses in accordance with Article II	x
Signs in accordance with Article V	x
Temporary uses in accordance with Article VII	s
Temporary office units in accordance with Article II	x
Mobile and modular office units in accordance with Article II	
Adult Oriented Business as defined under <u>section 1003</u> . of this Code as a special use in B-2/B-3 districts	s
(1) No such business shall be located within 2,000 feet of any other sexually oriented business, as measured in a straight line from property line to property line;	
(2) No such business shall be located within 1,000 feet of a church, public or private elementary or secondary school, child day care or nursery, public park, residentially used or residentially zoned property, or any establishment with an on-premise ABC license, as measured on a straight line from property line to property line;	
(3) There shall be no more than one adult oriented business on the same property or in the same building, structure, or portion thereof;	
(4) No other principal or accessory use may occupy the same building, structure, property, or portion thereof of any adult oriented business;	
(5) Except for signs as permitted under Article V of this Code, there shall be no other advertisements, displays, or other promotional materials visible to the public from pedestrian sidewalks, walkway, or vehicular use areas.	
Commercial amusement uses as defined in <u>section 1003</u> . Such uses may include, but shall not be limited to:	s
(1) Bowling alleys	

(2) Arcades, game rooms	
(3) Miniature golf/driving ranges	
(4) Billiard halls	
(5) Skating rinks	
(6) Dinner theatres	
(7) Raceways	
(8) Any use which employs, as incidental or subordinate to the primary use of the property, more than five (5) coin-operated amusement devices	
(9) Mechanical rides, such as ferris wheels, roller coasters, bumper cars, etc.	
(10) Clubs, whether public or private, providing entertainment, whether live or programmed, for an admission charge, membership fee, or other form of compensation	
Professional offices	x
Unit ownership development	s
Sidewalk sales as a temporary use defined in <u>section 1003</u>	x
Temporary uses as defined in <u>section 1003</u>	s
Auction houses	x
	(Ord. No. 429, 8-9-06)

(Ord. No. 298, §§ 1—3, 6-6-95; Ord. No. 343, 8-3-99; Ord. No. 408, 11-19-02; Ord. No. 416, 5-3-05)

I District

Use	District I
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Any manufacturing, processing, or warehousing or transportation use or public use or utility including offices associated with these uses, which is enclosed in a building and does not and will not emit smoke, odor, dust, fumes, glare, noise, vibrations, nuclear waste, or radioactivity, from the building in which it is located, except acid manufacture, cement, lime, gypsum, or plaster of paris manufacture, distillation of bones, explosives manufacture or storage, fat rendering, fish or fertilizer plant, garbage, waste parts, dead animal reduction or dumping, gas manufacture, glue manufacture, stockyards or slaughter of animals, tannery, or pulp manufacture	x
Any manufacturing, processing, warehousing, or transportation use or public use or utility including offices associated with these uses which involves outdoor storage, service, operations, emits or will emit smoke, odor, dust, fumes, glare, noise, vibrations, nuclear waste, or radioactivity, from the building in which it is located or involves bulk storage of combustible materials or is among the uses listed as exceptions in the list immediately above	s
Professional offices	s
Cafeterias and snack bars for employees and offices of plants and facilities	x
Accessory buildings, structures, and uses in accordance with Article II	x
Signs in accordance with Article V	x
Temporary uses in accordance with Article VII	c
Temporary office units in accordance with Article II	x
Mobile and modular office units in accordance with Article II	x
Outlet stores for industrial establishments in this district shall be considered as accessory uses, provided that such stores shall be limited to ten (10) percent of the gross floor area of the buildings containing the industrial establishment or 2500 square feet, whichever is less	x
Child day care establishments	s
Temporary uses as defined in <u>section 1003</u>	x
Studio for performing arts	s

<i>R-20A</i>							
-single-family dwelling	15,000	NA	75	30	10	25	35
-manufactured home on individual lot	15,000	NA	75	30	10	25	35
-other building	15,000	NA	75	30	10	25	35
<i>R-10</i>							
-single-family dwelling	10,000	NA	75	30	10	25	35
-other allowable building	7,500	NA	70	25	10	20	35
<i>R-8</i>							
-single-family dwelling	8,000	NA	70	30	10	25	35
-two-family dwelling	10,000	NA	70	30	10	25	35
-multi-family dwellings and townhouses*							
-other building	10,000	NA	70	30	10	25	35
<i>R-6</i>							
-single-family dwelling	6,000	NA	60	25	8	15	35
-two-family dwelling	9,000	NA	70	25	8	15	35

-multi-family dwellings and townhouses*							
-other building	6,000	NA	60	25	8	15	35

NOTE: All Johnston County Health and Environmental Health Department requirements must be met in addition to the requirements of this ordinance.

PLEASE SEE SECTION 203.2 FOR PROVISIONS REGARDING CORNER LOTS.

<i>R-MH</i>							
-single-family dwelling	7,500	NA	70	25	10	20	35
-two-family dwelling	7,500	NA	70	25	10	20	35
-multi-family dwellings and townhouses*							
-manufactured home on individual lot	7,500	NA	70	25	10	20	35
-other building	7,500	NA	70	25	10	20	35
<i>O&I</i>							
-single-family dwelling	6,000	NA	60	25	8	15	35
-two-family dwelling	9,000	NA	70	25	8	15	35
-multi-family dwellings and townhouses*							
-loft or studio apartment	see Sec. 710.3	NA	60	25	8	15	35

-other building	6,000	NA	60	25	8	15	35
<i>B-1</i>							
-multi-family dwelling	NA	NA	20	0	**	0	40
-loft or studio apartment	see Sec. 710.3	NA	20	0	**	0	40
-other building or use	NA	NA	20	0	**	0	40

*For provisions dealing with multi-family and townhouse development, see section 710.3.

NOTE: All Johnston County Health and Environmental Health Department requirements must be met in addition to the requirements of this ordinance.

*For provisions dealing with multi-family and townhouse development, see section 710.3.

**None required, provided however, that if a side yard is provided, it shall be at least eight (8) feet wide. PLEASE SEE SECTION 203.2 FOR PROVISIONS REGARDING CORNER LOTS.

(Ord. No. 310, § 1, 1-2-96; Ord. No. 381, 7-10-01)

<i>B-2</i>							
-single-family dwelling	6,000	NA	60	25	8	15	40
-two-family dwelling	9,000	NA	60	25	8	15	40
-multi-family dwellings and townhouses*							
-loft or studio apartment	See Sec. 710.3	NA	60	0	0	0	40
-major shopping center	12,000	N/A	200	100/50***	<u>50</u>	<u>50</u>	40

-minor shopping center	12,000	N/A	125	50/35***	15**	25	40
-other building or use	12,000	NA	125	20	8**	15	40
<i>B-3</i>							
-major shopping center	12,000	N/A	200	100/50***	<u>50</u>	<u>50</u>	40
-minor shopping center	12,000	N/A	125	50/35***	15**	25	40
-other building or use	12,000	NA	125	50/35**	15**	25	40
<i>Industrial</i>	20,000	NA	150	<u>50</u>	25	40	40
<i>Airport District</i>	See <u>Sec. 309</u>						

NOTE: All Johnston County Health and Environmental Health Department requirements must be met in addition to the requirements of this ordinance.

*For provisions dealing with multi-family and townhouse developments, see section 710.3.

**Fifty (50') feet whenever front or corner side yard frontage is on an arterial or collector street; thirty-five (35') feet when frontage is on a lower street classification.

***One hundred (100') feet whenever front or corner side yard frontage is on an arterial or collector street; fifty (50') feet when frontage is on a lower street classification.

PLEASE SEE SECTION 203.2 FOR PROVISIONS REGARDING CORNER LOTS.

(Ord. of 4-4-89; Ord. of 3-5-91, § 5; Ord. No. 301, § 4, 9-5-95; Ord. No. 335, 11-11-97; Ord. No. 370, 2-6-01)

307.4 *Special use districts.* A Special Use District corresponds to each of the other districts authorized in this ordinance. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions. Where the applicant desires property to be rezoned to such a district in such situations, the Special Use District is a means by which such special conditions can be imposed in the furtherance of the purposes of this ordinance. The Special Use District classification will be considered in response to a petition by the owners of all of the property to be included. If, for any reason, any condition imposed pursuant to these

regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this ordinance that the authorization of such Special Use Permit shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification.

Within a Special Use District, only those uses authorized by this ordinance as permitted, conditional, or special uses within the zoning district with which the Special Use District corresponds shall be permitted, and all other requirements of the corresponding district and other requirements of this ordinance shall be met. If the use would be a conditional or special use in the corresponding district, all of the requirements in Section 710 for all special or conditional uses and the applicable special or conditional use shall be met. In addition, within a Special Use District, no use shall be permitted except pursuant to a Special Use Permit authorized by the Town Board of Commissioners which shall specify the use or uses authorized. The Special Use Permit may further specify conditions based on the issues raised concerning Special Uses in Section 710 of this ordinance and any other reasonable and appropriate conditions.

The authorization of a special use in the district shall preclude any requirement for obtaining a Conditional Use Permit from the Board of Adjustment.

Section 308. - Water supply watershed protection.

308.1 *Purpose.* The purpose of this article is to regulate development and land use activities in a manner which will limit exposure of water supply watersheds to pollution. Sources of pollution include leachate from septic tank nitrification fields, storm water runoff, accidental spillage from residential, commercial, and industrial activities, and discharge of process and cooling water, among others.

As required by the Water Supply Watershed Protection Act of 1989, the State of North Carolina has reclassified each of the state's drinking water supply watersheds to its most appropriate classification. The Neuse River watershed is classified as "WS-IV" which are protected water supply watersheds which are generally moderate to highly developed. Water Supply Watershed protection is a proactive approach to the preservation and treatment of drinking water supplies rather than a reactive approach of treatment prior to consumption.

308.2 *Authority.* Statutory authority for this section is derived from North Carolina General Statutes Chapter 160A-381, and Chapter 143, Article 21.

308.3 *Jurisdiction.* The regulations established shall apply within areas designated as a Public Water Supply Watershed by the North Carolina Environmental Management Commission and the boundaries of the watershed areas shall be as noted on a map adopted in conjunction with these regulations.

308.4 *Standards.* The standards of both the Water Supply Watershed Protection Overlay Districts and the underlying zoning district shall apply. Where these standards differ, the standards of the Overlay Districts shall govern.

308.5 *Definitions.*

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Animal Unit. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

Best Management Practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Composting facility. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

Critical area. The area adjacent to the water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area shall extend one (1) mile from the water supply intake or to ridge line of the watershed, whichever comes first.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharging landfill. A facility with liners, monitoring equipment and other measures to detect and prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Existing development. Those projects that are built or those projects that at a minimum have established a vested right as established under the provisions of Article VII, Section 713 of this Code [appendix].

Hazardous material. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Industrial development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Non-residential development. All development other than residential development, agriculture and silviculture.

Protected area. The remaining portion of a WS-IV Watershed exclusive of the critical area.

Residential development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Single-family residential. Any development where: (1) no building contains more than one (1) dwelling unit, (2) every dwelling unit is on a separate lot, and (3) where no lot contains more than one (1) dwelling unit.

Street (road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Toxic substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression on reproduction or growth) or physical deformation in such organisms or their off spring or other adverse health effects.

Variance (major). A variance that results in either of the following:

- (1) The complete waiver of a management requirement.
- (2) The relaxation, by a factor more than ten (10) percent of any requirement that takes the form of a numerical standard.

Variance (minor). A variance that does not qualify as a major variance.

Water dependent structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area within the Town of Smithfield's planning jurisdiction which contributes surface drainage to the water supply intake of the Water Treatment Plant.

308.6 *Establishment of Watershed Areas.* For the purposes of this Section, the Town of Smithfield and its extraterritorial jurisdiction are divided into the following Water Supply Watershed Protection Overlay Districts:

- (a) WS-IV-CA—Critical Area Overlay District.
- (b) WS-IV-PA—Protected Area Overlay District.

308.7 *Development Regulations.* The following regulations shall apply within the WS-IV-CA and WS-IV-PA Districts:

308.7.1 *WS-IV-CA—Critical Area Overlay District.*

(1) Allowed Uses:

- (a) Agricultural uses subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990. Agriculture activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 scale topographic or as determined by other reliable sources. Animal operations greater than one hundred (100) animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality.
- (c) Residential uses.
- (d) Expansions to existing non-residential development in accordance with Subsection 308.9

(2) Density and Built-upon Limits:

- (a) Single-Family Residential—Where neither public water and sewer are available, the minimum lot size shall be forty thousand (40,000) square feet, or as determined by the Johnston County Division of Environmental Health. Where either public water or sewer, or both, are available, the minimum lot size shall be one-half (½) acre or twenty-one thousand seven hundred eighty (21,780) square feet.
- (b) All Other Residential Development—Development shall not exceed twenty-four (24) percent built upon area on a project by project basis. For the purpose of calculating the built upon area, total project area shall include the gross acreage in the tract on which the project is to be developed.

308.7.2 *WS-IV-PA—Protected Area Overlay District.*

(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation, and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality.
- (c) Residential Development.
- (d) Non-residential development, excluding storage of toxic and hazardous materials unless a spill containment plan is implemented.

(2) Density and Built-upon Limits:

- (a) Single-Family Residential—Where neither public water or sewer are available, the minimum lot size shall be forty thousand (40,000) square feet or as determined by the Johnston County Division of Environmental Health. Where either public water or sewer, or both, are available, the minimum lot size shall be one-half (½) acre or twenty-one thousand seven hundred eighty (21,780) square feet.
- (b) All other Residential and Non-Residential Development—Development shall not exceed twenty-four (24) percent built-upon area on a project by project basis. For the purpose of calculating the built upon area, total project area shall include the gross acreage in the tract on which the project is to be developed.

308.8 *Buffer Areas Required.* For all new development activities proposed within the WS-IV-CA or WS-IV-PA Districts, a minimum fifty (50) foot vegetative buffer is required adjacent to all perennial waters as indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by other reliable sources. Vegetation within such buffers shall remain undisturbed except as may be necessary to accommodate any of the following uses:

- (1) Boat docks, ramps, piers, or similar structures;
- (2) Reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places;
- (3) Roads, provided they cross the buffer at a horizontal angle of at least sixty (60) degrees;
- (4) Other public projects, where no practical alternative exists.

- 308.9 *Existing Single-Family Development Exempt.* Existing Single-Family Dwelling Units or proposed additions or expansions to existing Single-Family Dwelling Units shall be exempt from these regulations.
- 308.10 *Other Existing Development.* Existing Development as defined herein (other than single-family residential development) which does not currently comply with these provisions, may be continued and maintained without penalty. Proposed expansions to structures classified as existing development, including non-residential development within the Critical Area, which would qualify as permitted uses within the underlying zoning district may be allowed but shall be required to comply fully with these requirements. The existing built-upon area shall not be required to be included when calculating permissible density.
- 308.11 *Existing Vacant Lots.* Existing vacant lots, for which plats or deeds have been recorded in the Johnston County Register of Deeds office prior to the adoption of these regulations, may be used for any of the permissible uses allowed in the watershed area in which it is located, provided that whenever two (2) or more contiguous residential lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, then such lots shall be considered as a single property for the purpose of compliance with these requirements.
- 308.12 *Occupied Lots.* Lots occupied for residential purposes at the effective date of these regulations may continue to be used, provided that whenever two (2) or more contiguous lots of record, one (1) of which is occupied, are in single ownership on the effective date of these regulations, and such lots individually or together have less area than required by the minimum standards, then such lots shall be considered as a single property for the purpose of compliance with these requirements.
- 308.13 *Swale Street Systems.* Within the WS-IV-CA and WS-IV-PA Districts, the Town Council may authorize development which would utilize a swale rather than a curb and gutter street system provided such streets are designed and constructed in accordance with the NCDOT Division of Highways manual entitled "Minimum Construction Standards for Subdivision Roads," as amended, or its successor document, for the classification of street proposed. Additionally, Best Management Practices (BMPs) as prescribed in the NCDOT manual "Water Supply Watershed Best Management Practices" shall be utilized for all new roadway construction within watershed areas.
- 308.14 *Planned Unit Developments within Watershed Areas.* For Planned Unit Developments proposed within water supply watershed areas, development densities shall comply with the regulations established under this section in lieu of the development densities set forth for Planned Unit Developments in Article VII, Section 710, Subsection 710.3 of this Code.
- 308.15 *Variances.* Whenever an application is filed for a variance to the provisions contained in this section the town shall notify the other local governments having jurisdiction within the watershed and any entity using the water supply for consumption purposes to allow these parties an opportunity to comment on the application.

The Board of Adjustment shall conduct a hearing on the application in accordance with the procedures established under this ordinance. The Board of Adjustment shall have the power to authorize, in specific cases, minor variances, as defined herein, from the terms of this section as will not be contrary to the public interest.

If the application for a variance calls for the granting of a major variance, as defined herein, and if the Board of Adjustment decides in favor of granting the variance, a preliminary record of the hearing shall be prepared within thirty (30) days. The preliminary record shall include:

- (1) The variance application;
- (2) The hearing notices;
- (3) The evidence presented;
- (4) Proposed findings and exceptions.
- (5) The proposed decision, including any conditions proposed to be added to the permit.

The preliminary record shall be sent to the EMC for review as follows:

- (1) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure no reasonable return from nor make any practical use of the property unless the proposed variance is granted, and (b) the variance, if granted, will not result in a threat to the water supply, then the EMC shall approve the variance as proposed or approve the proposed variance with conditions.
- (2) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (b) the variance, if granted, will result in a serious threat to the water supply, then the EMC shall deny approval of the variance as proposed.

The EMC shall prepare a final Commission decision relative to the proposed variance and transmit it to the Board of Adjustment. The Board shall advise the applicant for the proposed variance of the EMC's final decision.

A record of all variances granted during a calendar year shall be transmitted to the Division of Environmental Management on or before January 1st of the following year. (Ord. of 12-7-93(4), § 1)

308.16 *Amendments to Water Supply Watershed Protection Regulations.* The Town Council may, on its own motion or upon a properly filed petition, amend, supplement, or modify the watershed regulations set forth under this section in accordance with the procedures established under Article VIII of this Code [appendix], provided that no amendments shall be adopted which shall cause these regulations to violate the minimum watershed protection rules adopted by the North Carolina Environmental Management Commission. All amendments shall subsequently be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

308.17 *Summary of Water Supply Watershed Protection Rules.* The following table summarizes the Water Supply Watershed Protection Regulations contained herein, which were adopted by the Smithfield Town Council on May 4, 1993; to become effective and in force from that day forward.

Summary of Water Supply Watershed Protection Rules

Classification	Dischargers	Residential Density Low Density Option	Nonresidential Development	Sludge Application	Landfills	Hazardous Materials	Sewer Lines
WS-IV							

Critical area	None	2du/1ac**	No new development	None	None	None	Allow
Protected area	Domestic and industrial	Same	Allow maximum 24% built-upon	None	None	Inventory spill/failure	Allow

Notes:

*;hg;Minimum lot size where either public water or sewer is not available shall be forty thousand (40,000) square feet.

*;hg;Critical area is one (1) mile draining to river intake or to the ridgeline, whichever is greatest.

*;hg;Protected area is ten (10) miles upstream draining to river intake or to the ridgeline, whichever is greatest.

*;hg;For residential and nonresidential development, a minimum buffer width of fifty (50) feet shall be provided adjacent to all perennial waters.

*;hg;Spill containment structures are required for new industry where hazardous materials are used, stored, or manufactured.

*;hg;Storm water control structures shall not be employed within the critical or protected portion of the watershed as a means to exceed the minimum criteria established herein.

*;hg;Agricultural activities are subject to provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. In critical area agricultural activities must maintain a ten-foot vegetated buffer or equivalent control. Animal operations with greater than one hundred (100) animals must use BMPs as determined by the soil and water conservation commission.

*;hg;Forestry activities are subject to the provisions of the forest practices guidelines related to water quality (15A NCAC 11 .0101-.0209).

*;hg;The department of transportation must use BMPs as described in their document, "Water Supply Watershed Best Management Practices."

*;hg;Swale street systems constructed in accordance with NCDOT standards may be permissible within the critical and protected areas.

(Ord. of 5-4-93(4), § 2; Ord. of 12-7-93(4), § 2)

Section 309. - Airport district.

309.1 *Purpose.* The purpose of the provisions contained in this article is to ensure the appropriate location, design, construction, and maintenance of land uses compatible with air transportation facilities and to further ensure that the public health and welfare are protected from safety, noise and related factors associated with such facilities.

309.2 *Permitted uses.*

All uses not specifically permitted in the table below shall be expressly prohibited:

Agricultural and forestry uses

Warehousing, distribution centers (except explosives, petroleum, or other incendiary matter)

Industrial uses as specified in the table of permitted uses for the industrial district

Professional offices

Office complexes as permitted under section 209 of this Code

Single-family residence on an existing individual lot meeting the minimum dimensional requirements of this article

Manufactured home, class A, on an existing individual lot meeting the minimum dimensional requirements of this article

Accessory uses as permitted under section 206 of this Code.

309.3 Dimensional requirements.

Minimum lot size

Five acres

Minimum lot width

400 feet

Maximum building height

40 feet

The minimum yard requirements of the industrial district shall apply for all permitted uses.

309.4 Lighting standards. All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from above. This restriction shall not apply to warning lights required to be installed in towers, tall buildings, or as otherwise may be required by the Federal Aviation Administration to mark obstructions for aircraft.

309.5 Off-street parking and loading requirements. Off-street parking and loading spaces of sufficient number to provide for vehicles customarily associated with each building or use shall be provided in accordance with article IV of this Code.

309.6 Utility requirements. Water supply and sewage disposal plans shall be approved by the Town of Smithfield, the Johnston County Health Department, or appropriate state agency, as may be applicable, prior to the issuance of any land use permit within the airport district.

309.7 Storage of flammable substances. Within the airport district, all flammable liquids, gases, or other dangerous chemicals shall be stored underground to reduce the risk of hazard in the event of an airplane crash. Aboveground fuel tanks serving residential uses as permitted under this article shall be exempt from these provisions.

(Ord. No. 301, § 5, 9-5-95)

Section 310. - Downtown Overlay District (DOD).

310.1 Purpose. The primary purpose of the Downtown Overlay District is to create new opportunities for the development or expansion of properties that do not have B-1 (Business) zoning. The Downtown Overlay District will also provide additional development standards for properties with and without the B-1 (Business) zoning. Specific objectives of the Downtown Overlay District Include:

- A. Allow for residence within and in close proximity to the downtown.
- B. Maintain a mixture of land uses to keep downtown vital.
- C. Encourage zero lot line commercial development with parking lots to the side and rear.

310.2 Established boundaries. The boundaries of the Downtown Overlay District shall be the areas shown on the official zoning map.

310.3 Conflicts with other sections. Where there is a conflict between these Downtown Overlay District provisions and other sections of the Zoning Ordinance, these regulations (Section 310, through 310.7) shall govern development within the Downtown Overlay District.

310.4 Permitted uses. Permitted uses shall be governed by the underlying zoning district in accordance with Article III of this Code. Any other use, to include single-family dwellings, may be considered for a special use permit and site plan approval with a recommendation by the Planning Board and approved by the Town Council.

310.5 Building height and building setbacks Maximum building height and building setback standards shall be governed by the underlying zoning district in accordance with Article III of this Code. Proposed developments not meeting the building height and building setbacks of the underlying zoning district may be considered for a special use permit and site plan approval with a recommendation by the Planning Board and approved by the Town Council.

310.6 Lot size and dimensions. Minimum lot size, dimension and configuration standards shall be governed by the underlying zoning district in accordance with Article III of this Code. A reduction in minimum lot size and dimensions may be considered for a special use permit with recommendation by the Planning Board and approved by the Town Council when the applicant requests for simultaneous review and approval of a subdivision and associated site plan. All other subdivision requests shall be reviewed and approved in accordance with Appendix A, Subdivision Regulations.

310.7 Off-street parking and loading requirements. Off-street parking and loading spaces of sufficient number to provide for vehicles customarily associated with each building or use shall be provided in accordance with Article IV of this Code.

(Ord. No. 420, 10-4-05)