

# TOWN OF SMITHFIEL SUBDIVISION REGULATIONS

ADOPTED: June 2, 1986

AMENDMENTS: March 14, 1987; March 10, 1990; March 9, 1991;  
March 14, 1992; March 13, 1999, March 8, 2008, March 12, 2016

**A REGULATION DEFINING SUBDIVISION;** REQUIRING THE APPROVAL OF ANY SUBDIVISION BY THE PLANNING BOARD BEFORE WORK MAY BE COMMENCED; AND ESTABLISHING PROCEDURES THEREFORE: STATING THE CONTENTS REQUIRED IN THE PRELIMINARY AND FINAL SUBDIVISION PLANS AND ESTABLISHING MINIMUM STANDARDS FOR SUBDIVISION DESIGN AND CONSTRUCTION. THESE STANDARDS ARE CONCERNED WITH THE DESIGN OF NEW DEVELOPMENTS AS WELL AS STANDARDS FOR THOSE DEVELOPMENTS.

## SECTION 1. GENERAL

### 1. Authority:

These regulations have been prepared in accordance with the provisions of Title 30-A, M.R.S.A., Chapter 187, § 4401.

### 2. Validity and Severability:

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

### 3. Conflict with other Ordinances:

This Ordinance shall not repeal, annul or in anyway impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures the provisions of this Ordinance shall control.

## SECTION 2. SUBDIVISION DEFINED

The definition of Subdivision shall be the same as is found in Title 30-A, M.R.S.A. § 4401.

## SECTION 3. PURPOSE

The purpose of these regulations is to protect and preserve the public's health, safety, and general welfare; and to assist the Planning Board in equitable implementation of these regulations.

## SECTION 4. GENERAL REQUIREMENTS

Before granting approval of a subdivision, the Planning Board shall be satisfied that the following criteria have been met. The proposed subdivision:

1. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:
  - a. The elevation of land above sea level and its relations to flood plains.
  - b. The nature of soils and subsoil's and their ability to adequately support waste

disposal.

- c. The slope of the land and its effect on effluents.
- d. The availability of streams for disposal of effluents.
- e. The applicable State and Local Health and Water regulations.

2. Has sufficient water available for the reasonable foreseeable needs of the subdivision.
3. Will not cause an unreasonable burden on existing water supply if one is to be utilized.
4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
6. Will provide for adequate sewage disposal.
7. Will not cause an unreasonable burden on the ability of the local municipality to dispose of solid waste and sewage if municipal services are to be utilized.
8. Will not have an undue adverse effect on the scenic or natural beauty or the area, aesthetics, historic sites, or rare and irreplaceable natural areas.
9. Is consistent with the need to minimize flood damages.
10. Is in conformance with duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
11. The subdivider has adequate financial and technical capacity to meet the above standards.
12. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river, or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

## **SECTION 5. ADMINISTRATION**

The following administrative procedures are hereby established:

### **A. Subdivision Review and Approval Required:**

No person, firm, corporation or other legal entity may offer to sell or lease any land in a proposed subdivision as defined herein which has not been approved by the Planning Board in accordance with all of the regulations contained herein, nor shall such subdivisions be recorded in the county registry of deeds until such approval by the Planning Board is received.

### **B. Fees:**

All Subdivision applications shall be accompanied by an application fee, payable at the time of filing. The fee shall be sufficient to compensate the municipality for reasonable costs of processing the application. Fees shall be set, and may be amended, by the Board of Selectmen, and shall consist of a base fee, plus a variable fee based on the size or complexity of the development. The board shall hold a public hearing prior to setting or amending fee schedule.

### **C. Subdivision Development:**

No utility installations; no ditching, grading, or construction of roads; no grading of land or lots; and no construction of buildings shall be done on any part of the subdivision until a final Plan of such subdivision has been duly prepared, submitted, reviewed, approved, and

endorsed as provided in this Ordinance, nor until an attested copy of the Final Plan so approved and so endorsed has been duly recorded by the subdivider in the County Registry of Deeds.

**D. Public Hearing:**

In the event the Planning Board determines to hold a public hearing on an application for subdivision approval, it shall hold such hearing within 30 days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to the person making the application and to be published in a newspaper of general circulation in the municipality in which the subdivision is proposed to be located, at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

**E. Planning Board Action:**

The Planning Board shall within 30 days of a public hearing or within 60 days of receiving a completed application (or final plan), if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval upon such terms and conditions as it may deem advisable to satisfy any other regulations adopted by the Planning Board and to protect and preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the persons proposing the subdivision in issuing its decision; the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not conform to these regulations.

**SECTION 6. APPLICATION PROCEDURE**

Application for approval of a subdivision may include the submittal of a sketch plan and shall include the submittal of a preliminary plan and a final plan.

**A. Sketch Plan Submittal:**

The applicant is urged to present the Planning Board for formal review and comment, a sketch plan of the proposed subdivision. Such sketch plan would show in general terms the layout of lots and any streets or similar items.

**B. Preliminary Plan Submittal:**

A preliminary plan shall be submitted in triplicate by any applicant for subdivision approval. In addition to the preliminary plan, the Planning Board may require that the applicant or others carry out studies deemed necessary or desirable to protect and assure the health, safety and welfare of the citizens of the Town, including the future occupants of the subdivision, whether residential, commercial, or industrial. The Planning Board shall notify the applicant in writing of the vote of the Planning Board in regard to the preliminary plan.

The preliminary plan shall contain the following information:

1. Name and title of subdivision
2. Date and submittal to Planning Board
3. Boundaries of the tract and North point
4. Name of owner(s), engineer(s) or surveyor(s)
5. Name of all abutting property owners
6. Name and location of all existing streets or roads

7. Proposed location and means of sewage disposal and, if on-site sewage systems are to be utilized, evidence of soil suitability, published soils maps or soils tests by a qualified person
8. Lines and dimensions of all lots
9. Scale of Map (100 feet to the inch is desirable)
10. Right-of-way lines and width of proposed driving surface
11. Location of features, natural and man-made, on or abutting the proposed subdivision such as water bodies, streams, wooded areas, railroads, utilities (high lines, underground telephone lines, water and sewer lines, etc.) water courses, ledge within five feet of the surface, buildings, high water marks, flood information (such as flood plain soils, flood or record elevations, 100 year flood elevations, aerial photographs of flooding, and reports, studies and information so as to better plot flood contour elevations), and similar features.
12. Name, location, profile, and cross sections, radius of curves of all existing and proposed streets.
13. Kind, location, profile, and cross sections of all existing and proposed drainage structures.
14. Topographic map of the tract with a contour interval of five feet or other interval as may be specified by the Planning Board.

### C. Final Plan Submittal:

A final plan shall be submitted by all applicants for subdivision approval. The final plan submitted by the applicant shall consist of three prints and an inked original on cloth or similar materials, capable of reproduction, which shall contain:

1. Existing and final proposed lines of streets, ways, lots, easements, and public or common areas within the subdivision.
2. Sufficient data to determine the location, direction with calculated bearing, and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
3. Location of all permanent monuments properly identified as to whether existing or proposed.
4. The seal and signature of a registered surveyor.
5. Name of the subdivision, street names, and lot and block numbers.
6. The methods of sewage disposal authorized for each lot. A lot by lot soils suitability determination for on-site sewage disposal shall be made by a licensed soils scientist or other qualified person. This determination shall be based on the Maine State Plumbing Code for private sewage disposal. If alternate planned waste disposal systems are to be used, written approval from the Department of Health and Welfare, Division of Health Engineering and/or the Maine Department of Environmental Protection must be present.
7. Suitable space to record on the final plan approval by the Board with conditions, if any, and also the date of such approval as follows:  
APPROVED: Town of Smithfield Planning Board      SIGNED: (signed by five Planning Board Members)  
DATE and CONDITIONS (all conditions listed or referenced to documents on file with the Registry of Deeds in the County)

8. Evidence that the subdivider has filed a certified check or a performance bond to cover the full cost of the required improvements, with the municipal treasurer. Any such bond shall be satisfactory with the municipal officials and the municipal attorney as to form, efficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years), shall be set forth in the bond for the time within which required improvements must be completed. Before a subdivider may be released from any obligation required by his guarantee of performance, the Planning Board will require certification from the municipal officers based on a field inspection by a qualified technician to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and Municipal codes and ordinances.

## **SECTION 7. DESIGN AND CONSTRUCTION STANDARDS**

The following design and construction standard shall be followed in any subdivision:

### **A. Minimum Lot Size:**

Any lot within a subdivision in Smithfield must have at least 80,000 square feet and not less than 200 feet street or road frontage, with no lot line less than 200 feet, except as provided for in Subsection I, for Cluster Developments.

### **B. Minimum Standards for Street Design and Construction:**

1. Minor streets shall be designed to discourage through traffic.
2. Width of right-of-ways shall be a minimum of 50 feet with 66 feet desirable and the Planning Board may require additional width where the street may reasonably expect heavy usage.
3. The width of traveled ways shall be a minimum of two 10 foot traffic lanes plus 2 foot shoulders on each side and 2 to 1 foot slope to the ditch. The Planning Board may require that additional width be required for streets which will receive heavy usage.
4. The radius of center line curves shall be 100 feet at the minimum, with streets which will receive heavy usage up to 500 feet.
5. The angle of street intersections shall be as close to 90 degrees as possible; but in no case less than 60 degrees.
6. Street grades shall be a minimum of 0.5 percent, a maximum of 10 percent which may be varied by the Planning Board in certain cases. Grade at intersections shall be a maximum of 3 percent within 50 feet of the intersection.
7. Cul-de-sac and dead end streets shall have a maximum length of 800 feet with a minimum property line radius of 100 feet and a minimum turning radius of 50 feet at the closed end. Use of a T-shaped turn-around will be permitted as an alternative. In the latter case, the turnaround shall be at least 24 feet wide, 40 feet long and shall be located between 50 and 100 feet from the end of the street (all dimensions cited for the T-shaped turnaround are for the traveled way).
8. Construction of streets shall conform to the requirements of the Town of Smithfield Road Ordinance or shall meet the following minimum requirements:
  - a. 18 inches of road base bank gravel with no rocks larger than 8 inches shall be required.
  - b. 4 inches of upper base fine bank run gravel (with no stones larger than 2 inches)

shall be required.

- c. Road crown shall be at least 1/4 inch/one foot.
- d. Bituminous paving 3 inches thick (2 inch base, 1 inch surface) may be required.

\*All street construction shall conform to good engineering practices and be suitable for the intended usage of the street. The developer will notify the selectmen when the road is completed.

\*No street or road shall be constructed until the Board of Selectmen has been furnished with a bond; said bond shall be in the amount of \$6.00 per foot in length of said street or road with a minimum of \$6,000.00 regardless of length.

\*The Road Commissioner and Selectmen will periodically inspect the road during construction to insure that it meets Smithfield specifications. The bond will be released when the Road Commissioner and Selectmen determine that the road meets Smithfield specifications.

\*The acceptance of the road by the Selectmen releases the bond but does not establish the road as an accepted Smithfield Town Road; the Town must vote whether or not to officially accept the road (i.e., plowing, maintenance).

### **C. Easements and Open Space**

The Planning Board may require easements for sewage, drainage, and other utilities and may require the reservation of open space for recreation, school site, and drainage. Such open space may be required to be landscaped with trees and ground cover.

### **D. Public Utilities and Facilities**

All public utility and facility companies must approve all proposed connections to the subdivision in regard to line size, hydrants, connections, etc. All public utilities and facilities, such as sewer, gas, electrical, must be constructed so as to minimize or eliminate flood damage. All new or replacement water supply systems and/or sanitary systems shall be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utility and facility installations must conform to State and Municipal regulations codes and ordinances.

### **E. On-Site Waste Disposal**

All on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during flooding. All on-site disposal systems shall conform to all appropriate State and Municipal regulations, codes, and ordinances.

### **F. Surface Water Drainage**

The Planning Board may require the installation of ditches, catch basins, piping systems, and other appurtenances for the conveyance, control, or dispersal of surface waters. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

### **G. Markers and Monuments**

All permanent markers and monuments shall be placed in the locations specified on the final subdivision plan prior to the sale of any lot in the subdivision.

## **H. Expert Assistance**

The Planning Board may request assistance from any State, regional or local agency to ensure compliance with these standards.

## **I. Cluster Development**

### **1. Purpose**

The purpose of this section is to promote flexibility in the design of housing developments to allow for the creation of open space, recreational opportunities, or protection of important natural features.

### **2. Flexibility in Dimensional Standards**

- a. Notwithstanding provisions of this ordinance relating to dimensional requirements, the Board may modify said provisions to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. The Board may allow lots within subdivisions to be reduced in area and frontage below the minimum normally required in return for open space where the Board determines that the design will decrease development costs, increase recreational opportunities and diminish the impact of the loss to open space and natural features. This shall not be construed as granting variances.
- b. The Board may allow for a reduction in minimum lot size to no less than 40,000 square feet for detached single-family units and duplexes, and 20,000 square feet per unit in multi-family structures. An overall density of 80,000 square feet per residential unit, exclusively of land for rights-of-way for streets and utilities, shall be maintained. The minimum required road frontage may be reduced to 150 feet per lot on public roads, or 100 feet per lot on private roads.

### **3. Special Application Requirements.**

- a. A sketch plan shall be submitted showing the Clustered Development Design and indicating open space and significant natural features to be preserved. Included with the sketch plan must be a calculation showing: 1) gross acreage of the parcel to be developed, 2) amount to be deducted for road and other rights-of-way, 3) number of housing units permitted to be developed (divide by 80,000), and 4) actual acreage to be developed and preserved.
- b. The preliminary plan shall include delineation of land to be designated as open space and lot or lots to be developed, together with actual area calculations for each.
- c. The preliminary plan shall be accompanied by a description of open space, including the amount of open space unusable for recreation on account of steepness or wetness, any improvements proposed (including, but not limited to trails and playground equipment), and proposed ownership of the open space. If ownership of the open space is through a lot owner's association, a sample of legal documents necessary shall be submitted.
- d. Each building or building site shall be shown on the preliminary plan. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads,

service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this ordinance.

**4. Requirements for Developed Lots within a Clustered Development:**

- a. Developed area shall meet all requirements of this ordinance except the dimensional requirements as presented to the Board.
- b. No building shall be sited on slopes steeper than 25%, within 200 feet of the high-water mark of East Pond or North Pond, or within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
- c. The distance between buildings shall not be less than 20 feet.
- d. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

**5. Requirements for Open Space within a Clustered Development**

- a. No less than 30% of the reserved open space shall be usable for public recreation. The sub divider shall specify at time of application whether the open space will be accessible to the general public.
- b. The open space shall be easily accessible from a public or private way or be contiguous to every newly-created lot. In no case will a lot be located more than 1,000 feet from the access to reserved open space.
- c. The sub divider shall definitely establish who will own the open space following development. The open space may be owned by an individual, dedicated to the Town, or to a separate association dedicated to its preservation. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement properly executed prohibiting future development.
- d. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the open space.
- e. Where a Clustered Development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the open space.

**J. Common Property and Facilities**

- 1. All common property and facilities, including but not limited to open space, community buildings, roads, and utilities, shall be placed under the management of an entity qualified and responsible for its use and maintenance. Where a lot owner's association will be formed, the Articles of Incorporation, Bylaws, and Covenants shall, in combination, provide for the following:



- a. The association shall have responsibility for maintaining the common property or facilities.
- b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
- c. Membership in the association is mandatory for owners of land within its jurisdictional area. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- d. The sub divider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the sub divider.

### **SECTION 8. ENFORCEMENT**

Any person, firm, corporation or other legal entity who sells, leases or conveys for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1000 for each sale, lease or conveyance for consideration, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.

### **SECTION 9. VARIANCE**

Where the Planning Board finds that extraordinary and unnecessary hardships may result from the strict compliance with these standards or where there are special circumstances of a particular plan, it may vary these standards so that substantial justice may be done and the public interest secure; provided that such variance will not have the effect of nullifying the intent and purpose of these standards.

### **SECTION 10. RESUBDIVISION**

After approval of a plan plat by the Planning Board, any additional division of land within or contiguous to that plat or any change to lots or privately owned right-of-way created by the subdivision shall be classified as a subdivision and shall be subject to the full requirements of these regulations for review and approval.

### **SECTION 11. EFFECTIVE DATE**

The effective date of this Ordinance is the date of adoption by Town Vote.