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PUBLIC NOTICE
TOWN OF CHARLESTOWN

Notice is hereby given that the Town Council of the Town of Charlestown will conduct a public hearing, open to the public, on the 9th day of September, 2013 at 7:00 p.m. at the Charlestown Town Hall, 4540 South County Trail on a proposed new ordinance to the Code of Ordinances. Opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. The proposed new ordinance is under consideration and may be adopted and/or altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing. The proposed new ordinance is available for review and/or purchase at the Town Clerk's Office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding Holidays.

Proposed ORDINANCE NO. 358

AN ORDINANCE AMENDING CHAPTER 117, FLOOD DAMAGE PROTECTION

Note: Words set in underline print are to be **added** to the ordinance. Words not in underline print represent existing ordinance.

Section 1. The Town Council of the Town of Charlestown hereby ordains that Chapter 117 of the Code of Ordinances, Town of Charlestown entitled Flood Damage Protection, is hereby amended as follows:

See Exhibit A

Attached Hereto and Incorporated As If Set Forth Herein In Its Entirety

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to Chapter 117 of the Town of Charlestown's Code of Ordinances.

Section 3. This ordinance shall take effect immediately upon passage.

Attested To By:

Passed By Town Council On:

Amy Rose Weinreich, Town Clerk

Advertised in the Westerly Sun: September 2, 2013

~~Article I Special Flood Hazard Areas~~

~~§ 117-1 Statement of Purpose.~~

~~§ 117-2 Applicability.~~

~~§ 117-3 Definitions.~~

~~§ 117-4 Administrative Provisions.~~

~~§ 117-5 Notification of Water Course Alteration.~~

~~§ 117-6 Use Regulations.~~

~~Article I: Special Flood Hazard Areas~~

~~[Adopted 8-10-2010 by Ord. No. 329 *Editor's Note: This ordinance also repealed former Ch. 117, Flood Damage Prevention, which consisted of Art. I, Trailers and Trailer Parks, adopted 5-12-1986 as Ch. 147, as amended, and Art. II, General Provisions, adopted 1-18-1974, as amended.*]~~

~~§ 117-1 Statement of Purpose.~~

~~The purpose of this ordinance is to ensure public safety; minimize hazards to persons and property from flooding, to protect watercourses from encroachment, and to maintain the capability of floodplains to retain and carry off floodwaters. The Town of Charlestown elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). *Editor's Note: See 42 U.S.C. § 4001 et seq.*~~

~~§ 117-2 Applicability.~~

~~The Special Flood Hazard Areas are herein established as a floodplain overlay district. The District includes all special flood hazard areas within The Town of Charlestown designated as Zone A, AE, or VE on the Washington County Flood Insurance Rate Map (FIRM) and Digital FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Washington County FIRM that are wholly or partially within the Town of Charlestown are panel numbers 44009C0158H, 44009C0159H, 44009C0161H, 44009C0162H, 44009C0163H, 44009C0164H, 44009C0166H, 44009C0167H, 44009C0068H, 44009C0169H, 44009C0178H, 44009C0186H, 44009C0188H, 44009C0276H, 44009C0277H, 44009C0278H, 44009C0279H, 44009C0281H, 44009C0282H, 44009C0283H, 44009C0301H dated October 19, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Washington County Flood Insurance Study (FIS) report dated October 19, 2010. The FIRM and FIS report and any revisions thereto are incorporated herein by reference and are on file with the Town Clerk, Planning Department, and Building Official.~~

~~§ 117-3 Definitions.~~

~~Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain management, have the same meaning as they have in common usage and to give this ordinance its most reasonable application.~~

1 ~~ACCESSORY STRUCTURE~~
2 ~~A structure which is on the same parcel of property as the principal structure to be insured and~~
3 ~~the use of which is incidental to the use of the principal structure.~~
4

5 ~~AREA OF SPECIAL FLOOD HAZARD~~
6 ~~see definition for "Special Flood Hazard Area."~~
7

8 ~~BASE FLOOD~~
9 ~~The flood having a one (1) percent chance of being equaled or exceeded in any given year, also~~
10 ~~referred to as the one hundred (100) year flood, as published by the Federal Emergency~~
11 ~~Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood~~
12 ~~Insurance Rate Map (FIRM).~~
13

14 ~~BASE FLOOD ELEVATION (BFE)~~
15 ~~The elevation of the crest of the base flood or 100-year flood. The height, as established in~~
16 ~~relation to the North American Vertical Datum (NAVD) of 1988 (or other datum where~~
17 ~~specified), in relation to mean sea level expected to be reached by the waters of the base flood at~~
18 ~~pertinent points in the floodplains of coastal and riverine areas.~~
19

20 ~~BASEMENT~~
21 ~~Any area of the building having its floor subgrade (below ground level) on all sides.~~
22

23 ~~BUILDING~~
24 ~~see definition for "Structure."~~
25

26 ~~COST~~
27 ~~As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition,~~
28 ~~alteration, repair or other improvement of a structure shall be established by a detailed written~~
29 ~~contractor's estimate. The estimate shall include, but not be limited to: the cost of materials~~
30 ~~(interior finishing elements, structural elements, utility and service equipment); sales tax on~~
31 ~~materials, building equipment and fixtures, including heating and air conditioning and utility~~
32 ~~meters; labor; built in appliances; demolition and site preparation; repairs made to damaged parts~~
33 ~~of the building worked on at the same time; contractor's overhead; contractor's profit; and grand~~
34 ~~total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees,~~
35 ~~costs to correct code violations subsequent to a violation notice, outside improvements such as~~
36 ~~septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation~~
37 ~~systems, and detached structures such as garages, sheds, and gazebos.~~
38

39 ~~DEVELOPMENT~~
40 ~~Any man-made change to improved or unimproved real estate, including but not limited to the~~
41 ~~construction of buildings or structures; the construction of additions, alterations or substantial~~
42 ~~improvements to buildings or structures; the placement of buildings or structures; mining,~~
43 ~~dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the~~
44 ~~storage, deposition, or extraction of materials; and the installation, repair or removal of public or~~
45 ~~private sewage disposal systems or water supply facilities.~~
46

1 ~~FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)~~

2 ~~The federal agency that administers the National Flood Insurance Program (NFIP).~~

4 ~~FLOOD INSURANCE RATE MAP (FIRM)~~

5 ~~The official map of a community on which the Federal Emergency Management Agency~~
6 ~~(FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the~~
7 ~~insurance risk premium zones applicable to a community. FIRM published after January 1990~~
8 ~~may also show the limits of the regulatory floodway.~~

10 ~~FLOOD INSURANCE STUDY (FIS)~~

11 ~~The official study of a community in which the Federal Emergency Management Agency~~
12 ~~(FEMA) has conducted a technical engineering evaluation and determination of local flood~~
13 ~~hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM),~~
14 ~~which accompany the FIS, provide both flood insurance rate zones and base flood elevations,~~
15 ~~and may provide the regulatory floodway limits.~~

17 ~~FLOOD or FLOODING~~

18 ~~A general and temporary condition of partial or complete inundation of normally dry land areas~~
19 ~~from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or~~
20 ~~runoff of surface waters from any source.~~

22 ~~FLOOD PROOFING~~

23 ~~Any combination of structural and non-structural additions, changes, or adjustments to structures~~
24 ~~which reduce or eliminate flood damage to real estate or improved real property, water and~~
25 ~~sanitary facilities, structures and their contents.~~

27 ~~FLOODWAY~~

28 ~~The channel of a river or other watercourse and the adjacent land areas that must be reserved in~~
29 ~~order to discharge the base flood without cumulatively increasing the water surface elevation~~
30 ~~more than one (1) foot. For the purposes of these regulations, the term "Regulatory Floodway" is~~
31 ~~synonymous in meaning with the term "Floodway."~~

33 ~~FUNCTIONALLY DEPENDENT USE or FACILITY~~

34 ~~A use or facility that cannot perform its intended purpose unless it is located or carried out in~~
35 ~~close proximity to water. The term includes only docking facilities, port facilities that are~~
36 ~~necessary for the loading and unloading of cargo or passengers, and ship building and ship repair~~
37 ~~facilities. The term does not include seafood processing facilities, long-term storage,~~
38 ~~manufacturing, sales or service facilities.~~

40 ~~HIGHEST ADJACENT GRADE (HAG)~~

41 ~~The highest natural elevation of the ground surface prior to construction next to the proposed~~
42 ~~walls of a structure.~~

44 ~~HISTORIC STRUCTURE~~

45 ~~Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing~~
46 ~~maintained by the Department of the Interior) or preliminarily determined by the Secretary of the~~

1 Interior as meeting the requirements for individual listing on the National Register; (b) Certified
2 or preliminarily determined by the Secretary of the Interior as contributing to the historic
3 significance of a registered historic district or a district preliminarily determined by the Secretary
4 to qualify as a registered historic district; (c) Individually listed on a state inventory of historic
5 places in states with historic preservation programs which have been approved by the Secretary
6 of the Interior; or (d) Individually listed on a local inventory of historic places in communities
7 with historic preservation programs that have been certified either: (1) By an approved state
8 program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the
9 Interior in states without approved programs.

10
11 **LOWEST FLOOR**

12 The lowest floor of the lowest enclosed area (including basement).
13

14 **MARKET VALUE**

15 Market value is the price of a structure that a willing buyer and seller agree upon. This can be
16 determined by an independent appraisal by a professional appraiser; the property's tax
17 assessment, minus land value; the replacement cost minus depreciation of the structure; the
18 structure's Actual Cash Value.
19

20 **MOBILE HOME**

21 (Prohibited in Zoning Sec. 82-302, Table 3-1) A transportable, single-family dwelling unit
22 suitable for year-round occupancy with or without a permanent foundation, and having a water
23 supply and waste disposal system comparable to immobile housing. A mobile home is designed
24 to be transported on streets and highways on its own wheels and to arrive at the site where it is to
25 be occupied as a dwelling unit complete and ready for occupancy, except for minor and
26 incidental unpacking and assembly operations, location on racks or permanent foundations, and
27 connection to utilities and water supply and waste disposal systems. Removal of wheels and/or
28 axles shall not change its status as a mobile home.
29

30 **NEW CONSTRUCTION**

31 Structures for which the "start of construction" commenced on or after the effective date of an
32 initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent
33 improvements to such structures. For floodplain management purposes, new construction means
34 structures for which the start of construction commenced on or after the effective date of a
35 floodplain management regulation adopted by a community and includes any subsequent
36 improvements to such structures.
37

38 **RECREATIONAL VEHICLE**

39 A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when
40 measured at the largest horizontal projection; (c) designed to be self-propelled or permanently
41 towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but
42 as a temporary living quarters for recreational, camping, travel, or seasonal use.
43

44 **REGULATORY FLOODWAY**

45 see definition for "Floodway."
46

1 SPECIAL FLOOD HAZARD AREA (SFHA)

2 The land in the floodplain within a community subject to a one (1) percent or greater chance of
3 flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE)
4 provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs
5 provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and
6 should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but
7 are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH, and the Coastal
8 High Hazard Areas shown as Zones V, V1-30, and VE on a FIRM. The SFHA is also called the
9 Area of Special Flood Hazard.

10
11 START OF CONSTRUCTION

12 For other than new construction or substantial improvements under the Coastal Barrier
13 Resources Act (P.L. 97-348), *Editor's Note: See 16 U.S.C. § 3501 et seq.* includes substantial
14 improvement and means the date the building permit was issued, provided the actual start of
15 construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement
16 or other improvement was within one hundred and eighty (180) days of the permit date. The
17 actual start means either the first placement of permanent construction of a structure on a site,
18 such as the pouring of slab or footings, the installation of piles, the construction of columns, or
19 any work beyond the stage of excavation, or the placement of a manufactured home on a
20 foundation. Permanent construction does not include land preparation, such as clearing, grading
21 and filling; nor does it include the installation of streets and/or walkways; nor does it include
22 excavation for a basement, footings, piers, or foundations or the erections of temporary forms;
23 nor does it include the installation on the property of accessory buildings, such as garages or
24 sheds not occupied as dwelling units or not part of the main structure. For a substantial
25 improvement, the actual start of construction means the first alteration of any wall, ceiling, floor,
26 or other structural part of a building, whether or not that alteration affects the external
27 dimensions of the building.

28
29 STRUCTURE

30 A walled and roofed building which is principally above ground, including a manufactured
31 home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

32
33 SUBSTANTIAL DAMAGE

34 Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its
35 pre-damaged condition would equal or exceed 50 percent of the market value of the structure
36 before the damage occurred.

37
38 SUBSTANTIAL IMPROVEMENT

39 Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other
40 improvements to a structure, taking place within any twelve (12) month period, in which the
41 cumulative cost equals or exceeds fifty (50) percent of the market value of the structure (§ 23-
42 27.3-106.1). This term includes structures that have incurred "substantial damage," regardless of
43 the actual repair work performed. For purposes of this definition, "substantial improvement" is
44 considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of
45 the building commences, whether or not that alteration affects the external dimensions of the
46 structure. The term does not, however, include either: (1) Any project for improvement of a

1 structure to correct existing violations of state or local health, sanitary, or safety code
2 specifications which have been identified by the local code enforcement official and which are
3 the minimum necessary to assure safe living conditions; or (2) Any alteration of an "historic
4 structure," provided that the alteration will not preclude the structure's continued designation as
5 an "historic structure."
6

7 VARIANCE

8 A grant of relief by a community from the terms of the floodplain management ordinance that
9 allows construction in a manner otherwise prohibited and where specific enforcement would
10 result in unnecessary hardship.
11

12 VIOLATION

13 Failure of a structure or other development to be fully compliant with the community's
14 floodplain management ordinance. A structure or other development without required permits,
15 lowest floor elevation documentation, flood-proofing certificates or required floodway
16 encroachment calculations is presumed to be in violation until such time as that documentation is
17 provided.
18

19 § 117-4 Administrative Provisions.

20 A. Use Permit. All proposed construction or other development within a Special Flood Hazard
21 Area shall require a permit.

22 (1) If the construction or other development within a Special Flood Hazard Area is not covered
23 by a building or other approved permit application, a flood hazard development permit shall be
24 required. The application for a flood hazard development permit shall be submitted to the
25 Building Official and shall include:

26 (a) The name and address of the applicant;

27 (b) An address or a map indicating the location of the construction site;

28 (c) A site plan showing location of existing and proposed structures, sewage disposal facilities,
29 water supply facilities, areas to be cut and filled, and the dimensions of the lot;

30 (d) A statement of the intended use of the structure;

31 (e) A statement as to the type of sewage system proposed;

32 (f) Specification of dimensions of the proposed structures;

33 (g) The specific datum used for all elevations;

34 (h) The elevation (in relation to mean sea level) of the lowest floor, including basement, and if
35 the lowest floor is below grade on one or more sides, the elevation of the floor immediately
36 above;

37 (i) Base flood elevation data for all new, relocated or substantially improved structures;

38 (j) The elevation (in relation to mean sea level) to which the structure will be floodproofed;

39 (k) The description of the extent to which any watercourse will be altered or relocated as a result
40 of the proposed development.

41 (2) Prior to the issuance of a building or development permit, the applicant shall submit evidence
42 that all necessary permits and approvals have been received from all government agencies from
43 which approval is required by federal or state law.

44 (3) A permit fee (based on the cost of the construction) may be required to be paid to the Town
45 of Charlestown and a copy of a receipt for the same shall accompany the application. An

1 additional fee may be charged if the code enforcement officer and/or board of appeals needs the
2 assistance of a professional engineer.

3 ~~B. Disclaimer of Liability. The degree of flood protection required by the ordinance is
4 considered reasonable but does not imply total flood protection.~~

5 ~~C. Severability. If any section, provision, or portion of this ordinance is adjudged
6 unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.~~

7 ~~D. Abrogation and Greater Restriction. This ordinance shall not in any way impair/remove the
8 necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this
9 ordinance imposes a greater restriction, the provisions of this ordinance shall control.~~

10 ~~§ 117-5 Notification of Water Course Alteration.~~

11 ~~A. In a riverine situation, The Building Official shall notify the following of any alteration or
12 relocation of a watercourse:~~

(1) ~~Adjacent Communities—Westerly, Hopkington, Richmond and South Kingstown~~

(2) ~~NFIP State Coordinator~~

~~Rhode Island Emergency Management Agency~~

~~645 New London Avenue~~

~~Cranston, RI 02920~~

(3) ~~NFIP Program Specialist~~

~~Federal Emergency Management Agency, Region I~~

~~99 High Street, 6th Floor~~

~~Boston, MA 02110~~

15 ~~B. The carrying capacity of the altered or relocated watercourse shall be maintained.~~

16 ~~§ 117-6 Use Regulations.~~

17 ~~A. Reference To Existing Regulations~~

18 ~~(1) The Special Flood Hazard Areas are established as a floodplain overlay district. All
19 development in the district, including structural and non-structural activities, whether permitted
20 by right or by special permit must be in compliance with the following:~~

21 ~~(a) Rhode Island State Building Code (Rhode Island General Laws § 23-27.3);~~

22 ~~(b) Coastal Resources Management Program, Coastal Resource Management Council (RIGL
23 § 46-23)~~

24 ~~(c) Freshwater Wetlands Act, Department of Environmental Management (RIGL § 46-23-6)~~

25 ~~(d) Minimum Standards Related to Individual Sewage Disposal Systems, Department of
26 Environmental Management (RIGL § 46-12)~~

27 ~~(2) Any variances from the provisions and requirements of the above referenced state regulations
28 may only be granted in accordance with the required variance procedures of these state
29 regulations.~~

30

1 B. Other Use Regulations

2 ~~(1) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on~~
3 ~~the Town of Charlestown FIRM or Flood Boundary & Floodway Map encroachments are~~
4 ~~prohibited in the regulatory floodway which would result in any increase in flood levels within~~
5 ~~the community during the occurrence of the base flood discharge.~~

6 ~~(2) All subdivision proposals must be designed to assure that:~~

7 ~~(a) such proposals minimize flood damage;~~

8 ~~(b) all public utilities and facilities are located and constructed to minimize or eliminate flood~~
9 ~~damage; and~~

10 ~~(c) adequate drainage is provided to reduce exposure to flood hazards.~~

11 ~~(3) Detached accessory structures in Zones A, AE, A1-30, AO, and AH (i.e., garages, sheds) do~~
12 ~~not have to meet the elevation or dry flood-proofing requirement if the following standards are~~
13 ~~met:~~

14 ~~(a) The structure is no more than 100 square feet in size and has a value less than \$1,000.~~

15 ~~(b) The structure has unfinished interiors and must not be used for human habitation. An~~
16 ~~apartment, office or other finished space over a detached garage is considered human habitation~~
17 ~~and would require the structure to be elevated.~~

18 ~~(c) The structure is used solely for parking of vehicles and/or limited storage.~~

19 ~~(d) The accessory must be wet floodproofed and designed to allow for the automatic entry and~~
20 ~~exit of flood water.~~

21 ~~(e) The accessory structure shall be firmly anchored to prevent flotation, collapse and lateral~~
22 ~~movement.~~

23 ~~(f) Service facilities such as electrical, mechanical and heating equipment must be elevated or~~
24 ~~floodproofed to or above the base flood elevation.~~

25 ~~(g) The structure must not increase the flood levels in the floodway.~~

26 ~~(4) Existing contour intervals of site and elevations of existing structures must be included on~~
27 ~~plan proposal.~~

28 C. Base Flood Elevation And Floodway Data

29 ~~(1) Floodway Data. In Zones A, A1-30, and AE, along watercourses that have not had a~~
30 ~~regulatory floodway designated, the best available Federal, State, local, or other floodway data~~
31 ~~shall be used to prohibit encroachments in floodways which would result in any increase in flood~~
32 ~~levels within the community during the occurrence of the base flood discharge.~~

33 ~~(2) Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or~~
34 ~~other developments greater than fifty (50) lots or 5 acres, whichever is the lesser, within~~
35 ~~unnumbered A zones.~~

36 ~~(3) Base Flood Elevations in A Zones. In the absence of FEMA BFE data and floodway data, the~~
37 ~~best available Federal, State, local, or other BFE or floodway data shall be used as the basis for~~
38 ~~elevating residential and non-residential structures to or above the base flood level and for flood-~~
39 ~~proofing non-residential structures to or above the base flood level.~~

40

41

1 **Special Flood Hazard Areas**

2
3 **117.1 Article I. Statement of Purpose**

4 **117.2 Article II. Applicability**

5 **117.3 Article III. Notification of Watercourse Alteration**

6 **117.4 Article IV. Use Regulations**

7 **117.5 Article V. Definitions**

8
9 **117.1 ARTICLE I. STATEMENT OF PURPOSE**

10 The purpose of this ordinance is to ensure public safety; minimize hazards to persons and
11 property from flooding, to protect watercourses from encroachment, and to maintain the
12 capability of floodplains to retain and carry off floodwaters. The Town of Charlestown elects to
13 comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as
14 amended).

15
16 **117.2 ARTICLE II. APPLICABILITY**

17
18 **SECTION A. Special Flood Hazard**

19 The Special Flood Hazard Areas are herein established as a floodplain overlay district. The
20 District includes all special flood hazard areas within the Town of Charlestown designated as
21 Zone A, AE, or VE on the Washington County Flood Insurance Rate Map (FIRM) and Digital
22 FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of
23 the National Flood Insurance Program. The map panels of the Washington County FIRM that
24 are wholly or partially within the Town of Charlestown are panel numbers 44009C0158H,
25 44009C0159H, 44009C0161H, 44009C0162H, 44009C0163H, 44009C0164H, 44009C0166H,
26 44009C0167H, 44009C0178H, 44009C0186H dated October 19, 2010; and 44009C0168J,
27 44009C0169J, 44009C0188J, 44009C0276J, 44009C0277J, 44009C0278J,
28 44009C0279J,44009C0281J, 44009C0282J, 44009C0283J and 44009C0301J dated October 16,
29 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations
30 shown on the FIRM and further defined by the Washington County Flood Insurance Study (FIS)
31 report dated October 16, 2013. The Building Department is responsible for floodplain
32 management. The FIRM and FIS report and any revisions thereto are incorporated herein by
33 reference and are on file with the Building Official.

34
35 **SECTION B. ADMINISTRATIVE PROVISIONS**

36 **Building Permit.** All proposed construction or other development within a Special Flood Hazard
37 Area shall require a permit.

38 The National Flood Insurance Program Special Flood Hazard Area requires permits for all
39 projects that meet the definition of development, not just “building” projects. Development
40 projects include any filling, grading, excavation, mining, drilling, storage of materials, temporary
41 stream crossings. If the construction or other development within a Special Flood Hazard Area is
42 not covered by a building permit, all other non-structural activities shall be permitted by either
43 the Rhode Island Coastal Resources Management Council and/or the Rhode Island Department
44 of Environmental Management as applicable. Therefore if another State agency issues a permit,

1 the local building official must have the opportunity for input and keep a copy of the respective
2 permit in their files.

3
4 Prior to the issuance of a building or development permit, the applicant shall submit evidence
5 that all necessary permits and approvals have been received from all government agencies from
6 which approval is required by federal or state law.

7 A permit fee (based on the cost of the construction) may be required to be paid to the Town of
8 Charlestown and a copy of a receipt for the same shall accompany the application. An additional
9 fee may be charged if the code enforcement officer and/or board of appeals needs the assistance
10 of a professional engineer.

11 **Disclaimer of Liability.** The degree of flood protection required by the ordinance is considered
12 reasonable but does not imply total flood protection.

13 **Severability.** If any section, provision, or portion of this ordinance is adjudged unconstitutional
14 or invalid by a court, the remainder of the ordinance shall not be affected.

15 **Abrogation and Greater Restriction.** This ordinance shall not in any way impair/remove the
16 necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this
17 ordinance imposes a greater restriction, the provisions of this ordinance shall control.

18 **Enforcement.** The building official shall enforce all provisions as applicable in reference to
19 RIGL § 23-27.3-108.1.

20 **Penalties.** Every person who shall violate any provision of this code shall be subject to penalties
21 put forth in RIGL § 23-27.3-122.3.

22 **117.3 ARTICLE III. NOTIFICATION OF WATERCOURSE**

23 **ALTERATION**

24 In a riverine situation, the Building Official shall notify the following of any alteration or
25 relocation of a watercourse:

- 26
- 27 ▪ Adjacent Communities
- 28
- 29 ▪ Bordering States (optional)
- 30
- 31 ▪ NFIP State Coordinator
- 32 Rhode Island Emergency Management Agency
- 33 645 New London Avenue
- 34 Cranston, RI 02920
- 35
- 36 ▪ Risk Analysis Branch
- 37 Federal Emergency Management Agency, Region I
- 38 99 High Street, 6th Floor
- 39 Boston, MA 02110
- 40

1 The carrying capacity of the altered or relocated watercourse shall be maintained.

2 3 **117.4 ARTICLE IV. USE REGULATIONS**

4 5 **SECTION A. REFERENCE TO EXISTING REGULATIONS**

6 The Special Flood Hazard Areas are established as a floodplain overlay district. All
7 development in the district, including structural and non-structural activities, whether permitted
8 by right or by special permit must be in compliance with the following:

- 9
- 10 - Rhode Island State Building Code (As established under Rhode Island General
11 Law § 23-27.3);
 - 12 - Coastal Resources Management Act, Rhode Island Coastal Resources Management
13 Council (RIGL § 46-23)
 - 14 - Endangered Species Act, Rhode Island Department of Environmental Management
15 (RIGL § 20-1-2)
 - 16 - Freshwater Wetlands Act, Rhode Island Department of Environmental
17 Management (RIGL § 2-1-18)
 - 18 - Minimum Standards Related to Individual Sewage Disposal Systems, Rhode Island
19 Department of Environmental Management (RIGL §, 5-56, 5-56.1, 23-19.15, 23-19.5,
20 23-24.3, 42-17.1, and 46-13.2)
 - 21 - Water Quality Regulations, Rhode Island Department of Environmental
22 Management (RIGL§ 42-17.1 and 42-17.6 and 46-12)

23

24 Any variances from the provisions and requirements of the above referenced state regulations
25 may only be granted in accordance with the required variance procedures of these state
26 regulations.

27 28 **SECTION B. OTHER USE REGULATIONS**

29 In Zone AE, along watercourses that have a regulatory floodway designated on the Washington
30 County FIRM encroachments are prohibited in the regulatory floodway which would result in
31 any increase in flood levels within the community during the occurrence of the base flood
32 discharge.

- 33
- 34 1) All subdivision proposals must be designed to assure that:
 - 35 a.) such proposals minimize flood damage;
 - 36 b.) all public utilities and facilities are located and constructed to minimize or
37 eliminate flood damage; and
 - 38 c.) adequate drainage is provided to reduce exposure to flood hazards.
 - 39
 - 40 2) Detached accessory structures in Zones A and AE (i.e., garages, sheds) do not have
41 to meet the elevation or dry flood-proofing requirement if the following standards are
42 met:
 - 43 a.) The structure has a value less than \$1000.
 - 44 b.) The structure has unfinished interiors and must not be used for human habitation.
45 An apartment, office or other finished space over a detached garage is considered
46 human habitation and would require the structure to be elevated.

- 1 c.) The structure is not in the floodway.
2 d.) The structure is not used for storage of hazardous materials.
3 e.) The structure is used solely for parking of vehicles and/or limited storage.
4 f.) The accessory must be wet floodproofed and designed to allow for the automatic
5 entry and exit of flood water.
6 g.) The accessory structure shall be firmly anchored to prevent flotation, collapse
7 and lateral movement.
8 h.) Service facilities such as electrical, mechanical and heating equipment must be
9 elevated or floodproofed to or above the base flood elevation.
10 i.) The structure must not increase the flood levels in the floodway.
11
12 3) Existing contour intervals of site and elevations of existing structures must be
13 included on plan proposal.
14
15 4) No person shall change from business/commercial to residential use of any structure or
16 property located in the floodway of a Special Flood Hazard Area so as to result in a use
17 or expansion that could increase the risk to the occupants.
18
19 5) The space below the lowest floor:
20 a.) Free of obstructions as described in FEMA Technical Bulletin 5 “Free of Obstruction
21 Requirements for Buildings Located in Coastal High Hazard Area in Accordance
22 with the National Flood Insurance Program”, or
23 b.) Constructed with open wood lattice-work, or insect screening intended to collapse
24 under wind and water without causing collapse, displacement, or other structural
25 damage to the elevated portion of the building or supporting piles or columns; or,
26 c.) Designed with an enclosed area less than 300 square feet that is constructed with non-
27 supporting breakaway walls that have a design safe loading resistance of not less than
28 10 or more than 20 pounds per square foot.
29

30 **SECTION C. BASE FLOOD ELEVATION AND FLOODWAY DATA**

- 31
32 1) **Floodway Data.** In Zones A and AE, along watercourses that have not had a regulatory
33 floodway designated, the best available Federal, State, local, or other floodway data shall
34 be used to prohibit encroachments in floodways which would result in any increase in
35 flood levels within the community during the occurrence of the base flood discharge.
36
37 2) **Base Flood Elevation Data.** Base flood elevation data is required for subdivision
38 proposals or other developments greater than fifty (50) lots or 5 acres, whichever is the
39 lesser, within unnumbered A zones.
40
41 3) **Base Flood Elevations in A Zones.** In the absence of FEMA BFE data and floodway
42 data, the best available Federal, State, local, or other BFE or floodway data shall be used
43 as the basis for elevating residential and non-residential structures to or above the base
44 flood level and for floodproofing non-residential structures to or above the base flood
45 level.
46

1 **117.5 ARTICLE V. DEFINITIONS**

2 Unless specifically defined below, words and phrases used in this ordinance pertain to floodplain
3 management, have the same meaning as they have in common usage and to give this ordinance
4 it's most reasonable application.

5
6 **Accessory Structure** – A structure which is on the same parcel of property as the principal
7 structure to be insured and the use of which is incidental to the use of the principal structure.

8
9 **Area of Special Flood Hazard** – see definition for “Special Flood Hazard Area”.

10
11 **Base Flood** – The flood having a one (1) percent chance of being equaled or exceeded in any
12 given year.

13
14 **Base Flood Elevation (BFE)** – The elevation of the crest of the base flood or 100-year flood.
15 The height, as established in relation to the North American Vertical Datum (NAVD) of 1988 (or
16 other datum where specified), in relation to mean sea level expected to be reached by the waters
17 of the base flood at pertinent points in the floodplains of coastal and riverine areas.

18
19 **Basement** – Any area of a building having its floor subgrade (below ground level) on all sides.

20
21 **Building** – see definition for “Structure”.

22
23 **Coastal A Zone** – Area within a special flood hazard area, landward of a V Zone or landward of
24 an open coast without mapped V Zones. The principal source of flooding must be astronomical
25 tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions,
26 the potential for breaking wave heights shall be greater than or equal to 1.5 feet.

27
28 **Cost** – As related to substantial improvements, the cost of any reconstruction, rehabilitation,
29 addition, alteration, repair or other improvement of a structure shall be established by a detailed
30 written contractor’s estimate. The estimate shall include, but not be limited to: the cost of
31 materials (interior finishing elements, structural elements, utility and service equipment); sales
32 tax on materials, building equipment and fixtures, including heating and air conditioning and
33 utility meters; labor; built-in appliances; demolition and site preparation; repairs made to
34 damaged parts of the building worked on at the same time; contractor’s overhead; contractor’s
35 profit; and grand total. Items to be excluded include: cost of plans and specifications, survey
36 costs, permit fees, costs to correct code violations subsequent to a violation notice, outside
37 improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard
38 lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

39
40 **Development** – Any man-made change to improved or unimproved real estate, including but not
41 limited to the construction of buildings or other structures, mining, dredging, filling, grading,
42 paving, excavation or drilling operations or storage of equipment or materials.

43
44 **Existing Manufactured Home Park or Manufactured Home Subdivision** – A manufactured
45 home park or manufactured home subdivision for which the construction of facilities for
46 servicing the lots on which the manufactured home are to be affixed (including, as a minimum,

1 the installation of utilities, the construction of streets, and either final site grading or the pouring
2 of concrete pads) is completed before the effective date of the floodplain management
3 regulations adopted by a community.

4
5 **Expansion to an Existing Manufactured Home Park or Existing Manufactured Home**
6 **Subdivision** – The preparation of additional sites by the construction of facilities for servicing
7 the lots on which the manufacturing homes are to be affixed (including the installation of
8 utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

9
10 **Federal Emergency Management Agency (FEMA)** - The federal agency that administers the
11 National Flood Insurance Program (NFIP).

12
13 **Flood or Flooding** – A general and temporary condition of partial or complete inundation of
14 normally dry land areas from either the overflow of inland or tidal waters, or the unusual and
15 rapid accumulation or runoff of surface waters from any source.

16
17 **Flood Insurance Rate Map (FIRM)** – The official map of a community on which the Federal
18 Insurance Administrator has delineated both the special hazard areas and the risk premium zones
19 applicable to the community. A FIRM that has been made available digitally is called a Digital
20 Flood Insurance Rate Map (DFIRM).

21
22 **Flood Insurance Study (FIS)** – The official study of a community in which the Federal
23 Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and
24 determination of local flood hazards, flood profiles and water surface elevations. The Flood
25 Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate
26 zones and base flood elevations, and may provide the regulatory floodway limits.

27
28 **Flood Proofing** – Any combination of structural and non-structural additions, changes, or
29 adjustments to structures which reduce or eliminate flood damage to real estate or improved real
30 property, water and sanitary facilities, structures and their contents.

31
32 **Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be
33 reserved in order to discharge the base flood without cumulatively increasing the water surface
34 elevation more than a designated height. For the purposes of these regulations, the term
35 “Regulatory Floodway” is synonymous in meaning with the term “Floodway”.

36
37 **Freeboard** - A factor of safety usually expressed in feet above a flood level for purposes of
38 floodplain management. "Freeboard" tends to compensate for the many unknown factors that
39 could contribute to flood heights greater than the height calculated for a selected size flood and
40 floodway conditions, such as wave action, bridge openings, and the hydrological effect of
41 urbanization of the watershed.

42
43 **Functionally Dependent Use or Facility** – A use that cannot perform its intended purpose
44 unless it is located or carried out in close proximity to water. The term includes only docking
45 facilities, port facilities that are necessary for the loading and unloading of cargo or passengers,
46 and ship building and ship repair facilities.

1
2 **Highest Adjacent Grade (HAG)** – The highest natural elevation of the ground surface prior to
3 construction next to the proposed walls of a structure.
4

5 **Historic Structure** – Any structure that is: (a) Listed individually in the National Register of
6 Historic Places (a listing maintained by the Department of the Interior) or preliminarily
7 determined by the Secretary of the Interior as meeting the requirements for individual listing on
8 the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as
9 contributing to the historic significance of a registered historic district or a district preliminarily
10 determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a
11 state inventory of historic places in states with historic preservation programs which have been
12 approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of
13 historic places in communities with historic preservation programs that have been certified
14 either: (1) By an approved state program as determined by the Secretary of the Interior or (2)
15 Directly by the Secretary of the Interior in states without approved programs.
16

17 **Limit of Moderate Wave Action (LiMWA)** - An advisory line indicating the limit of the 1.5-
18 foot wave height during the base flood.
19

20 **Lowest Floor** – The lowest floor of the lowest enclosed area (including basement). An
21 unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or
22 storage in an area other than a basement area is not considered a building’s lowest floor;
23 *Provided*, that such enclosure is not built so as to render the structure in violation of the
24 applicable non-elevation design requirements of § 60.3.
25

26 **Manufactured Home** – A structure, transportable in one (1) or more sections, which is built on
27 a permanent chassis and is designed for use with or without a permanent foundation when
28 attached to the required utilities. The term “manufactured home” does not include a
29 “recreational vehicle”.
30

31 **Manufactured Home Park or Manufactured Home Subdivision** – A parcel or contiguous
32 parcels of land divided into two (2) or more manufactured home lots for rent or sale.
33

34 **Market Value** – Market value is the price of a structure that a willing buyer and seller agree
35 upon. This can be determined by an independent appraisal by a professional appraiser; the
36 property’s tax assessment, minus land value; the replacement cost minus depreciation of the
37 structure; the structure’s Actual Cash Value.
38

39 **New Construction** – Structures for which the “start of construction” commenced on or after the
40 effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes
41 any subsequent improvements to such structures. For floodplain management purposes, new
42 construction means structures for which the start of construction commenced on or after the
43 effective date of a floodplain management regulation adopted by a community and includes any
44 subsequent improvements to such structures.
45

1 **New Manufactured Home Park or Manufactured Home Subdivision** – A manufactured
2 home park or manufactured home subdivision for which the construction of facilities for
3 servicing the lots on which the manufactured homes are to be affixed (including at a minimum,
4 the installation of utilities, the construction of streets, and either final site grading or the pouring
5 of concrete pads) is completed on or after the effective date of floodplain regulations adopted by
6 the community.

7
8 **Recreational Vehicle** – A vehicle which is: (a) built on a single chassis; (b) four hundred (400)
9 square feet or less when measured at the largest horizontal projection; (c) designed to be self-
10 propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as
11 a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or
12 seasonal use.

13
14 **Regulatory Floodway** – see definition for “Floodway”.

15
16 **Special Flood Hazard Area (SFHA)** – The land in the floodplain within a community subject to
17 a one (1) percent or greater chance of flooding in any given year. After detailed ratemaking has
18 been completed in preparation for publication of the flood insurance rate map, Zone A usually is
19 refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH,
20 AR/A, VO, or V1-30, VE or V. For purposes of these regulations, the term “special flood hazard
21 area” is synonymous in meaning with the phrase “area of special flood hazard”.

22
23 **Start of Construction** – For other than new construction or substantial improvements under the
24 Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the
25 date the building permit was issued, provided the actual start of construction, repair,
26 reconstruction, rehabilitation, addition placement, substantial improvement or other
27 improvement was within one hundred and eighty (180) days of the permit date. The actual start
28 means either the first placement of permanent construction of a structure on a site, such as the
29 pouring of slab or footings, the installation of piles, the construction of columns, or any work
30 beyond the stage of excavation, or the placement of a manufactured home on a foundation.
31 Permanent construction does not include land preparation, such as clearing, grading and filling;
32 nor does it include the installation of streets and/or walkways; nor does it include excavation for
33 a basement, footings, piers, or foundations or the erections of temporary forms; nor does it
34 include the installation on the property of accessory buildings, such as garages or sheds not
35 occupied as dwelling units or not part of the main structure. For a substantial improvement, the
36 actual start of construction means the first alteration of any wall, ceiling, floor, or other structural
37 part of a building, whether or not that alteration affects the external dimensions of the building.

38
39 **Structure** – For floodplain management purposes, a walled and roofed building, including a gas
40 or liquid storage tank, that is principally above ground, as well as a manufactured home.

41 For insurance purposes, means:

- 42 1. A building with two or more outside rigid walls and a fully secured roof, that is affixed to
43 a permanent site;
- 44 2. A manufactured home (“a manufactured home,” also know as a mobile home, is a
45 structure; built on permanent chassis, transported to its site in one or more sections, and
46 affixed to a permanent foundation); or

- 1 3. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation,
2 that is regulated under the community’s floodplain management and building ordinances
3 or laws.

4 For the latter purpose, “structure” does not mean recreational vehicle or a park trailer or other
5 similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage
6 tank.

7
8 **Substantial Damage** – Damage of any origin sustained by a structure, whereby the cost of
9 restoring the structure to before damaged condition would equal or exceed 50 percent of the
10 market value of the structure before the damage occurred.

11
12 **Substantial Improvement** – Any reconstruction, rehabilitation, addition or other improvements
13 to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure
14 before the “start of construction” of the improvement. This term includes structures which have
15 incurred “substantial damage”, regardless of the actual repair work performed. The term does
16 not, however, include:

- 17 1. Any project to correct existing violations of state or local health, sanitary, or safety code
18 specifications which have been identified by the local code enforcement official and
19 which are the minimum necessary to assure safe living conditions or
20 2. Any alteration of the “historic structure”, provided that the alteration will not preclude the
21 structure’s continued designation as a “historic structure”.

22
23 **Variance** - A grant of relief by a community from the terms of the floodplain management
24 ordinance that allows construction in a manner otherwise prohibited and where specific
25 enforcement would result in unnecessary hardship.

26
27 **Violation** – Failure of a structure or other development to be fully compliant with the
28 community’s floodplain management ordinance. Construction or other development without
29 required permits, lowest floor elevation documentation, flood-proofing certificates or required
30 floodway encroachment calculations is presumed to be in violation until such time as that
31 documentation is provided.