

Chapter 218

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[HISTORY: Adopted by the Town Council of the Town of Charlestown 8-10-2010 by Ord. No. 326.¹ Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 218-1. Authority/severability.

- A. Authority. Pursuant to the authority granted by Rhode Island General Laws § 45-24-27 to 72, also known as the Rhode Island Zoning Enabling Act of 1991, and as hereafter amended from time to time, The Town Council shall have the power to adopt or amend a zoning ordinance. The following Zoning Ordinance is hereby adopted.

1. Editor's Note: This ordinance also superseded former Ch. 218, Zoning, adopted 7-1-1998 by Ord. No. 213, as amended.

- B. Severability. If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section, clause, provision or portion of this Ordinance.

§ 218-2. Purpose/consistency with Comprehensive Plan/state laws.

- A. Comprehensive Plan. The Zoning Regulations set forth in this Ordinance are adopted to be consistent with the Town of Charlestown Comprehensive Plan 1991, and any amendments thereto. The Regulations are made with reasonable consideration, to preserve the rural character of the Town, to encourage the most appropriate use of land, to enhance the beauty of the community, to be consistent with the RI CRMC SAM Plan and to protect the character of neighborhoods. This Ordinance shall be construed in a manner that will further the implementation of the goals and policies and applicable elements of the Town of Charlestown Comprehensive Plan 1991, and any amendments thereto.
- B. Purposes. Adopted pursuant to R.I. Gen. Laws § 45-22.2 for the following purposes that are intended to be given equal priority and are numbered for reference only:
- (1) Promoting the public health, safety, and general welfare.
 - (2) Providing for a range of uses and intensities of use appropriate to the rural character of the Town and reflecting current and expected future needs.
 - (3) Providing for orderly growth and development that recognizes:
 - (a) The goals and patterns of land use contained in the adopted Comprehensive Plan and foster the Plan's implementation.
 - (b) The natural characteristics of the land, including its suitability for use based on soils characteristics, topography, and susceptibility to surface or groundwater pollution;
 - (c) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;
 - (d) The values of unique or valuable natural resources and features;
 - (e) The availability and capacity of existing and planned public and/or private services and facilities;
 - (f) The need to shape and balance urban and rural development; and
 - (g) The use of innovative development regulations and techniques.
 - (4) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
 - (5) Providing for the protection of the natural, historical, cultural, and scenic character of the Town or areas therein.

- (6) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space.
- (7) Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
- (8) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing.
- (9) Promoting safety from fire, flood, and other natural or man-made disasters.
- (10) Promoting quality in design of private and public facilities.
- (11) Providing for coordination of land uses and resources with contiguous Towns, the State, the Narragansett Indian Tribe, and other agencies, as appropriate.
- (12) Providing for efficient review of development proposals, and to clarify the zoning approval process.
- (13) Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances and special use permits.
- (14) Promoting an economic climate that increases quality job opportunities and the overall well-being of the Town.

§ 218-3. Conformity required.

No land shall be used and no building, structure or sign shall be erected, demolished, modified, enlarged or used unless it conforms to applicable sections of the Ordinance. Every building, structure or sign hereafter erected and every use hereafter initiated shall be located on a lot as defined by this Ordinance, and in no event shall there be more than one principal use, together with its accessory buildings, on one lot except as otherwise permitted by this Ordinance.

§ 218-4. Vested rights.

Vested rights shall relate to the review of an application should the zoning ordinance change before the review process has been completed. Applications for development that are submitted and have been deemed complete before enactment of this Ordinance shall have vested rights to proceed with the application process according to the regulations applicable of the Zoning Ordinance in force at the time the application was submitted and deemed complete. Projects for which a currently valid building permit is in effect shall have vested right to proceed and comply with the Zoning Ordinance in force under which the permit was issued.

§ 218-5. Word usage and definitions.

- A. Word usage. As used in this ordinance, words used in the present tense include the future, the singular includes the plural, and the plural includes the singular. The word used includes designed, intended or arranged to be used. The word shall is mandatory. The word may is permissive. The word building includes the word structure. The word lot includes the word plot. The word land includes the words marsh and water.
- B. Terms defined. Words or terms used in this ordinance are defined according to the Rhode Island Comprehensive Planning and Land Use Regulation Act of 1988 and the Rhode Island Zoning Enabling Act of 1991 and shall have the meanings stated therein. Definitions from the Rhode Island Zoning Enabling Act are preceded by an asterisk (*). Additional words and phrases are consistent with the Town of Charlestown Comprehensive Plan 1991 and to be consistent with the RI DEM "Rules and Regulations for Groundwater Quality," May, 1995, and amendments thereto. The following terms and words are defined for use in this Ordinance.

ABATTOIR — A place where animals are slaughtered.

***ABUTTER** — One whose property adjoins at a border, boundary, or point with no intervening land.

ACCESS — An entrance way for vehicles to leave or enter a property from a public road.

***ACCESSORY FAMILY DWELLING UNIT** — An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principle residences, but not needing to have a separate means of ingress and egress.

***ACCESSORY USE** — A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. Such accessory use is restricted to the same lot as the principal use. An accessory use is permitted without the principal use to which it is related by special use permit only.

ACCOUNTING/ BOOKING SERVICES — Space in a building used for the purposes of providing products and items related to the services of a certified accountant or bookkeeper.

ACRE — A measure of land area containing forty-three thousand, five hundred and sixty square feet.

ADULT DAY CARE CENTER — Any building or structure which is used to provide supervision for persons who are 18 years of age or older who may be elderly, physically ill, infirm, or physically handicapped such that they require daily supervision and medical treatment incidental to such supervision. The term does not include uses which provide residential, surgical, medical, or special treatment as relates to housing persons who have a chronic illness, disease or injury, or other condition that would require the degree and treatment provided by a nursing home or hospital.

ADULT ENTERTAINMENT — Any commercial establishment or business where any individual, employee, operator or owner works or performs in the nude. Nudity means

the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple and below, or showing of the covered male genitals in a discernibly turgid state. Adult entertainment shall also be construed to mean actual or simulated acts of sexual activity by clothed or nude individuals and includes both live exposure and film or video. Any bookstore, novelty store, video store, or any commercial establishment in which more than twenty-five (25) percent of the in-store inventory contains, for sale, rental or display, pictures, written material or any type of reproduction of human anatomy which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or contain instruments, devices, or paraphernalia which are designed for use in connection with specific sexual activities.

ADVERTISING SALES OFFICE — Space in a building used for the providing of expertise to create and sell advertising for clients.

AFFORDABLE HOUSING PLAN — (As used in ARTICLE V) A component of a housing element, as defined in § 45-22.2-4(33),² to meet housing needs in a city or town that is prepared in accordance with guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(b)(1) and (c).³

***AGGRIEVED PARTY** — An aggrieved party, for purposes of this Ordinance shall be: (1) Any person or persons or entity who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering this Ordinance; or (2) Anyone requiring notice pursuant to this ordinance.

***AGRICULTURAL LAND** — Any land of five contiguous acres or larger that by reason of soil suitability or other natural characteristics is suitable for agriculture as defined in R.I. Gen. Laws § 45-22.2-4.

AGRICULTURAL OPERATIONS — 218-104 (partial) The purpose of this Section is to encourage farming and agricultural operations in the Town that follow established best management practices as published by the Rhode Island Department of Environmental Management, Division of Agriculture and the United States Department of Agriculture, Natural Resource Conservation Service. It is also to encourage farming and agricultural operations in addition to principal agricultural activities conducted on the site and the retail sales of certain farm and farm-related products.

AGRICULTURE — The use of land for agricultural purposes, including farming, dairying, pasturages, apiculture, horticulture, floriculture, turf farming, and animal and poultry husbandry. Also the necessary accessory uses for packing, treating, or storing the produce, provided that the operation of any such accessory use shall be secondary to that of the normal agricultural activities on that land or premises.

AIR CONDITIONING/ HEATING/ PLUMBING SERVICES — Land, buildings, or structures used for the purposes of providing products and maintenance related to the provision of air conditioning, heating, and plumbing utilities.

2. Editor's Note: See R.I.G.L. § 45-22.2-4(33).

3. Editor's Note: See R.I.G.L. § 45-53-4(b)(1) and (c).

AIRPORT — The use of land, building, or structures for landing, storing, taxiing, or taking off of aircraft.

ALTERATION — A change or rearrangement in structural parts or an enlargement.

AMBULANCE SERVICES — A facility used for the purposes of housing vehicles that transport the sick or injured.

AMUSEMENT PARK — A commercial/recreational establishment where permanent buildings or structures have been erected for the purposes of fantasy entertainment, a circus or carnival or similar exhibition or midway show or sideshow and where one or more of the following classes of amusement or recreation are also provided:

- (1) Multiple mechanically or electrically operated rides;
- (2) A place of amusement or fantasy;
- (3) A restaurant or food courts.

ANIMAL HOSPITAL/VETERINARY OFFICE — Space in a building used for the purpose of giving medical or surgical treatment to animals. Kennel use is limited to short time boarding and incidental to such hospital use.

ANIMATED SIGN — A sign manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical or other means.

ANTIQUA/COLLECTIBLES STORE — Space in a building used for the purpose of selling personal property of a former period and objects typically collected in sets.

APPAREL/ACCESSORY SHOP — Space in a building used for the purpose of the retail sales of clothing and clothing accessories.

APPAREL MANUFACTURING — The use of land, buildings, or structures for the manufacturing of clothing items.

***APPLICANT** — An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

***APPLICATION** — The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval, or permitting purposes.

APPROVED AFFORDABLE HOUSING PLAN — (As used in ARTICLE V) An affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council; provided, however, that state review and approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town having completed, adopted, or amended its comprehensive plan as provided for in §§ 45-22.2-8, 45-22.2-9, or 45-22.2-12.⁴

4. Editor's Note: See R.I.G.L. § 45-22.2-8, 45-22.2-9 or 45-22.2-12.

AQUIFER — A geologic formation, group of formations, or part of a formation that is capable of yielding significant amounts of water.

ARBORETUM — Land, buildings, or structures used for the scientific study and public display of various species of trees and shrubs.

ARCHITECTURAL/ PLANNING/ ENGINEERING SERVICES — Space in a building used for the purpose of providing products and items related to the services of registered professional architects, planners or surveyors, or engineers.

ART CENTER — A building, place or area where paintings, sculptures, or other works of art are exhibited by an educational, non-profit organization.

ART GALLERY — Space in a building used for the purpose of exhibiting and/or selling paintings, sculptures, or other works of art.

ARTS & CRAFTS SUPPLY STORE — Space used in a building for the retail sales of materials and supplies used by visual artists for their art making and artisans for the creation of handicraft items. Finished objects may also be sold. If educational lessons are offered see definition for Art Studio/Workshop.

ART STUDIO/ WORKSHOP — A place of work for an artist, artisan or craftspeople, including persons engaged in the application, teaching or performance of fine arts such as, but not limited to, drawing, painting, sculpture, vocal or instrumental music and writing. Artists, artisans or craftspeople whose processes involve furnaces, kilns, forges or other such equipment will need a special use permit which will consider issues of noise, fumes, toxic gasses, flames, etc. No outdoor processing space shall be allowed.

ASSISTED LIVING/ SKILLED CARE — A facility or part of a facility that is licensed or regulated to provide health care under medical supervision for 24 or more consecutive hours, to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

ATHLETIC/ PLAY FIELD — Land that is landscaped and equipped with children's equipment such as slides and swings and/or areas for sporting games.

ATHLETIC/ SPORTING GOODS STORE — Space in a building used for the purpose of retail sales of items relating to competitive sports or active recreational activities.

AUCTION BARN — Space in a building used for the purpose of offering goods for sale to persons who bid on objects.

AUTOMATIC COMMERCIAL CAR WASH — A structure used for the cleaning or washing of automobiles through the application of cleaner, brushes, water and heat.

AUTOMOBILE MANUFACTURING — The use of land, buildings, or structures for the manufacture of self-propelled wheeled vehicles and/or parts to those vehicles.

AUTOMOBILE REPAIR, MAJOR — The use of land, buildings or structures for general repair, engine rebuilding or reconditioning, collision service, such as body, frame or fender straightening and repair, overall painting and undercoating of automobiles. The term does not include dismantling or storage of wrecked or junked vehicles.

AUTOMOBILE REPAIR, MINOR — The use of land, buildings or structures for replacing parts of motor vehicles including, but not limited to, engine tune-up, tire, brake, and electrical services.

AUTOMOBILE STORAGE — An area where automobiles are held after accidents, towing, motor vehicle violations, etc.

AUTOMOBILE WRECKING/ RECYCLING YARD — An establishment that disassembles, dismantles, and disposes of vehicles. Parts may or may not be sold at the establishment.

AUTOMOTIVE RENTAL AGENCY — The use of land, or building or structures where motor vehicles are stored for lease or rented and where such motor vehicles may be dropped off or picked up.

AUTOMOTIVE SUPPLY STORE — Space in a building used for the purpose of retail sales of items relating to automobiles or motor vehicles. It does not include automotive or motor vehicle repairs as accessory uses.

BAIT/ TACKLE SHOP — Space in a building used for the purpose of retail sales of lure food used in the taking of fish or birds and equipment used in such sports.

BAKERY/ WHOLESALE — An establishment engaged in the mixing and compounding of baked goods for wholesale distribution where there is no retail sales on the premises.

BAKE SHOP/ RETAIL — Space in a building used for the purpose of the sale of retail baked goods including baking for retail sale on the premises.

BANK — Space in a building used for the purpose of depositing, keeping, lending or exchanging money.

BANNER — A sign made of a non-rigid surface such as cloth, fabric, or paper with no enclosing framework.

BANQUET HALL — Space in a building used for the purpose of entertaining a large group of people for specific functions such as banquets or weddings. It includes the consumption of food and drink.

BASE FLOOD — The flood having a one percent possibility of being equaled or exceeded in any given year.

BATCH PLANT — The use of facilities designed to stockpile materials and/or actual production of asphalt and concrete or asphalt and concrete products.

BATHING BEACH — An area dedicated primarily for sun bathing and swimming and includes accessory parking and sanitary facilities.

BED AND BREAKFAST — A new single family dwelling in which the principal use is the single family residence; and, as an accessory use, no more than three bedrooms are made available for transient overnight occupancy for compensation. A single family

dwelling unit in existence on the effective date of this Ordinance may make available up to six bedrooms for transient overnight occupancy as an accessory use.

BICYCLE SHOP/ RENTALS — Space in a building used for the purpose of retail sales, services and rentals of bicycles.

BILLBOARD — Any sign or advertising device not related to a use on the lot on which it is located, regardless of its size or dimensions.

BLACKSMITH, WELDING OR MACHINE SHOP — An establishment for the fabricating and/or machining of metals.

BOARD — The Zoning Board of Review of the Town of Charlestown.

BOAT/ MARINE MANUFACTURING — The use of land, buildings, or structures for the manufacture of small craft which navigate on water.

BOAT/ MARINE SHOP — Land, buildings, or structures used for the retail sales and maintenance services for boats and marine related items.

BOOK STORE — Space in a building used for the purpose of retail sales of printed materials such as books, magazines, and periodicals.

BOTANICAL GARDEN — Any land, buildings, or structures used for the scientific study and public display of various species of plants and plantlife.

BOUTIQUE — Space in a building used for the purpose of retail sales of fashionable, specialty clothing items and accessories.

BREWERY, DISTILLERY — An establishment for production and wholesale distribution of alcoholic beverages.

***BUFFER** — Land that is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.

***BUILDING** — Any structure used or intended for supporting or sheltering any use or occupancy.

***BUILDING ENVELOPE** — The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by building setbacks, maximum height, bulk, or other regulations, and/or any combination thereof.

BUILDING FOOTPRINT — The building footprint shall be calculated by measuring the exterior dimensions of a structure, excluding decks, porches, breezeways, courtyards and subject to the discretion of the Building Official.

***BUILDING HEIGHT** — The vertical distance from average natural grade of land before excavation to the highest point of the roof or structure of the building. The distance includes spires and flag poles. It does not include chimneys for single family homes.

BUILDING SUPPLY/ LUMBER OUTLET — An establishment that engages in the wholesale or retail sale of lumber and allied products that are used in the construction industry.

BULK FUEL DEPOT — The use of land, buildings, or structures for the bulk storage and distribution of fuels and oils. It does not include retail sales or accessory uses to a principal business.

BUSINESS/ CONSULTING SERVICES — Space in a building used for the purpose of providing advice and expertise relating to business matters for profit.

BUS STOP — An area at which passengers may board or disembark from a bus and may include a small shelter having three walls designed for the protection and convenience of bus passengers. Public school buses are not included in this definition.

CABLE/RADIO/ TV STUDIO — Any land, buildings, or structures where cable, radio, or television show or shows are produced from which the signals originate. It does not include transmission towers.

CANDY STORE — Space in a building used for the purpose of primarily selling confectionery edibles.

CANOPY SIGN — A sign that is part of or attached to an awning, canopy, or other material as a protective cover over a door, entrance, window, walkway or outdoor service area.

CAPACITY — Actual and permanent seats within a public school system to serve the needs of Town residents. Effective capacity is a function of number of seats that meet the school's educational goals with a fully functioning facility that includes not just classroom seats, but also support core facilities, such as space for art, music, vocational training, gym, lunchroom, toilets, library, outdoor play area, and carrying capacity of the land to withstand additional septic discharge. Double sessions or even interim installation of trailer classrooms do not add capacity nor do they solve the problem of effective capacity.

CAPITAL IMPROVEMENT PROGRAM — (As used in ARTICLE XV) That component of a municipal budget that sets out the need for public facility capital improvements, the costs of the improvements, and proposed funding sources. A capital improvement program must cover at least a five (5) year period and should be reviewed at least every five (5) years;

CAPITAL IMPROVEMENTS — (As used in ARTICLE XV) Improvements with a useful life of ten (10) years or more, which increases or improves the service capacity of a public facility;

CARPENTRY/ CONSTRUCTION/ CONTRACTING SERVICES — Land, buildings, or structures used for the purposes of providing services relating to the assembly, finishing, and repairing of wooden objects, and the business of building.

CATERER'S ESTABLISHMENT — Space in a building used for the purpose of preparing quantities of food and beverages to be consumed off the premises. Does not include a restaurant establishment.

CEMETERY/ COLUMBARIUM/ CREMATORIUM — Property used for the interring of human bodies which may and include land, structures, or buildings for the cremation of human remains, facilities for the storing of ashes of human remains or the interment of human remains in sealed crypts or compartments.

CHANGEABLE COPY SIGN — A sign that is designed so that characters or letters can be manually changed or rearranged without altering the face or surface of the sign.

CHARITABLE INSTITUTION — Space in a building used for the purpose of giving help to those in need.

CHURCH/PLACE OF WORSHIP — Space in a building maintained by an organized religious body, where people on a regular basis assemble for worship.

CLUB/ SERVICE ORGANIZATION — Buildings and/or facilities owned or operated by a corporation, association, persons or persons for a social, educational or recreational purpose, but not primarily for profit and not to render a service that is customarily carried on as business.

***CLUSTER** — A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development there is no increase in the number of lots than would be permitted under conventional development.

COASTAL FEATURES — As defined in R.I. General Laws § 46-23.

COLD STORAGE LOCKER — A building whose principal use is for the storage of frozen food.

CO-LOCATION — More than one wireless communications provider mounts equipment and accessories on a single support structure, tower, or pole at a site.

COMMERCIAL HELIPORT — The use of land, buildings or structures for the landing and taking off by helicopters to pick up and discharge passengers and cargo.

COMMERCIAL KENNEL — A commercial establishment for the keeping, training, raising, breeding of more than four dogs and other domestic animals excluding livestock for profit or gain, but shall not apply to keeping of animals for observation and/or recovery necessary to veterinary treatment.

COMMERCIAL PARKING LOT/STRUCTURE — The use of land, or building, or structures for parking motor vehicles, for public or private purposes for a fee.

COMMERCIAL PRINTING SHOP — Land, building or structures where an establishment is located that provides duplicating services/printing equipment that may utilize hazardous materials.

COMMERCIAL RIDING STABLE — A stable with capacity for three or more horses, mules, or other farm animals that are let, hired, used or boarded on a commercial basis for compensation.

COMMERCIAL USE — An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMODITY/ MORTGAGE SERVICES — Space in a building used for the purpose of providing services relating to commercial items, goods, financial items, stocks, or banking services.

*COMMON OWNERSHIP — Either:

- (1) Ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots, or
- (2) Ownership by any association (such ownership may also include the Town) of one or more lots under specific development techniques.

COMMUNICATION/ BROADCAST SERVICES — Any land, buildings, or structures where a system for sending ideas, messages, or information is transmitted to an area. It does not include transmission towers.

COMMUNITY CENTER — Land, building or structures used for community activities and controlled by the Town or an agent thereof.

*COMMUNITY RESIDENCE — A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

- (1) Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the State pursuant to R.I. Gen. Laws § 40.1-24-1.
- (2) Group home providing care or supervision, or both to not more than eight mentally disabled, and mentally or physically handicapped persons, and licensed by the State pursuant to R.I. Gen. Laws § 40.1-24-1.
- (3) A residence for children providing care or supervision, or both, to not more than eight children including those of the care giver and licensed by the state pursuant to R.I. Gen. Laws § 42-72.1 .
- (4) A community transitional residence providing care or assistance, or both, to less than six unrelated persons or no more than three families not to exceed a total of eight persons requiring temporary financial assistance and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in such residence not less than sixty days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms,

and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

COMMUNITY WATER SUPPLY WELL — A well that serves a community water system.

COMMUNITY WATER SYSTEM — A public water system that serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

***COMPREHENSIVE PLAN** — A comprehensive plan adopted and approved by a city or town pursuant to chapters 22.2 and 22.3 of this title.

CONSISTENT WITH LOCAL NEEDS — (As used in ARTICLE V) Reasonable in view of the state need for low and moderate income housing, considered with the number of low income persons in the city or town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residence of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by a city or town council after comprehensive hearing in a city or town where:

- (1) Low or moderate income housing exists which is:
 - (a) in the case of an urban city or town which has at least 5,000 occupied year-round rental units and the units, as reported in the latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the year-round housing units, is in excess of fifteen percent (15%) of the total occupied year-round rental units; or
 - (b) in the case of all other cities or towns, is in excess of ten percent (10%) of the year-round housing units reported in the census.
- (2) The city or town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan which has been adopted and approved pursuant to chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides for low and moderate income housing in excess of either ten percent (10%) of the year-round housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided in subdivision (2)(i).

CONSTRAINTS TO DEVELOPMENT —

- (1) Resource areas subject to protective setback distance such as but not limited to, wetlands (freshwater or coastal) as defined by R.I. General Law, areas subject to storm flow, areas subject to flooding, hydric soils and inter-tidal salt marshes.

- (2) Land located in any V zones or floodways as shown on the Flood Insurance Rate Maps or floodway maps of the Town of Charlestown revised, September 30, 1995, and any revisions thereto.
- (3) Any area of the tract proposed to be developed equal to the area of any street, common private way and/or utility rights-of-way.
- (4) Any unique sites having historical, archaeological values or protected species of flora or fauna as defined by state or federal agencies.
- (5) Any other lands which if developed would cause a threat to public health, or result in irreparable public harm, or loss of irreplaceable resources.
- (6) Any area of ledge and/or rock outcrops at/or within four feet of the land surface as may be identified in the Soil Survey of Rhode Island from the United States Department of Agriculture.
- (7) Any area where slopes exceed fifteen percent as may be identified in the Soil Survey of Rhode Island from the United States Department of Agriculture or by topological survey.

CONTRACTORS YARD — Land, buildings or structures of a general contractor/builder, landscaper, or snow plower where commercial vehicles and/or equipment are parked, dispatched and/or stored.

CONVENIENCE STORE — Space in a building used for the purpose of retailing food stuffs, tobacco, medicines, periodicals, and other similar items of household convenience.

CONVENTION FACILITY — A building or portion of a building where facilities are provided for meetings for various purposes.

CONVENT/ RECTORY — Space in a building used by members of a religious community for living together under established rules.

COPY — The graphic content of a sign surface in letters, pictographic, symbolic, or alphabetical form.

COPY/ PRINT CENTER — Space in a building used for the purposes of making copies of printed material and documents, designing and printing invitations, letterheads, etc. and may make black line copies of architectural drawings and plans.

CRAFT SHOP — An establishment where a handicraft is conducted for gain or profit and may include sales and educational lessons on creating such handicrafts.

CRISIS INTERVENTION CENTER — A place where short-term and temporary accommodation is provided for persons in emergency situations requiring immediate shelter and assistance for a short period of time.

CROP FARMING — Land used for the growing and harvesting of agricultural products.

CURB-CUT — A defined opening to provide vehicular access from a public road to a property.

CUT STONE/ STONE PRODUCTS SHOP — Any land, buildings, or structures used for the retail sales of concreted earthy matter, mineral, or rock items and products.

DANCE STUDIO — A place of work for a performing artist who is practicing and/or giving lessons in the art of dance between 8 a.m. and 8 p.m.

*DAY CARE -- DAY CARE CENTER — Any other day care center which is not a family day care home.

*DAY CARE -- FAMILY DAY CARE HOME — Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or fewer individuals who are not relatives of the care giver, but may not contain more than eight individuals receiving day care.

DAYS — Calendar days.

DAY SPA — A facility whose services cater to the outer body health and beauty of persons. Lodging accommodations are not included.

DECENTRALIZED WASTEWATER TREATMENT FACILITY — A facility that can serve two or more buildings in a limited area in the community as distinguished from a municipal facility that serves an entire town.

DECENTRALIZED WATER TREATMENT FACILITY — A facility that can serve two or more buildings in a limited area in the community as distinguished from a municipal facility that serves an entire town.

*DENSITY, RESIDENTIAL — The number of dwelling units per unit of land.

DEPARTMENT STORE — A building in which a variety of merchandise is kept for retail sale in separate parts of such building.

DETECTIVE/ PROTECTIVE SERVICES — Space in a building used for the purpose of providing services relating to investigating crimes, obtaining evidence, and guarding one from injury, attack, or harm.

DEVELOPER — (As used in ARTICLE XV) A person or legal entity undertaking development;

*DEVELOPMENT — The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.

*DEVELOPMENT PLAN REVIEW — The process whereby the Town staff and/or the Planning Commission reviews the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of this Ordinance. (Also called site plan review.)

DISCHARGE TO GROUNDWATER — The intentional, negligent, accidental, or other release of any pollutant onto or beneath the land surface, in a location where it is likely to enter the groundwater of the state.

DISTILLATION PLANT — Land, building or structures used for the distillation of alcohol, bones, wood, tar petroleum or any such products.

DIVING/ SCUBA SHOP — Space in a building used for the purpose of retail sales and services related to underwater sports and where self- contained underwater breathing apparatus may be provided.

DOG DAYCARE/ TRAINING CENTER — This service provides daytime, cage-free care, play, and supervision of dogs, completely indoors. It also provides behavioral training of dogs and instruction for owners to promote dog wellness and good behavior. This use does not include breeding or overnight boarding of dogs.

***DRAINAGE SYSTEM** — A system for the removal of surface water from land by drains, grading or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwater quality and the prevention and/or alleviation of flooding.

DRIVE-IN THEATER — An outdoor theater consisting of a screen and parking area where people can watch movies from private automobiles. Restrooms and concession stand are usually associated with the facility.

DRIVE-THROUGH USE — Any portion of a building or structure from which business is transacted directly with customers located in a motor vehicle during such business transactions.

DRIVING RANGE — A public or private area operated for the purpose of developing golf techniques, but excluding golf courses.

DRUG STORE — Space in a building where the primary business is the filling of medical prescriptions and the sale of drugs and medical supplies.

DRY CLEANERS, COIN OPERATED — A building in which coin operated dry cleaning machines is made available for public use.

DRY CLEANING/ LAUNDRY OUTLET — Space in a building used for the collecting and distributing of articles of clothing to be cleaned off premises. The premises may be used for the pressing of articles received.

DWELLING, MULTI-FAMILY — A dwelling unit designed for and occupied by three or more families.

DWELLING, SINGLE FAMILY — A dwelling unit designed for and occupied by one family.

DWELLING, TWO-FAMILY — A building designed exclusively for two dwelling units with occupancy by not more than two families.

***DWELLING UNIT** — A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and containing a separate means of ingress and egress.

ELECTRICAL CONTRACTOR SERVICES — Land, buildings, or structures used for the purpose of providing services relating to the technology and circuitry of electricity.

ELECTRICAL SUPPLY STORE — Space in a building used for the purpose of retail sales of supplies related to the provision of electricity.

ELECTRIC GENERATING PLANT — The use of land, building, or structures to generate power.

ELECTRONIC MANUFACTURER — The use of land, buildings, or structures to manufacture items of composed of electronic materials.

ELECTRONICS STORE — Space in a building used for purpose of retail sales of components, devices, computers, computer products, and supplies related to electronics technology.

ELEMENTARY/ HIGH SCHOOL — An institution certified by the State to educate school children with the ultimate goal of obtaining a high school degree.

EMPLOYMENT SERVICES — Space in a building used for the purpose of providing advice and expertise related to finding jobs for people and finding people qualified to fill jobs.

ENTERTAINMENT (LIVE) — Any play, review, scene, dance, song, performance, or act put on to entertain.

***EXTRACTIVE INDUSTRY** — The extraction of soils and/or minerals including: solids, such as coal and ores; liquids such as crude petroleum, and gases, such as natural gases. The term also includes quarrying, well operations, milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.⁵

***FAMILY** — A person or persons related by blood, marriage or other legal means. See also Household.

FARMER'S MARKET — The use of land, buildings, or structures, or part thereof for the purposes of selling fruit and vegetables to the general public.

FARM RETAIL SALES BUILDING — A single building or group of buildings located on a farm, the principal use of which is the sale of agricultural products at retail to the general public.

FARM STAND — A freestanding structure or farm vehicle which does not exceed 200 square feet in total floor area and 12 feet in height used only for the sale of seasonal farm products, the major portion of which are grown or produced on the premises. Farmstands may be structures or may be farm wagons or trailers.

5. Editor's Note: The former definition of "fall zone," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

FARM SUPPLY DEALER — The use of land, building or structures where farm equipment and supplies are offered for retail sale. It shall not include any other establishment as defined by this Ordinance.

FEMA — The Federal Emergency Management Agency.

FIRE OR POLICE STATION — Land, building or structures where fire and/or police equipment are kept and where firemen and/or policemen are dispatched while on duty.

FISH PROCESSING — The use of land, or building or structures where fish is cleaned, frozen, preserved or canned for wholesale or retail purposes.

FISHING AREA — An area designated for the catching of fish.

FISH/ SEAFOOD SHOP — Space in a building used for the purpose of retail sales of fish and seafood.

FITNESS CENTER — An establishment providing facilities and services associated with the achievement and maintenance of physical fitness.

FLEA MARKET — Land, building or structures in which sales areas are set aside and rented, and which are for use by various individuals to sell products and goods to the public.

FLOOD BOUNDARY AND FLOODWAY MAP — An official map of the Town on which FEMA has delineated the "Regulatory Floodway".

FLOOD ELEVATION STUDY — An examination, evaluation, and determination of flood hazards and if appropriate corresponding water surface elevations, or an examination and determination of flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) — An official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Charlestown.

FLOODPLAINS, OR FLOOD HAZARD AREA — As defined in R.I. Gen. Laws § 45-22.2-4.

FLOORING SALES & SERVICE — Space in a building used for the purposes of providing retail sales, installation, and maintenance services concerning materials used in making floors.

FLORIST — Space in a building used for the purpose of retailing flowers and plants singularly, in groups or as arranged.

FOOD PROCESSING — An establishment where food is processed, prepared, and packaged, but not served or consumed on the premises.

FORESTRY — Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and the gathering of forest products.

FOUNDRY — The use of land, buildings, or structures primarily for casting metals; a primary metals plant.

FRAGIPAN — A loamy, brittle subsurface horizon low in porosity and content of organic matter and low or moderate in clay, but high in silt or very fine sand. A fragipan appears cemented and restricts roots.

FREESTANDING SIGN — A sign permanently placed on the ground that is supported from the ground and not attached to any building.

FUNERAL HOME — A building used for supplying of human funeral goods and services.

FURNITURE SHOWROOM/HOME FURNISHINGS — Space in a building for the purpose of displaying furniture and home furnishings products for retail sale.

FURNITURE/ UPHOLSTERY REPAIR SERVICES — Spaces in a building used for the purposes of providing services concerning the repair of household furniture.

GAMING FACILITY/ CASINO — Any land, building, or structures where a banking or percentage game is played with cards, dice, or any mechanical or electronic device for money, property or any item of value.

GARDENING — Land that is used for the purpose of growing plants, fruits, flowers, or vegetables.

GARDEN/ LANDSCAPE SUPPLY CENTER — The use of land, buildings, or structures, or part thereof for the purpose of buying or selling lawn and garden equipment, yard furnishings, supplies, plants, flowers, and the materials associated with landscaping.

GASOLINE STATION — A retail establishment intended to be used for the sale of gasoline, oils, and accessories for the use of motor vehicles and the rendering of minor automotive repairs, where such services are incidental to such filling station uses.

GENERAL STORE/ COUNTRY STORE — Space in a building used for the purpose of serving residents in the immediate vicinity and selling goods necessary to meet day to day needs.

GOLF COURSE — A public or private area operated for the purpose of playing golf, and includes regulation and/or a par 3 golf course, club house and recreational facilities, and accessory driving ranges.

GOVERNMENT ADMINISTRATIVE BUILDING — Space in a building used for the purpose of a municipal office, court house, registry office, health and welfare center, employment office, post office or other office uses. It does not include a penal facility.

GOVERNMENTAL ENTITY — (As used in ARTICLE XV) A unit of local government;

GOVERNMENT GARAGE/ UTILITY BUILDING — Land, buildings, or structures used for governmental functions other than office and administrative functions. It does not include a penal facility.

GRINDING SITE — Land, building, or structures where wastes are treated and/or reduced.

GROCERY STORE/ DELI — Space in a building used for the purpose of selling food as well as other convenience and household goods.

GROUNDWATER — As defined in R.I. Gen. Laws § 46-13.1-3.

GROUNDWATER DEGRADATION — A deterioration or decline in groundwater quality.

GROUNDWATER QUALITY CLASSIFICATION — The categorization of groundwater for particular uses using its physical, chemical, and hydrogeologic characteristics; also, the particular class (GAA, GA, GB, or GC) assigned to a particular volume of groundwater within specific geographic boundaries.

GROUNDWATER RECHARGE — The process of adding water to the zone of saturation; or the quantity of water added to the zone of saturation.

GROUNDWATER RESERVOIR — Stratified drift deposits having a saturated thickness greater than or equal to forty feet and a transmissivity greater than or equal to four thousand feet squared per day that have been designated by the RI DEM to be potentially significant sources of water.

GUEST HOUSE — An owner-occupied facility offering overnight lodging accommodations to transients for compensation.

HAIRDRESSING ESTABLISHMENT/ BARBER — Space in a building used for the purpose of providing hair care and personal service to individuals such as shampooing, cutting, treatment of hair, manicures, pedicures, facial treatments, etc.

*HALFWAY HOUSE — A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

*HARDSHIP — As defined in R.I. Gen. Laws § 45-24-41.

HARDWARE STORE — Space in a building used primarily for the purpose of selling home repair and improvement products.

HATCHERY — Land, buildings or structures used for the purpose of hatching fish eggs.

HAZARDOUS MATERIAL — Any material defined as a "hazardous substance" by § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9605) as amended. Hazardous materials shall also include any hazardous waste, as well as any of the following materials: acetone, ethanol, ethylene oxide, methanol, methylene chloride, and perchloroethylene.

HAZARDOUS WASTE — Hazardous waste as defined in the RI DEM Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal, 1988, and amendments thereto.

HEALTH FOODS STORE — Space in a building used for the purpose of selling natural and organic foods, natural personal health and personal hygiene products.

HEAVY EQUIPMENT SALES — Any land, building, or structures where heavy machinery or equipment is offered for sale, rent, or lease.⁶

*HISTORIC DISTRICT/ SITE — As defined in R.I. Gen. Laws § 42-22.2-4.

HOBBY SHOP — Space in a building used for the purpose of the retail sales of items related to hobbies.

HOLISTIC HEALTH CENTER — A facility, licensed by the State, where a practitioner addresses the whole body with complimentary modalities to traditional therapies. These may include acupuncture, massage and aroma therapy, nutritional counseling, hydrotherapy and other treatments that address the body holistically.

*HOME OCCUPATION — Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling.

HOME OWNERS ASSOCIATION — An organization that is formed by a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

HOSPITAL — Any institution, building, or other premises established for the maintenance, observation, medical and dental care, supervision and skilled nursing care for persons suffering from sickness, disease or injury or for the convalescent or for chronically ill persons.

HOTEL — A building that is designed or used to offer short term lodging for compensation, with or without meals, for six or more people. Individual rooms do not contain cooking facilities.

*HOUSEHOLD — One or more persons living together in a single dwelling unit, with common access to, and with common use of all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. A household unit shall be synonymous with a dwelling unit for determining the number of such units allowed on any lot in a zoning district. An individual household shall consist of any one of the following:

- (1) A family, which shall also include servants and employees living with the family.
- (2) A person or group of unrelated persons living together. The maximum number of unrelated individuals living together shall not exceed three individuals.

HOUSEHOLD APPLIANCE STORE — Space in a building used for the purpose of selling appliances used in residential dwellings to the general public.

6. Editor's Note: The former definition of "height," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

HOUSEHOLD COMMERCIAL RECYCLER — Any land buildings, structures, or vehicles used for the collection of normal household reusable materials for profit. It does not include any processing activity of the reusable materials.

HYDRIC SOILS — Soils that are saturated, flooded or ponded with water long enough during the growing season to develop anaerobic conditions in the upper soil layer.

IDENTIFICATION SIGN — A sign that identifies the name and address of a building, institution, or persons and/or activity.

ILLEGAL SIGN — A sign that does not meet the requirements of this Ordinance and which has not received legal nonconforming status.

IMPACT FEE — (As used in ARTICLE XV) The charge imposed upon new development by a governmental entity to fund all or a portion of the public facility's capital improvements affected by the new development from which it is collected;

INCINERATOR — A device used to burn waste substances and in which all the combustion factors; temperature, retention time, turbulence, and combustion air, can be controlled.

INFEASIBLE — (As used in ARTICLE V) Any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it impossible for a public agency, nonprofit organization, or limited equity housing cooperative to proceed in building or operating low or moderate income housing without financial loss, within the limitations set by the subsidizing agency of government, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the public agency, nonprofit organization, or limited equity housing cooperative.

***INFRASTRUCTURE** — Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

INN/COTTAGE RENTAL — A facility that serves as a place for the housing and feeding of transients in a more personal atmosphere than a hotel or motel.

INSURANCE AGENCY — Space in a building used for the purpose of conducting the affairs of a business selling products that protect an individual's assets.

ISDS — An individual septic disposal system.

JANITORIAL SERVICES — Space in a building used for the purposes of providing services related to maintenance, cleaning, and repairs in a building.

JEWELRY STORE — Space in a building used primarily for the purpose of selling and repairing jewelry products on the premises.

KAYAK/ CANOE STORE — Space in a building used for the retail purpose of renting or selling non-motorized kayaks or canoes.

KITCHEN PRODUCTS STORE — Space in a building used for the purpose of selling cooking, food preparation, and related products.

***LAND DEVELOPMENT PROJECT** — A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including but not limited to, planned development and/or residential cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as is permitted by this Ordinance.

LANDSCAPE CONTRACTING SERVICES — Land, buildings, or structures used for the purposes of providing services relating to the decoration of land by designing gardens and planting trees and shrubs.⁷

LAUNDRY PLANT — A building or structure in which the business of a laundry is conducted where water and detergent are used and where the drying, ironing, and finishing of such goods are conducted.

LAWN CARE SERVICES — Land, buildings, or structures used for the purposes of providing services relating to the installation and maintenance of lawns.

LEATHER GOODS FACTORY — A factory for the manufacture of leather products such as belts, shoes, coats and other accessories, but does not include tannery processing.

LEGAL SERVICES — Space in a building used for the purpose of providing services relating expertise to law.

LETTER OF ELIGIBILITY — (As used in ARTICLE V) A letter issued by the Rhode Island Housing and Mortgage Finance Corporation in accordance with § 42-55-5.3(a).⁸

LIBRARY — Space in a building used for the purpose of housing printed and pictorial material for public use for purposes of study, reference, and recreation.

LIGHT EQUIPMENT SALES/RENTAL — Any land, building, or structures where light machinery is offered for sale, rent, or lease. Light equipment includes items such as air compressors, fastening devices, hydraulic equipment, lawn and garden tools, and ladders.

LIGHT EQUIPMENT SHOP — Land, buildings, or structures used for the retail sales, maintenance, or rental of small light-weight mechanical tools for residential and small business uses.

LIGHTING FIXTURES STORE — Space in a building used for the purpose of selling and repairing illumination products.

LINEN SHOP — Space in a building used for the purpose of selling fabric goods for use in household settings.

7. Editor's Note: The former definition of "large wind facility (LWF)," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

8. Editor's Note: See R.I.G.L. § 42-55-5.3(a).

LINE, STREET — A lot line separating a lot from an adjacent street.

LINGERIE SHOP — Space in a building used for the purpose of selling intimate apparel.

LIQUOR STORE — Space in a building used for the purpose of selling, with required licenses, alcoholic beverages to be consumed off-site.

LOCAL BOARD — (As used in ARTICLE V) Any town or city official, zoning board of review, planning board or commission, board of appeal or zoning enforcement officer, local conservation commission, historic district commission, or other municipal board having supervision of the construction of buildings or the power of enforcing land use regulations, such as subdivision, or zoning laws.

LOCAL REVIEW BOARD — (As used in ARTICLE V) The planning board as defined by § 45-22.2-4(24),⁹ or if designated by ordinance as the board to act on comprehensive permits for the town, the zoning board of review established pursuant to § 45-24-56.¹⁰

LOCKSMITH SERVICES — Space in a building used for the purpose of selling locks, safes, keys and services relating to repairing or making locks.

*LOT — Either:

- (1) The basic development unit for determination of lot area, depth, and other dimensional regulations, or
- (2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity to title.

*LOT, AREA — The total area within the boundaries of a lot, excluding any street, right-of-way, or easement granted for access to other properties, usually reported in acres or square feet.

*LOT, BUILDING COVERAGE — That portion of the lot that is or may be covered by buildings and accessory buildings.

LOT, CORNER — A lot at the junction of and fronting on two or more intersecting streets.

*LOT, DEPTH — The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

*LOT, FRONTAGE — That portion of a lot at the specified setback that is contiguous, uninterrupted and abutting a street.

9. Editor's Note: See R.I.G.L. § 45-22.2-4(24).

10. Editor's Note: See R.I.G.L. § 45-24-56.

LOT, IMPROVED — A lot which is occupied or for which a certificate of occupancy has been issued on or before the effective date of this Ordinance.

*LOT, LINE — A line of record, bounding a lot, which divides one lot from another lot or from a public or private street or any other public or private space and shall include:

- (1) *FRONT — The lot line separating a lot from a street right-of-way.
- (2) *REAR — The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
- (3) *SIDE — Any lot line other than a front or rear lot line.

*LOT, THROUGH — A lot that fronts upon two parallel streets, or which fronts upon two streets that do not intersect at the boundaries of the lot.

*LOT, WIDTH — The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

LOW AND MODERATE INCOME — Low- and moderate-income as those terms are defined by the state or federal government program providing the subsidy for the proposed low- or moderate-income housing.

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

LOW OR MODERATE INCOME HOUSING — (As used in ARTICLE V) Any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to low or moderate income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

MAINTENANCE, SIGN — The cleaning, painting, repair or replacement of defective parts in a manner that does not alter the basic colors or structure of a sign.

MANUFACTURING — The use of land, buildings or structures engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. The term manufacturing covers all mechanical or chemical transformations, whether the new product is finished or semi-finished as raw material in some other process.

MARINA — Any dock, pier, wharf, float, floating business, or combination of such facilities that serves five or more boats as a commercial enterprise or in association with a club.

MARINE SUPPLY STORE — Space in a building for the retail sales of canoes, kayaks, inflatable boats, wind surfers etc. along with other marine related merchandise.

MASONRY SERVICES — Land, buildings, or structures used for the purposes of providing services relating to building or maintaining stone or brick masonry.

MASSAGE ESTABLISHMENT — Space in a building used for the purpose of massage therapy, provided by a licensed professional.

MEDICAL/ DENTAL CENTER — Space in a building used by members of the medical or dental professions to provide treatment and diagnosis to patients, without offering overnight accommodations.

MEETING HOUSING NEEDS — (As used in ARTICLE V) Adoption of the implementation program of an approved affordable housing plan and the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan.

***MERE INCONVENIENCE** — As defined in R.I. General Laws § 45-24-41.

MICROBREW PUB — An establishment for making malt liquors for customers on the premises in conjunction with a restaurant.

MINIATURE GOLF COURSE — An area of land or a building, structure, or premises or part thereof operated primarily as a place of amusement in which facilities are provided to simulate the game of golf or some aspects of the game on a small scale, but does not include a driving range.

***MIXED USE** — A mixture of land use types within a single development, building, or tract.

MIXED-USE OVERLAY DISTRICT — A zoning overlay district contained in the Charlestown Zoning Ordinance that exists in addition to the several underlying zoning districts that already exist in the Charlestown village area and as shown on the Official Zoning Map of the Town. The several underlying districts that exist include, but are not limited to, residential, commercial and historic districts. The Mixed-Use Overlay District regulations are applied in addition to the underlying district(s) regulations affecting a particular property.

MOBILE HOME PARK — A parcel of land that has been planned and improved for mobile homes for non-transient residential use.

MOTEL — A building or group of buildings that provide sleeping rental units for temporary occupancy, in which each rental unit has a private entrance direct to parking facilities and its own sanitary facilities. "Motel" includes, but is not limited to motor courts and motor lodges.

MOTOR VEHICLE SALES — Land, building or structures primarily dedicated for the sale of vehicles. Vehicles are stored on premises with an accessory sales office and service department.

MUNICIPAL COMMUNITY CENTER — A building or complex of buildings and services which may include cultural, recreational, athletic, convention, and entertainment facilities and owned by the Town of Charlestown.

MUNICIPAL GOVERNMENT SUBSIDY — (As used in ARTICLE V) Assistance that is made available through a city or town program sufficient to make housing affordable, as affordable housing is defined in § 42-128-8.1(d)(1);* such assistance may include, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, and any combination of forms of assistance.

MUNICIPAL STADIUM — Land, buildings, or structures owned by the Town of Charlestown used for mass public assemblies for athletic, cultural, or other purposes.

MUSEUM — Space in a building that is used for the purpose of acquiring, conserving, studying, interpreting, assembling, and exhibiting to the public for its instruction and enjoyment, a collection of items of historic, artistic, or scientific interest.

MUSIC STORE — Space in a building used for the purpose of retail sales and instruction of musical instruments, and music related items is provided.

NAIL SALON — Space in a building used for the purpose of applying decorative and personal hygiene procedures to fingernails and toenails.

NATURAL GRADE — The topography of a site before alteration. Not disturbed ground.

NEWSRACK — A self-service, coin operated dispenser installed, used, or maintained for the display and sale of periodicals to the general public.

***NONCONFORMANCE** — A building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of such ordinance or amendment. Nonconformance shall be of only two types:

(1) ***NONCONFORMING BY USE** — A lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or

8. Editor's Note: See R.I.G.L. § 42-128-8.1(d)(1).

structure containing more dwelling units than are permitted by the use regulations of this Ordinance shall be nonconforming by use; or

- (2) *NONCONFORMING BY DIMENSION — A building, structure or parcel of land not in compliance with the dimensional regulations of this Zoning Ordinance. Dimensional regulations include all regulations of this Zoning Ordinance. A building or structure containing a permitted number of dwelling units, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

NONCONFORMING SIGN — A permanent sign that met all legal requirements when constructed but does not conform to the requirements of this Ordinance.

NON-TRANSIENT USE — Intended for permanent, long-term use. Not for temporary residents.

NORMAL HOUSEHOLD REUSABLE MATERIALS — Waste products generated by residential uses that are small items comprised of paper, metal, glass or plastic that can be reused. It does not include refuse or hazardous materials.

NOVELTY/ SOUVENIR SHOP — Space in a building used for the purpose of retail sales of new and unusual items and items of remembrance.

NUCLEAR FISSION — A nuclear reaction in which an atomic nucleus splits into fragments.

NUCLEAR FUSION — A nuclear reaction in which nuclei combine to form more massive nuclei with the release of energy.

NUCLEAR WASTE STORAGE FACILITY — Any land upon, into or through which nuclear waste is deposited or processed and any machinery or equipment or operation for the treatment or disposal of nuclear waste products or materials.

NURSERY/ GREENHOUSE — A retail establishment used for growing of flowers, vegetables, plants, trees, and other vegetation that is sold directly from the building or premises.

NURSERY/ KINDERGARTEN — A program that serves as an orientation for school by accustoming children to a new social environment and aids in the development of motor and cognitive skills.

NURSING HOME — A building in which the proprietor supplies for gain, lodging with or without meals and, in addition provides nursing, medical or similar care and includes a rest home or convalescent home.

OFFAL/ DEAD ANIMAL REDUCTION — Any land, buildings, or structure used to process deceased animals or parts thereof for any type of use.

OFFICE SUPPLY STORE — Space in a building used for the purpose of selling products that are used in the function and preparation of office information.

OFF-SITE CARPET CLEANING SERVICES — Land, buildings, or structures used for the purposes relating to the provision of cleaning services for carpets at off-site locations.

OFF-SITE DIRECTIONAL SIGN — A sign that gives directional assistance to access an establishment conveniently and safely.

OFF-STREET PARKING — An area provided for parking not on any public or private road.

OPEN LOT STORAGE — The storage of equipment, goods, raw or processed materials outside any building or structure.

OPEN SPACE — Any parcel or area of land dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking, and other improvements that are designed to be incidental to the natural openness of the land and as may be permitted by this Ordinance.

OUTDOOR CAFE — An outdoor area adjoining a restaurant, and consisting of outdoor tables, chairs, plantings, and related decorations and fixtures, and where meals or refreshments are served to the public for consumption on the premises.

OUTDOOR RETAIL WAREHOUSE — A building or part thereof which is used for the storage and distribution of goods, merchandise, substances or articles and includes facilities for retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

***OVERLAY DISTRICT** — A district established that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

PACKAGE DISTRIBUTION SERVICES — Land, buildings, or structures used for the large scale delivery and supply of packages.

PACKING AND BAILING SITE — Land, buildings, or parts of buildings where waste is compressed and the blocks are bound or sheathed with wire, metal, plastic or other materials.

PADDOCK — A fenced area used as a holding area for horses, ponies, donkeys, mules or other farm animals.

PAINTING/ PAPER HANGING SALES & SERVICES — Space in a building used for the purpose of selling paint, wallpaper and paint products and services related to installation of such.

PAPER PRODUCTS STORE — Space in a building used for the purpose of retail sales of paper, paper products and related items.

PASTORAL COUNSELING — Space in a building used for the purpose of providing spiritual care and guidance by a recognized church professional.

PASTURE — A fenced area used to provide nutritious feed for horses, ponies, donkeys, mules, or other farm animals.

PENNANT — Any lightweight, plastic, fabric, or other material suspended from a rope, wire, or string designed to move in the wind and attract attention.

*PERFORMANCE STANDARDS — A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.

PERFUMERY — Space in a building used for the purpose of providing products with special attractive scents.

*PERMITTED USE — A use by right which is specifically authorized in a particular zoning district.

PETROLEUM PRODUCT — Crude oil or any fractions thereof that is liquid at standard conditions of temperature (60 degrees Fahrenheit) and pressure (14.7 pounds per square inch absolute) and includes substances derived from crude oil including, but not limited to, the following: gasoline, fuel oils, diesel oils, waste oils, gasohol, lubricants, and solvents.

PETROLEUM REFINING — A building or land used for the process to reduce petroleum to a pure state free of impurities.

PET SHOP/ GROOMING SERVICES — An establishment where animals or birds are sold as pets, kept for sale, or groomed, but does not include the breeding or overnight boarding of pets.

PETTING ZOO — A place where animals are kept, often in combination of indoor and outdoor spaces, and are viewed and touched by the public.

PHARMACEUTICAL FACTORY — An establishment where drug and medicinal products are manufactured. It includes but is not limited to such items as deodorants, soaps, patent medicines, disinfectants, and insecticides.

PHOTO STUDIO — Space in a building used for the purpose of taking and processing pictures, the sale of film, equipment, and related supplies and the repair and maintenance of equipment used for photography.

PHYSICAL THERAPIST — Space in a building used for the purpose of counseling individuals and assisting them in overcoming difficulties with mobility, flexibility, coordination and perceptiveness.

PLANETARIUM — A building or room containing devices for projecting images of celestial bodies in their courses onto the inner surface of a hemispherical dome.

*PLANNED DEVELOPMENT — A land development project as defined herein and developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

PLAT ASSOCIATION OFFICE/ CLUBHOUSE — A building and/or facilities owned or operated by a Homeowners Association within a residential development for a social, educational, or recreational purpose.

PLUMBING/ HEATING SUPPLY STORE — Space in a building used for the purpose of selling plumbing and heating related items.

POLITICAL SIGN — A temporary sign used about a local, state or national election or referendum.

POLLUTANT — Any natural or man-induced material or effluent which may alter the chemical, physical, biological, or radiological characteristics and/or integrity of water, air, and/or soil including but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, cellar dirt or industrial, municipal, agricultural, or other waste or materials, petroleum or petroleum products, including but not limited to oil.

POLLUTION — Natural or man-induced alteration of the chemical, physical, biological, and radiological integrity of water, air, and/or soil.

PORTABLE SIGN — Any sign that is not permanently affixed to a building or the ground including, but not limited to, signs designed to be transported by wheels, trailer signs, A- or T-frame signs, balloons used as signs, and signs attached to or painted on vehicles parked and visible from a public right-of-way.

POSTAL SERVICES — Retail - Space in a Building used for the purpose of selling supplies and providing services for mail delivery, pick up, and distribution.

***PREAPPLICATION CONFERENCE** — A review meeting of a proposed development held between applicants and reviewing agencies as permitted by this Ordinance, before formal submission of an application for a permit or for development approval.

PRIVATE GASOLINE PUMP ISLAND — Gasoline pumps used solely for providing fuel to vehicles owned or leased by the owner or occupant of the premises.

PRIVATE LANDFILL — A state licensed site where solid waste material is disposed of compacted and covered with earth.

PRIVATE SCHOOL/ COLLEGE — The use of land or building or structures to provide higher education by a nongovernmental entity.

PRIVATE STABLE — Any area, pasture, paddock, buildings, or structures used for the raising of a horse, donkey, pony, or mule on the premises of a single or two-family unit as an accessory use.

PRIVATE WAY — A private right-of-way that is used for vehicular access to a residential compound pursuant to § 218-54 of this Ordinance.

PRODUCT ASSEMBLER/ SHIPPER — Space in a building for the purpose of final assembly of pre-made pieces of a retail product. No manufacturing takes place.

PROFESSIONAL OFFICE — Space in a building used for the purpose of practicing a profession or the administration of a business and does not include a retail use.

PROJECTING SIGN — A sign other than a flat wall sign that is attached to and projects from a building or wall.

PROPORTIONATE SHARE — (As used in ARTICLE XV) That portion of the cost of system improvements which reasonably relates to the service demands and needs of the project;

PUBLIC EVENT — A function held to attract persons of the general public regardless of whether a fee is charged for admission and approved by the Town Council subject to all applicable federal, state and local laws.

PUBLIC FACILITIES — (As used in ARTICLE XV)

- (1) Water supply production, treatment, storage, and distribution facilities;
- (2) Wastewater and solid waste collection, treatment, and disposal facilities;
- (3) Roads, streets, and bridges, including rights-of-way, traffic signals, landscaping, and local components of state and federal highways;
- (4) Storm water management, retention, detention, treatment, and disposal facilities, flood control facilities, and enhancement projects;
- (5) Parks, open space areas, and recreation facilities;
- (6) Police, emergency medical, rescue, and fire protection facilities;
- (7) Public schools and libraries; and
- (8) Other public facilities consistent with a community's capital improvement program. (i.e., see page II-5 of "Town of Charlestown, Rhode Island Growth Management Program, Phase 2 - Impact Fees," for examples of the difference between Capital Expenses and Operating expenses)

PUBLIC PARK — An area of public land specifically dedicated to the public for both active and/or passive recreational use.

PUBLIC STORAGE UNIT — A building in which units are available for rent or lease for the storage of personal goods.

PUBLIC UTILITY STRUCTURE/ FACILITY — The building in which a public utility maintains its office and maintains or houses any equipment used in connection with the utility.

RACE TRACK — A course that is prepared for horse racing, dog racing, harnesses racing, drag races, stock car races and other types of races excluding track and field events.

RAIL/ BUS PASSENGER STATION — Land, building or structures where commercial rail or buses pick up and discharge passengers. Accessory uses may include ticket offices, food counters and luggage checking facilities.

RAIL/ MOTOR FREIGHT TERMINAL — The use of land, building, or structures where trucks or tractor trailers are for sale or hire and where such are stored for dispatch.¹²

REAL ESTATE SERVICES — Space in a building used for the purpose of providing services relating to the sale of land as property, along with the natural resources and permanent buildings that may be on it.

RECHARGE AREA — The land surface from which water is added to the zone of saturation. The recharge area for a particular well or aquifer, for instance, is that land surface from which water moves to the well or aquifer or may move to the well or aquifer under certain hydraulic conditions.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Designed to be self propelled or permanently towable by another vehicle; and
- (3) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

RECREATION CENTER -- MAJOR — Land or buildings that provide a recreation facility open to the general public and provided athletic and leisure-time facilities intended to be used by residents from throughout the entire town.

RECREATION CENTER -- MINOR — Space in a Building used for the purpose of an accessory use to a residential subdivision, designed and intended for use by the occupants of the subdivision and does not exceed 3,000 square feet.

RECTORY — A building used as a residence, operated as a single house-keeping unit, that is accessory to a place of worship.

RECYCLING CENTER — The use of land, buildings, or structures where material is separated and packaged for shipment.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation.

RESEARCH LABORATORY/ FACILITY — A building or group of buildings for scientific research, investigation or testing but not for the manufacturing of products, except as incidental to laboratory investigations.

12. Editor's Note: The former definition of "rated nameplate capacity," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

RESIDENTIAL WATER TREATMENT SALES/ SERVICE — Space in a building used for the purpose of retail sales and maintenance of water filtration equipment for residential uses.

RESTAURANT — Space in a building used for the purpose of providing food and drink for sale to the public primarily for immediate consumption.

RETAIL SALES — Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering such services incidental to the sale of such goods.

RI CRMC — The Rhode Island Coastal Resources Management Council.

RI DEM — The Rhode Island Department of Environmental Management.

ROOF SIGN — A sign erected over or on the roof of a building.¹³

SAM PLAN — The Rhode Island Coastal Resources Management Council document entitled "Rhode Island's Salt Pond Region: A Special Area Management Plan (Ninigret to Point Judith Ponds)," Adopted November 27, 1984, and any amendments thereto.

SAW OR PLANING MILL — Land, building, or structures where timber is cut sawed or planed into lumber products.

SEMICONDUCTOR/ SOLID STATE — A solid crystalline substance such as germanium or silicon, that has electric conductivity greater than an insulator but less than a good conductor.

*SETBACK LINE OR LINES — A line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

SEWAGE PUMPING STATION — Land or buildings used for the collection and transfer of sewage to a sewage collection system.

SEWAGE TREATMENT PLANT — Any land, buildings, or structures used for the collection, treatment and disposal of sewage.

SHOE REPAIR — Space in a building used for the purpose of retail service of repairs to foot gear.

SHOE STORE — Space in a building used for the purpose of retail sales of foot gear and related items.

SHOOTING CLUB/ RANGE — Any land, buildings, or structures used for the practice of archery or the shooting of firearms.

SHOPPING CENTER — A building or group of buildings on a single lot whose shops are linked together by an architectural, historical, or geographic theme.

13. Editor's Note: The former definition of "rotor diameter," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

SIGN — (As used in ARTICLE XI) any permanent or temporary device, composed of or employing any medium manmade or natural, reproduction, material or structure which is freestanding, attached to a building or structure or erected, painted, represented or reproduced inside or outside any building, structure or natural object, including window display area which displays, reproduces or includes any lettered or pictorial matter; which is used to identify the premises or occupant or owner of the premises; to advertise any trade, business, profession, industry service or other activity; to advertise any product or item; to advertise the sale, rental or use of all or part of any premises or item including that upon which it is displayed; to direct vehicular or pedestrian traffic other than public highway markers; and shall also include any announcement, demonstration, display, illustration or insignias used to advertise or promote the interests of any persons or business or product when the same is placed in view of the general public. In no event shall the word "sign" be construed to mean any sign in the interior of any structure, not visible from the outside, unless specifically set forth in this Ordinance. Excluded from this definition also are pavement markings or driveway directional arrows painted on the ground, which contain no advertising. The American Flag is not a sign in the context of this ordinance.

SIGN - ACCESSORY — (As used in ARTICLE XI) any sign used in conjunction with existing signage (i.e. "Open," "No Vacancy") related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.

SIGN - AWNING — (As used in ARTICLE XI) any sign that is attached to or part of an awning or canopy.

SIGN - BANNER — (As used in ARTICLE XI) a banner made of material that is not rigid such as cloth or vinyl that contains advertising for a business, product, goods, services, sale or activity, that is strung from rope or wall mounted.

SIGN - CHANGEABLE COPY — (As used in ARTICLE XI) any sign that is designed so that characters or letters can be manually changed or rearranged without altering the substrate or size of the sign.

SIGN - CONTRACTOR — (As used in ARTICLE XI) any sign erected by a contractor during construction.

SIGN - DOWNWARD DIRECTED LIGHTING — (As used in ARTICLE XI) indirect illumination of a sign by white light from above, shielded so as not to cause glare or reflection annoying to the public or traffic.

SIGN - FLAG — (As used in ARTICLE XI) a single flag containing no advertising for any business, product, goods, services, sale or activity, on a pole or wall-mounted, where such flag is made of material that is not rigid, such as cloth or vinyl.

SIGN - FRANCHISE OR LICENSED TRADEMARK — (As used in ARTICLE XI) a sign used by any franchised entity that uses a particular logo or design to advertise their products.

SIGN - FREESTANDING — (As used in ARTICLE XI) any sign supported by a pole, uprights, braces or frame from the ground and not supported by any wall, building or similar structure.

SIGN - ILLEGAL — (As used in ARTICLE XI) any sign that does not meet the requirements of this Ordinance and which has not received legal nonconforming status.

SIGN - ILLUMINATED — (As used in ARTICLE XI) any sign designed to give forth visible light radiation from any source in such a manner as to be an integral part of the construction of the sign. Sources of such visible light include, but are not limited to, fluorescent gas lighting (such as neon signs), laser, or incandescent lighting, and transparent or translucent signs illuminated from within by any lighting source.

SIGN - INDIRECTLY ILLUMINATED — (As used in ARTICLE XI) any sign illuminated with artificial light focused on such sign from a source exterior to the sign.

SIGN - INFLATABLE — (As used in ARTICLE XI) a mylar, rubber, vinyl or other material inflated to expand physical dimensions or provide lift or movement to a sign, free floating or tethered.

SIGN - KIOSK — (As used in ARTICLE XI) a freestanding structure designed to provide advertising space for two or more businesses on a single premise or group of contiguous premises.

SIGN - MARQUEE — (As used in ARTICLE XI) any sign painted on, attached to or consisting of interchangeable letters on the face of a permanent overhanging shelter which projects from the face of a building.

SIGN - NEWS RACK, VENDING MACHINE — (As used in ARTICLE XI) the advertising on a newspaper or vending machine.

SIGN - NON-CONFORMING — (As used in ARTICLE XI) a permanent sign that met all legal requirements when constructed but does not conform to the requirements of this Ordinance.

SIGN - OFF-SITE ADVERTISING — (As used in ARTICLE XI) any sign or advertising device, which advertises a use or activity not located on, or a product not sold nor manufactured on the lot on which the sign or device is located.

SIGN - OFF-SITE DIRECTIONAL — (As used in ARTICLE XI) any sign giving directions to the location of any use or activity not located upon the property upon which the sign is erected.

SIGN - PENNANT — (As used in ARTICLE XI) strings of triangular or other shaped material, cloth or vinyl, strung together and displayed outdoors to catch the wind which draws attention to a business, product, goods, services, sale or activity.

SIGN - PLAZA — (As used in ARTICLE XI) any grouping of signs in a common location, having uniform size and materials and regulated by the Town of Charlestown in accordance with the provisions of this Ordinance.

SIGN - PORTABLE — (As used in ARTICLE XI) any sign not attached to a building or structure which is capable of being placed upon various locations on a lot.

SIGN - PROJECTING — (As used in ARTICLE XI) any sign erected so as to project approximately perpendicular from the exterior of any building or wall.

SIGN - ROOF-MOUNTED — (As used in ARTICLE XI) any sign installed above the upper soffit or eave edge of a roof and supported by or resting on any part of the roof or any roof structure, including, but not limited to gables, vents, chimneys, condensers, compressors or other roof mounted equipment.

SIGN - SNIPE — (As used in ARTICLE XI) any temporary sign or poster affixed to a tree, fence, pole or similar item (e.g. yard sale).

SIGN - STRING LIGHTS — (As used in Article ARTICLE XI) any string of lights used to attract attention to a product, business, service, goods, sale or activity.

SIGN - TRAILER — (As used in ARTICLE XI) any sign which is mounted or designed for mounting on wheels, or which is mounted or designed for mounting on a self-propelled or towed vehicle. Such signs shall include, but not be limited to mobile advertising signs attached to a truck, chassis, detachable vehicle, trailer or other such mobile sign, but shall not include signs painted or otherwise inscribed on a self-propelled vehicle or towed vehicle which identify the product, service or activity for which the vehicle is used, unless the principal use of such vehicle is for advertising purposes.

SIGN - WALL-MOUNTED — (As used in ARTICLE XI) any sign erected against, painted on or attached to the wall of any building or structure including signs affixed to fences, screens and freestanding walls, or natural object.

SIGN - WINDOW — (As used in ARTICLE XI) signs displayed in windows to advertise products or services available on premises.

SITE PLAN — The development plan for one or more lots on which is shown the existing and/or the proposed conditions of the lot.

SMALL SCALE WOODWORKING SHOP — A shop making custom cabinetry, fine custom one-of-a-kind furniture, wooden toys and/or craft items such as birdhouses etc. Retail sales of the items made may occur. All construction, material and finished items storage must be inside.¹⁴

SNIPE SIGN — A temporary sign or poster affixed to a tree, fence, pole or similar item.

SPECIAL FLOOD HAZARD AREA — An area having flood, and/or flood related erosion hazards, and shown on an FHBM or FIRM as zone A, AO A1-30, AE, A99, AH, VO, V1-30, VE, M, or E.

14. Editor's Note: The former definition of "small wind energy system (SWES)," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

SPECIALTY FOOD STORE — Space in a building used for the purpose of specializing, for retail sales, in a specific type or class of foods, such as an appetizer store, bakery, butcher, or gourmet shop.

***SPECIAL USE** — A regulated use that is permitted pursuant to the special use permit issued by the Zoning Board of Review pursuant to RI General Laws § 45-24-42. Formerly referred to as a special exception.

SPECIMEN VEGETATION — Rhode Island Natural Heritage Program plant species listed as either state endangered, state threatened, state interest species of concern, or state extirpated; plant species providing habitat for animal species listed by the Heritage program in the above mentioned categories; species such as American Holly (*Ilex opalca*) and Rhododendron (*Rhododendron maximum*) which are at the limits of their natural range; any species such as American Elm (*Ulmus Americana*) and American Chestnut (*Castenata dentata*) whose population has been drastically reduced by disease, insects or habitat destruction.

SPLIT ZONING DISTRICT BOUNDARIES — Any lot or parcel of land that is divided or split by a zoning district boundary shall be subject to the following interpretive standards: lot frontage shall be required pursuant to the standard required for the zone in which the lot frontage is located; the minimum lot area and other dimensional regulations required, other than lot frontage if applicable pursuant to the preceding requirement, shall be subject to those standards required for the zone and use to be applied on the lot or parcel of land.

STABLE, PRIVATE — A stable with a capacity for two or fewer horses, mules or other farm animals that are used by the owners of the property and guests without compensation.

STACKING SPACE — A permanent dust free surface that is used for a motor vehicle waiting to enter a drive through use, that is located in such a way so that access to a parking space is not obstructed and is at least nine feet in width and nineteen feet in length.

STORAGE OF UNLICENSED MOTOR VEHICLES — The outdoor use of property occupied by an unlicensed vehicle.

STREET — A public way established or maintained under public authority, private ways open for public uses, and a private way platted for ultimate public use, whether constructed.

STREET FRONTAGE — The measurement of a lot boundary that abuts a street line.

***STRUCTURE** — A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

***SUBSTANDARD LOT OF RECORD** — Any lot lawfully existing at the time of adoption or amendment of a zoning ordinance and not in conformance with the dimensional and/or area provisions of that ordinance.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either;

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the Building Inspector and which are the minimum necessary to assure safe living conditions.
- (2) Any alteration of an historical structure provided that the alteration will not preclude the structure's continued designation as an historical structure.

SUMMER RECREATION CAMP — A camp consisting of land, building or structures used for sleeping, eating, education and recreational uses and which is generally operated from April through October on a non-commercial basis.

SUPERMARKET — Space in a building used for the purpose of selling foods as well as other convenience and household goods.

TAILOR/ DRESSMAKER — Space in a building used for the purpose of custom tailoring such as the creation of one-of-a-kind garments, remodeling, hem stitching and button hole making, but does not include wholesale manufacturing of clothing.

TAKE OUT FOOD SERVICES — Space in a building used for the purpose of preparing food and selling it for consumption off premises or outside the building.

TANK FARM — A facility having two or more storage containers for the transfer of liquids or gases and from which no retail sale of fuel to the public is or may be conducted.

TAVERN/ NIGHTCLUB — A building or part thereof where, in consideration of payment therefor, liquor, beer, or wine or any combination thereof is served for consumption on the premises, with or without food.

TAXIDERMIST — Land, buildings, or structures used for the purpose of providing services related to the art or operation of preparing, stuffing and mounting the skins of dead birds and animals.

TELECOMMUNICATION ACCESSORY EQUIPMENT/STRUCTURE — All items and/or buildings ancillary to the transmission, reception, connection and support of wireless communication.

TELECOMMUNICATION TOWER/POLE — A structure that is intended to support antennas, waveguide, and associated equipment for the transmission of signals for wireless communications, such as television, radio, radio telephone, telephone, or cellular land mobile communications.

TELEPHONE MAINTENANCE YARD — Land, buildings, or structures used for the operation, storage, and maintenance incidental to the operation of a telephone communication system. It does not include transmission towers.

TEMPORARY SIGN — Any sign that is not permanently attached and removed after a specified time.

TEXTILE DYEING/ FINISHING — Any land, buildings or structures used for the finishing of cloth by treatment, dyeing, coloring, milling, spinning, cutting, and wholesale distribution of the final product.

THEATER/ CONCERT HALL — Space in a building used for the purpose of showing motion pictures or for drama, dance, musical or other live performances for an audience.

THRIFT/ CONSIGNMENT SHOP — Space in a building used for the purpose of selling used clothing and/or household goods.

TOBACCO SHOP — An establishment where the retail sales of tobacco and tobacco related products are made to the general public.

TOURIST INFORMATION CENTER — Space in a building used for the purpose of providing local, State and regional data, news, advice and information to visitors interested in the area.

TRADITIONAL VILLAGE DISTRICT — A standard zoning district contained in the Charlestown Zoning Ordinance that exists in addition to the other overlay zoning district that already exists in the "Cross Mills" Historic Village Overlay District and as shown on the Official Zoning Map of the Town.

TRAILER/ MOBILE HOME — Any vehicle or similar portable structure designed and constructed to permit the occupancy thereof as a dwelling unit and mounted on wheels and/or as a conveyance on a street, propelled or drawn by its own power.

TRAVEL AGENCY — Space in a building used for the purpose of arranging travel itineraries, tickets, and accommodations.

TVD BED AND BREAKFAST — This definition applies only in the TVD district. A single family dwelling in which the principal use is the single family residence; and, as an accessory use, bedrooms are made available for transient overnight occupancy for compensation. The dwelling must be in compliance with all State regulations for the number of bedrooms available for rent.

TVD COMMERCIAL PARKING LOT — This definition applies only to the TVD district. Land, buildings, or structures used for the purpose of parking motor vehicles, for public or private purposes for a fee. Storage of vehicles, boats and trailers is not allowed.

TVD CRAFT SHOP — This definition applies only to the TVD district. Space in a building where a handicraft is conducted for gain or profit and may include sales and educational lessons on creating such handicrafts. If educational lessons are offered see definition for Art Studio/Workshop.

TVD PET GROOMING SERVICES — This definition applies only to the TVD district. Space in a building used for the purpose of bathing and combing domestic family animals, but does not include overnight boarding of pets.

TVD TAVERN — This definition applies only to the TVD district. An establishment used primarily for the serving of alcoholic beverages by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

UNMITIGATED IMPACT — A condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-tract property or facilities.

***USE** — The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

***VARIANCE** — Permission to depart from the literal requirements of this Zoning Ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this Zoning Ordinance. There shall be only 2 categories of variance, a use variance or a dimensional variance.

- (1) ***USE VARIANCE** — Permission to depart from the use requirements of this Zoning Ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this Zoning Ordinance.
- (2) ***DIMENSIONAL VARIANCE** — Permission to depart from the dimensional requirements of this Zoning Ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

VEGETATIVE PRODUCTS — Any farm product of horticultural origin, including, but not limited to fruits, vegetables, live trees, plants, Christmas trees, shrubs, firewood, hay, sod, and flowers, but excluding products of animal origin such as livestock, poultry, eggs, milk, cheese, fish, or other seafood, bees, or the like. Also excluded from this definition are forest products including lumber, logs, or similar building materials.

VEHICLE — A vehicle of a type which would be subject to the licensing requirements of the Department of Motor Vehicles if operated on a public road. It does not include farm vehicles which do not operate on public roads.

VESTED RIGHTS — The right to proceed with an application for development under the regulations applicable of the Zoning Ordinance in force at the time the application was submitted and deemed complete.

VIDEO RENTAL SHOP — Space in a building for the sale or rental of recorded movies, video programs and related accessories.

WALL SIGN — A sign attached to a wall of a structure so that the wall becomes the support for the sign and does not project more than fifteen inches from the structure.

WATER PUMPING STATION — Land, buildings or structures used for the treatment and distribution of water, including a water bottling plant.

***WATERS** — As defined in R.I. Gen. Laws § 46-12-1(b).

WATER SURFACE ELEVATION — The height, in relation the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains.

WATER TABLE — The upper surface of the saturated zone in an unconfined aquifer.

WATER TOWER/ STANDPIPE — Land, buildings or structures used for the storage, supply or distribution of water.

WATER TREATMENT PLANT — A facility used incidental to a water distribution system for the chemical or biological treatment of water in order to meet mandated drinking water standards.

WATER UTILITY MAINTENANCE YARD — Land, buildings, or structures used for the operation, storage, and maintenance incidental to the operation of a water distribution system.

WELDING SHOP — The use of land, buildings, or structures where pieces of metal are welded.

WELL — A bored, drilled, or driven shaft or a dug hole, with a depth that is greater than its largest surface dimension, through which groundwater flows, has flowed, or may flow under natural or induced pressure.

WELL DRILLING SERVICES — Land, buildings, structures or equipment used for the purpose of providing services related to the drilling of wells to provide water.

WELLHEAD PROTECTION AREA — The critical portion of a three-dimensional zone, surrounding a public well or wellfield through which water will move toward and reach such well or wellfield as designated by the RI DEM.

***WETLAND, COASTAL** — As defined in R.I. Gen. Laws § 2-1-14.

***WETLAND, FRESHWATER** — As defined in R.I. Gen. Laws § 2-1-20.

WHOLESALE STORAGE — The storage of large quantities of items for resale.

WHOLESALE STORAGE/ WAREHOUSING — The use of land, buildings, or structures to store goods or merchandise for resale in large quantities at a lower cost.

WILDLIFE REFUGE — Land used or intended for the preservation of native plant and/or wildlife habitat.¹⁵

15. Editor's Note: The former definitions of "wind facility" and "wind monitoring or meteorological tower," which immediately followed, were repealed 3-14-2011 by Ord. No. 338.

WINDOW CLEANING SERVICES — Space in a building used for the purpose of sales or services related to the provision of window cleaning.

WINDOWS AND DOORS, SALES AND SERVICE — Space in a building, used for the purpose of providing retail sales, installation and maintenance services of windows and doors in residential and commercial properties.¹⁶

WOOD PRODUCTS FACTORY — An establishment whose primary purpose is the manufacture of wooden products but does not include a wood distillation plant.

WOOL PULLING/ SCOURING — The processing involved in rending, tearing or stretching repeatedly wool for the removal of refuse or unwanted materials.

YARD — A space on a lot open, unoccupied and unobstructed by buildings, decks, stairs or structures from the ground to the sky, except as otherwise provided in this Ordinance.

YARD, FRONT — A required yard extending along the entire lot street frontage. The depth of a "front yard" shall be measured from the street lot line to the nearest edge of the structure or use. There shall only be one front yard.

YARD, REAR — A required yard extending along the entire rear lot line or lines. The depth of a "rear yard" shall be measured from the rear lot line to the nearest edge of the structure or use. There shall only be one rear yard.

YARD, SIDE — Any yard not determined to be a front or rear yard and abutting a side lot line. The depth of a "side yard" shall be measured from the side lot line to the nearest edge of the structure or use.

***ZONING CERTIFICATE** — A document signed by the Building Inspector as required by this Ordinance which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this Ordinance or is an authorized variance or modification therefrom.

***ZONING MAP** — The maps that are a part of this Ordinance and which delineate the boundaries of all mapped zoning districts and other land within the physical boundary of the Town.

***ZONING USE DISTRICTS** — The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use.

16. Editor's Note: The former definition of "wind turbine," which immediately followed, was repealed 3-14-2011 by Ord. No. 338.

ARTICLE II
Administration and Enforcement

§ 218-6. Building Inspector/Zoning Inspector to enforce.

It shall be the duty of the Building Inspector to interpret, administer, and enforce the provisions of this Ordinance. All references to enforcement by the Building Inspector include reference to the Zoning Inspector.

- A. Qualifications. To qualify for the position to enforce this ordinance, a person must demonstrate the ability to:
- (1) Understand maps and plans and to relate them to structures and land uses on the ground;
 - (2) Comprehend this Ordinance and identify violations of this Ordinance;
 - (3) Communicate orally and in writing the matters pertinent to his duties; and
 - (4) Carry out his duties outlined in Part B of this Section.
- B. Duties. The following shall be the duties of the Building Inspector related to the enforcement of this ordinance to:
- (1) Receive, review, and make recommendations on applications to the Zoning Board/Platting of Review and keep all records of the Board.
 - (2) Collect all required fees;
 - (3) Keep records relating to uses of land;
 - (4) Authorize commencement of uses of development under the provisions of this ordinance;
 - (5) Investigate suspected violations and issue violation notices requesting corrective actions;
 - (6) Exercise such powers and duties as may be set forth in this Ordinance.
 - (7) Provide verbal guidance or clarification on the interpretation of this Ordinance.
 - (8) Provide guidance or clarification, and upon written request, issue a zoning certificate, or otherwise provide information to the requesting party as to the certificate within fifteen working days of the request. If no response is provided, the requesting party can appeal to the Zoning Board of Review for the certificate.

- (9) Maintain for distribution to the public a supply of copies of the official zoning map(s), the compiled text of the Zoning Ordinance and the rules of the Zoning Board of Review.

§ 218-7. Records.

The Town Clerk shall maintain the record copy of the Zoning Ordinance and Maps and all amendments thereto. A duplicate copy shall be available for public review at the Building Inspector's office. Changes to the Zoning Map shall be depicted on the map by the Building Inspector or his agent within twenty days.

§ 218-8. Building permits required.

No land shall be used or excavated for a foundation hole and no building, structure or sign shall be erected, modified, enlarged, relocated, demolished, or placed into use until a building permit has been issued by the Building Inspector. The Inspector may require such information as he may deem necessary to be filed with the applications for a permit. A permit may not be issued by the Inspector for uses not permitted except where the Zoning Board of Review approves the granting of an appeal, special use permit or variance or a statement is approved by the Town Council indicating an amendment to this Ordinance. The Inspector shall retain a copy of each permit issued, and a copy shall be forwarded to the Tax Assessor.

§ 218-9. Penalties for offenses.

Any person, group of persons or corporation violating any of the provisions of this Ordinance or any term, safeguard or condition attached to the granting of any approval issued pursuant to this Ordinance may be fined not more than \$500.00 for each offense. Each day of the existence of a violation, after notification in writing by the Building Inspector, shall be deemed a separate offense. The Building Inspector shall notify the property owner and the Town Solicitor of any violation and lack of corrective action. The Town Solicitor shall institute appropriate action to abate such violation.

§ 218-10. Amendments.

This Ordinance may be amended by the Town Council, and any person, group of persons or corporation may make application. The Town Clerk shall be the recipient of any proposal for adoption, amendment, or repeal of the zoning ordinance and any associated zoning maps. Immediately upon the receipt of the proposal, the Town Clerk shall refer the proposal to the Town Council and to the Planning Commission for study and recommendation. The Planning Commission shall report to the Town Council within forty-five days after receipt, on its findings and recommendations. Where a proposal for adoption, amendment, or repeal is made by the Planning Commission, the proposal by the Commission shall include its findings and recommendations pursuant to § 218-14, Review by Planning Commission. The Town Council shall hold a public hearing within sixty-five days of receipt of a complete application, giving proper notice as prescribed in § 218-13, Procedure. The provisions of this Section pertaining to deadlines shall not be construed to apply to any extension consented to by an applicant.

§ 218-11. Amendment fees.

All applications for amendments shall be accompanied by the following nonrefundable filing fees payable to the Town of Charlestown. Cost of advertising, postage and any other costs incurred by the Town shall be paid upon billing by the Town Clerk.

Item	Fee
Text amendment	\$100
District change to residential	\$250
District change to other than residential	\$500

§ 218-12. Prohibited uses and exceptions.

This Ordinance contains prohibited uses in zones within the Town. On application, a prohibited use may be changed through amendment by the Town Council to allow the use by special use permit on a case by case basis.

**ARTICLE III
Amendments Procedure**

§ 218-13. Procedure.

- A. General Ordinances. Where a proposed general amendment includes changes in the existing zoning map, public notice shall be given as required by Subsection D of this Section.
- B. Specific Ordinances. Where a proposed amendment includes a specific change in the zoning map, but does not affect districts generally, public notice shall be given as required by Subsection D of this Section, with the additional requirements that:
 - (1) Notice shall include a map showing the existing and proposed boundaries, existing streets and their names, and town boundaries where appropriate; and
 - (2) Written notice of the date, time, place of the public hearing, the nature and purpose thereof shall be sent by certified mail by the applicant to all abutters located within two hundred feet of the perimeter of the area proposed for change. The notice shall be sent by certified mail to the last known address of the owners, as shown on the current real estate tax assessment records.
- C. Additional Procedure for Zoning Map Amendment. Where the application is for a specific change in the boundary of a zoning district, the application shall be accompanied by an accurately drawn to scale map showing the following:
 - (1) The boundaries of the property proposed for change, and the dimensions and the area of the proposed change. In addition, the map shall show an accurate measurement from the nearest intersecting street to the location of the change on the Official Zoning Maps. The map submitted shall be drawn at the same scale of the Official Zoning Maps.

- (2) All properties within two hundred feet of the perimeter of the property proposed for change, together with the names and addresses of the owners of record of said properties.
 - (3) The present zoning district boundaries within two hundred feet as determined from the Official Zoning Maps.
- D. Newspaper Notice. The notice shall contain the following:
- (1) Specify the place of the hearing, the date and time of its commencement;
 - (2) Indicate that adoption, amendment or repeal of a zoning ordinance is under consideration;
 - (3) Contain a statement of the proposed amendments to the Ordinance that may be printed as a summary description of the matter under consideration;
 - (4) Advise those interested where and when a copy of the matter under consideration may be examined and/or purchased; and
 - (5) State that the proposals shown thereon may be altered or amended before 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 during the hearing.
- E. Other Notice.
- (1) Notice of such hearing shall also be forwarded to the applicant, and the Planning Commission. Notice shall also be sent to the Associate Director of the Rhode Island Division of Planning.
 - (2) Notice of a public hearing shall be sent by first class mail by the applicant to the Town Council to which, one or more of the following pertains:
 - (a) Which is located within two hundred feet of the boundary of the area proposed for change; or
 - (b) Where there is a water source that is used or is suitable for use as a public drinking water source, within two thousand feet of any real property that is the subject of a proposed zoning change.
 - (c) Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company as required by R.I. Gen. Laws § 45-22-53(E).
- F. Notice Format. No defect in the form of any notice under this Section shall render any section or amendment invalid, unless the defect is found to be intentional or misleading.
- G. Costs. Costs of any advertising, notice, expert assistance or review required shall be borne by the applicant.
- H. Appeal of Enactment or Amendment. An appeal of an enactment of or an amendment to a zoning ordinance may be taken to the Superior Court of Washington County by filing a

complaint, as set forth in R.I. Gen. Laws § 45-24-71, within thirty days after the enactment of amendment has become effective.

§ 218-14. Review by Planning Commission.

- A. Advisory Opinion. The Planning Commission shall file with the Town Council an advisory opinion on all proposed amendments to this Ordinance within forty-five days of receipt of such a proposal. The Town Council shall consider such advisory opinion but shall not be bound by such. Among its findings and recommendation to the Town Council, the Planning Commission shall:
- (1) Include a statement on the general consistency of the proposal with the Comprehensive Plan, including the goals and policies statement, the implementation program, and other applicable elements of the Comprehensive Plan; and
 - (2) Include a demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in § 218-2, Purpose/consistency with Comprehensive Plan/state laws.
- B. Periodic Review. The Planning Commission shall review this Ordinance every two years. The Commission shall recommend any appropriate amendments to the Town Council considering current development trends and needs, or whenever changes are made to the Comprehensive Plan.

§ 218-15. Decision by Town Council.

Within forty-five days after the completion of the public hearing, the Town Council shall render a decision on any proposed amendment and shall notify the applicant, the Building Inspector, Town Planner and the Planning Commission. If the land that has been rezoned is not used for the requested purpose within two years after the zone change becomes effective, the Town Council may, after a public hearing, change the land to its original district. In granting a zoning amendment, the Town Council may limit the change to only one of the permitted uses allowed in the requested district and impose such limitations, conditions, and restrictions, including, without limitation:

- A. Requiring the petitioner to obtain a permit or approval from any and all state and local government agencies having jurisdiction over the land and use which are the subject of the zoning change;
- B. Those relating to the effectiveness or continued effectiveness of the zoning change;
- C. Those relating to the use of the land; as it deems necessary.
- D. If any limitation, condition, or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.

§ 218-16. Repetitive petitions.

Where the Town Council or the Zoning Board denies an application, the Council or the Board shall not consider another application for the same request for a period of one year. The Town Council or the Zoning Board, may accept a new application after six months, provided that the application that is accompanied by an affidavit setting forth facts showing a substantial change of circumstances. The Council or Board shall review the affidavit and facts for considering justifying a rehearing for the new application.

§ 218-17. Publication of amendments.

Within twenty days after an amendment, the Town Clerk shall have copies of such available for a fee. The Town Clerk shall record the amendment in the land evidence records at the applicant's expense. Where an amendment changes the Official Zoning Maps, said map shall be amended by the Building Inspector or his agent at the applicant's expense, to show the change. A note shall show the date of amendment and reference the Town Council records. The Town Clerk shall mail a copy of any amendments to the Associate Director of the Rhode Island Division of Planning and the State Law Library.

ARTICLE IV
Zoning Board of Review

§ 218-18. Establishment/membership.

A Zoning Board of Review, hereinafter called the "Board," is hereby created. The Board shall be appointed by the Town Council and shall consist of five regular members and three alternate members. Each regular member shall be appointed for a term of five years, except that the original appointments shall be made for terms of one, two, three, four and five years respectively. The alternate members shall be appointed for terms of one year. If a vacancy on the Board should occur, the Council shall appoint one of the alternates as a member for the unexpired term. All members of the Board shall be legal residents of the Town, and no member shall be an elected official or salaried employee of the Town.

§ 218-19. Organization.

Once each year, the Board shall organize by electing from its regular membership a Chairman, Vice Chairman and a Secretary.

§ 218-20. Meetings and hearings.

Meetings of the Board shall be held as the Board may determine. The Chairman or, in his absence, the Vice Chairman may administer oaths, compel the attendance of witnesses and the submission of explanatory data. Alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the Board is unable to serve at a hearing and the second shall vote if two members of the Board are unable to serve at a hearing. Without the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the Board unless

they have attended all hearings concerning that matter. All hearings of the Board shall be open to the public. Following a public hearing, the Board shall render a decision within forty-five days. The Board shall include in its decision all findings of facts, conditions, the vote of each member participating thereon, the absence of a member or failures to vote. All decisions shall be filed in the Building Inspector's Office within twenty working days, and shall be a public record.

§ 218-21. Records of proceedings.

Records shall be available for review at the Building Inspector's Office. Any decision by the Board, including any special conditions attached thereto, shall be mailed to the applicant and to the Associate Director of the Rhode Island Division of Planning. Any decision granting a variance, or special use shall also be recorded at the applicant's expense in the land evidence records of the Town.

§ 218-22. Powers and duties.

The Board shall have the following powers and duties:

- A. To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an officer or commission in the enforcement or interpretation of this Ordinance, or of any section adopted pursuant hereto;
- B. To hear and decide appeals from a party aggrieved by a decision of an historic district commission, pursuant to R.I. Gen. Laws §§ 45-24.1-7.1 and 45-24.1-7.2;
- C. To hear and decide appeals where the Board of review is appointed as the board of appeals for airport zoning regulations pursuant to R.I. Gen. Laws § 1-3-19;
- D. To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to R.I. Gen. Laws § 45-24-41;
- E. To authorize, upon application, special use permits: and to authorize by special use permit relief from the dimensional and intensity regulations of the ordinance for any use the board authorizes by special use permit. See ARTICLE VI § 218-35 and § 218-36, Land Use Table.
- F. To refer applications or matters to the Planning Commission, or to other boards of the Town as the Board may deem appropriate, for advisory findings and recommendations;
- G. To provide for issuance of conditional zoning approvals where a proposed application requires one or more state or federal agency approvals that are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period; and
- H. To hear and decide other matters, according to this Ordinance upon which the Board may be authorized to pass.

- I. In granting a variance, special use permit or in making any determination upon which it is required to pass, the Board and other enforcement officials as identified in this ordinance may apply such special conditions that may be required to promote the intent and purposes of this Ordinance. Failure to abide by any special conditions attached shall constitute a zoning violation. The special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:
- (1) Minimizing adverse impact of the development upon abutting land, including the type, intensity, design, and performance of activities;
 - (2) Controlling the sequence of development, including when it must be commenced and completed;
 - (3) Controlling the duration of use of development and the time within which any temporary structure must be removed;
 - (4) Assuring satisfactory installation and maintenance of required public improvements;
 - (5) Designating the exact location and nature of development and;
 - (6) Establishing detailed records by submission of drawings, maps, plats, or specifications.
- J. The Board shall be required to vote as follows;
- (1) Five active members shall be necessary to conduct a hearing. When a conflict of interest occurs, that member shall recuse himself, and take no part in the conduct of the hearing. Only five active members shall be entitled to vote on any issue;
 - (2) The concurring vote of three of the five members of the Board sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any officer from whom an appeal was taken; and
 - (3) The concurring vote of four of the five members of the Board sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the Board upon which it is required to pass under the ordinance, including variances and special use permits.
- K. Applications. All applications for variances, special use permits and appeals shall be submitted in writing on a form supplied by the Building Inspector accompanied by the appropriate fee as prescribed in § 218-26, Fees. The Board may deny an application for incomplete information or improper fee having been submitted. Any person filing an application for review by the Board shall be responsible for the cost of preparing the transcript of the public hearings on said decision.
- L. Appeals from Planning Commission. To take actions on appeals of the Planning Commission according to the provisions of R.I. Gen. Laws § 45-23, as may be amended from time to time, and to hear appeals on any determination of the Planning Commission in the enforcement of this Ordinance. The concurring vote of four members of the Board

shall be necessary to reverse any decision or determination of the Planning Commission. Notice of an appeal under R.I. Gen. Laws § 45-23 shall also be transmitted by certified mail to the Planning Commission by the applicant.

- M. Assistance. The Board may engage legal, technical, clerical assistance or other technical experts to discharge its duties within the limit of funds available to it and additional expenses shall be borne by the applicants who appear before it.
- N. Rules. The Board, in order to conduct its responsibilities in an orderly, effective fashion, may adopt additional procedures, guidelines and regulations consistent with the intent of this Ordinance. The Board may enact application requirements and procedures to assure compliance with this Ordinance.

§ 218-23. Special use permits.

- A. A special use permit may be approved by the Board following a public hearing if, in the opinion of the Board, that evidence to the satisfaction of the following standards has been entered into the record of the proceedings:
 - (1) The public convenience and welfare will be substantially served;
 - (2) It will not result in adverse impacts or create conditions that will be inimical to the public health, safety, morals and general welfare of the community.
 - (3) The requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan upon which this Ordinance is based;
 - (4) That the granting of a special use permit will not pose a threat to drinking water supplies;
 - (5) That the use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants;
 - (6) That the sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handled on site;
 - (7) That the traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area.
- B. The Board shall hold a public hearing on any application for special use permit within forty-five days after receipt, of a complete application. A public notice thereof shall be given at least fourteen days before the date of the hearing in a newspaper of general circulation in the Town. Notice of the hearing shall be sent by the applicant by certified mail at least fourteen days before the date of the hearing to all abutting property owners within two hundred feet of the perimeter, and to all those who would require notice under R.I. General Laws § 45-24-53. The notice shall include the street address of the such property, and the address and phone number of the applicant and/or property owner. A supplemental notice shall be posted as to be clearly visible from a public right-of-way at the location in question.

- C. A special use permit shall expire twelve months from the date of approval unless the applicant receives a building permit and commences construction and works diligently to complete the project. If application is made prior to the expiration of the initial one-year period, the Board may, upon written request and for cause shown, renew the special use permit for a second one-year period. Said request for an extension shall be advertised and noticed. Where a state or federal permit is required, the twelve month time period shall commence upon the issuance of the state or federal approval provided that the applicant has filed a copy of the state or federal application with the Building Inspector, actively pursues obtaining the approval and files the final approval with the Building Inspector as part of his building permit application.
- D. The Board may request on special use permits, that the Planning Commission recommend within thirty days, findings and a statement of the application's consistency with the Comprehensive Plan.

§ 218-24. Variances.

Relief from the literal requirements of this Ordinance because of hardship may be made by any person, group, agency or corporation by filing an application with the Building Inspector.

- A. The Board shall hold a public hearing on any complete application for variance within forty-five days after receipt. Public notice shall be given at least fourteen days before the date of the hearing in a newspaper of general circulation in the Town. Notice of such hearing shall be sent by the applicant by certified mail at least fourteen days before the date of the hearing to all abutters within two hundred feet of the perimeter, and to all those who would require notice under R.I. Gen. Laws § 45-24-53. The notice shall include the street address of the subject property, the address of the applicant and/or property owner and the phone number. A supplemental notice shall be posted as to be clearly visible from a public right-of-way at the location in question.
- B. In granting a variance, the Board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings;
 - (1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;
 - (2) That said hardship is not the result of any prior action of the applicant or owners and does not result primarily from the desire of the applicant to realize greater financial gain;
 - (3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance; and
 - (4) That the relief to be granted is the least relief necessary and not contrary to the public interest and welfare.
- C. The Board shall, besides the above standards, require that evidence be entered into the record of the proceedings showing that:

- (1) In granting a use variance, that the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this Ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance.
 - (2) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. That a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
- D. A variance from the provisions of this ordinance shall expire twelve months from the date of approval unless the applicant receives a building permit, commences construction and works diligently to complete the project. If application is made prior to the expiration of the initial one-year period, the Board may, upon written request and for cause shown, renew the variance for a second one-year period. Said request for an extension shall be advertised and noticed. Where a state or federal permit is required, the twelve month time period shall commence upon the issuance of the state or federal approval provided that the applicant has filed a copy of the state or federal application with the Building Inspector, actively pursues obtaining the approval and files the final approval with the Building Inspector as part of his building permit application.

§ 218-25. Appeals.

Appeals to the Board may be taken by any aggrieved party affected by a decision of an official charged with enforcement of this ordinance. Any such appeal shall be taken within ten days of the decision that is the subject of said appeal. The official or agency from whom the appeal is taken shall transmit to the Board the record upon which the appeal was taken.

- A. Applications. An application for appeal shall be filed directly with the Board specifying the grounds for the application. An appeal shall stay all proceedings in furtherance of the action appealed, unless the official or agency from whom the appeal is taken certifies to the Board that by reason of facts stated in the officer's or agency's opinion an appeal would cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer or agency from whom the appeal is taken on due cause shown.
- B. Procedure. The Board shall hold a public hearing within forty-five days of receipt of a completed application on an appeal and shall publish notice of the hearing in a newspaper of general circulation in the Town at least fourteen days prior to the date of the hearing. The applicant shall give due notice by certified mail at least fourteen days prior to the date of the hearing to property owners within two hundred feet of the subject of the application, the Board and other parties in interest. The Board shall render a decision on the application within fifteen days of said hearing. Any party may appear at the hearing in person or by representative.

- C. Review. The Board may reverse, affirm wholly or partly or may modify the decision or determinations appealed from and make such order, requirements, decision or determination as necessary. The Board shall have all the powers of the official or agency from whom the appeal was taken. All decisions and records of the Board respecting appeals shall conform to the provision of R.I. Gen. Laws § 45-24-61.
- D. Appeal of Board Decision. Any person or persons aggrieved by a decision of the Board may appeal such decision as provided by R.I. Gen. Laws, § 45-24-61.

§ 218-26. Fees.

Any person filing an application for a special use permit, variance or filing an appeal to the Board, shall, at the time of said filing, pay to the Town the following fees as applicable:

- A. Single-family residential and accessory use: \$125.
- B. Two-family residential: \$200.
- C. Multifamily: \$300 plus \$10 for each additional unit in excess of three units.
- D. All other uses and any supplementary regulation thereto: \$200, plus \$0.10 per square foot over 2,000 of affected area added, modified or changed in use.
- E. Appeals from the decision of the Building Inspector shall pay a fee of \$125.
- F. Fees for site plan, a planned development application, or subdivision appeals shall be \$300.
- G. Any person filing an appeal shall be responsible for the cost of preparing the transcript of the public hearing on said decision.
- H. Zoning Certificates. Applications for a zoning certificate shall be submitted to the Building Inspector on a form he prescribes and shall pay a twenty-five dollar application fee. Certificates that require research outside the Building Inspector's Office for more than one hour of time shall be charged at twenty dollars per hour in addition to the twenty-five dollar application fee.

ARTICLE V

Comprehensive Permit Procedures

§ 218-27. Authority to Grant A Comprehensive Permit.

In accordance with Title 45, Chapter 53 of the Rhode Island General Laws, the R.I. Low and Moderate Income Housing Act, as amended (the "Act"), the Charlestown Code of Ordinances, and the Charlestown Zoning Ordinance, the Planning Commission has been designated as the local review board and shall have the authority to issue a comprehensive permit to build a qualifying low or moderate income housing project, which relief shall include all approvals or permits from any local board or town official having supervision of the construction of buildings or the power of enforcing land use regulations, but not limited to, the power to attach to the approval or permit, any conditions and requirement with respect to setbacks,

height, site plan, size, shape, building materials, landscaping, and parking consistent with the terms of the Act. All definitions and terms contained in the Act are incorporated into these regulations by reference. The regulations contained herein are intended to be complementary and to be used in unison with ARTICLE V of the Charlestown Code of Ordinances, Zoning, Low and Moderate Income Housing.

§ 218-28. Application Procedure.

Any applicant proposing to build low or moderate income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. This procedure is only available for proposals in which at least twenty-five (25) percent of the housing is low or moderate income housing. The application and review process for a comprehensive permit shall be as follows:

- A. Form of application. Applications for a comprehensive permit shall be made on the form(s) provided by the Administrative Officer to the local review board.
- B. General submission requirements. All applications shall include twelve (12) copies of the following submission requirements:
 - (1) a letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and,
 - (2) a written request to the local review board to submit a single application to build or rehabilitate low or moderate-income housing in lieu of separate applications to the applicable local boards. The written request shall identify specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief; and,
 - (3) a proposed timetable for the commencement of construction and completion of the project; and,
 - (4) a sample land lease or deed restriction with affordability liens that will restrict use as low and moderate income housing in conformance with the guidelines of the agency providing the subsidy for the low and moderate income housing, but for a period of not less than thirty (30) years; and,
 - (5) identification of an approved entity that will monitor the long-term affordability of the low and moderate income units; and,
 - (6) a financial pro-forma for the proposed development; and
 - (7) for comprehensive permit applications: (a) not involving major land developments or major subdivisions including, but not limited to, applications seeking relief from specific provisions of a local zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other local ordinances and regulations: those items required by local regulations promulgated

pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and (b) involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in the local regulations promulgated pursuant to § 45-23-40.⁹ Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in the local regulations promulgated pursuant to § 45-23-41,¹⁰ with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and

- (8) the requisite application fee(s) for the application based on its classification, as set forth herein, provided, however, that the imposition of such fees shall not preclude a showing by a non-profit applicant that the fees make the project financially infeasible; and
 - (9) notwithstanding the submission requirements set forth above, the local review board may request additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.
- C. Certification of Completeness. The application must be certified complete or incomplete by the administrative officer according to the provisions of § 45-23-36;¹¹ provided, however, that for a major land development or major subdivision, the certificate for a master plan shall be granted within thirty (30) days and for a preliminary plan shall be granted within forty-five (45) days. The running of the time period set forth herein will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than fourteen (14) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.
- D. Application Fees. The fee for an application shall be based on its classification.
- (1) For an application seeking relief from provisions of the Zoning Ordinance or other ordinances and regulations and/or classified as an Administrative Subdivision, the application fee shall be the same as for the Zoning Ordinance relief sought and/or an Administrative Subdivision.
 - (2) For an application classified as a Minor Land Development or Minor Subdivision, the Preliminary Plan application and Final Plan application fees shall be the same

9. Editor's Note: See R.I.G.L. § 45-23-40.

10. Editor's Note: See R.I.G.L. § 45-23-41.

11. Editor's Note: See R.I.G.L. § 45-23-36.

as for such Minor Land Development or Minor Subdivision as set forth in the Subdivision Regulations.

- (3) For a Major Land Development or Major Subdivision the Master Plan, Preliminary Plan and Final Plan application fees shall be the same as for such Major Land Development or Major Subdivision as set forth in the Subdivision Regulations.
 - (4) All cost to process a comprehensive permit application, such as, but not limited to, advertising, notices and stenographic fees shall be borne by the applicant.
- E. Project Review Fees. A project review fee shall apply to all Comprehensive Permit applications, and the project review fee shall be determined by the local review board, which amount will depend on the type of application proposed and need for outside assistance to process, review and consider an application. In no case shall a project review fee exceed the actual costs incurred by the local review board in reviewing any comprehensive permit application.

§ 218-29. Review Procedures.

An application for a comprehensive permit shall be reviewed by the local review board in accordance with the following provisions:

- A. Notification. Upon issuance of a certificate of completeness for a comprehensive permit, the local review board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.
- B. Pre-application Conference. Where the comprehensive permit application includes a Major Land Development project or a Major Subdivision pursuant to Chapter 23 of Title 45 of the R.I. General Laws an applicant shall schedule with the Administrative Officer a pre-application conference before the local review board. All other applicants are also encouraged to schedule a pre-application conference before the local review board, but such a conference is not mandatory under these regulations. The purpose of the pre-application conference shall be to review the concept plan of the proposed development and facilitate the subsequent stages of review. To request a pre-application conference, the applicant shall submit a short written description of the project including the present and proposed use of the property, the number of units, type of housing, proposed subsidy, and a location, together with a concept plan. Upon receipt of a request by an applicant for a pre-application conference, the municipality has thirty (30) days to schedule and hold the pre-application conference. If thirty (30) days have elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a comprehensive permit.

- C. **Public Notice.** Public notice for all public hearings will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with § 45-23-42.¹² The cost of notice shall be paid by the applicant.
- D. **Review Of Minor Projects.** The review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this subsection, shall be conducted following the procedures in the applicable local regulations, with the exception that all minor land developments or minor subdivisions under this section are required to hold a public hearing on the application, and within ninety-five (95) days of issuance of the certificate of completeness, or within such further time as is agreed to by the applicant and the local review board, render a decision.
- E. **Review Of Major Projects.** In the review of a comprehensive permit application involving a major land development and/or major subdivision, the local review board shall hold a public hearing on the master plan and shall, within one hundred and twenty (120) days of issuance of the certification of completeness, or within such further amount of time as may be agreed to by the local review board and the applicant, render a decision. Preliminary and final plan review shall be conducted according to local regulations promulgated pursuant to chapter 23 of this title except as otherwise specified in this Section.
- F. **Authority.** The local review board has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this Section. The local review board may, from time to time, adopt rules and procedures to assist them in their efforts to administer these regulations. Provided that the Town has an approved affordable housing plan and is meeting local housing needs, the local review board may limit the annual total number of dwelling units in comprehensive permit applications from for-profit developers to an aggregate of one percent (1%) of the total number of year-round housing units in the town, as recognized in the affordable housing plan. The annual review period shall commence March 13 of each calendar year. The local review board shall also have the authority to consider comprehensive permit applications from for-profit developers, which are made pursuant to this paragraph, sequentially in the order in which they are submitted.
- G. **Decision.** In reviewing a comprehensive permit request, the local review board may deny the request for any of the following reasons:
- (1) if city or town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan;
 - (2) the proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning

12. **Editor's Note:** See R.I.G.L. § 45-23-42.

ordinances and procedures promulgated in conformance with the comprehensive plan;

- (3) the proposal is not in conformance with the comprehensive plan;
- (4) the community has met or has plans to meet the goal of ten percent (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in § 45-53-3(2)(i)¹³ being low and moderate income housing; or
- (5) concerns for the environment and the health and safety of current residents have not been adequately addressed.

H. Voting. All local review board decisions on comprehensive permits shall be by majority vote of the membership of the board and may be appealed by the applicant to the state housing appeals board.

§ 218-30. Criteria for Approval or Denial.

In approving an application for a comprehensive permit, the local review board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions, where applicable:

- A. The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
- B. The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.
- C. All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.
- D. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.
- E. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

13. Editor's Note: See R.I.G.L. § 45-53-3(2)(i).

- F. All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).¹⁴
- G. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

§ 218-31. Appeal.

All decisions on comprehensive permits may be appealed by the applicant to the State Housing Appeals Board. Any person aggrieved by the issuance of an approval may appeal to the Rhode Island Supreme Court.

§ 218-32. Expiration of Approval and Construction.

A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of Final Plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with, the construction and occupancy of market rate units.

ARTICLE VI Land Use Regulations

§ 218-33. Zoning Districts.

The Town is hereby divided into zoning districts of such number and character to achieve compatibility of uses within each district and to carry out the purposes of this Ordinance and to implement the Town of Charlestown Comprehensive Plan 1991. Zoning districts are depicted by type and location on the official zoning map. For the purposes of this Ordinance, The Town of Charlestown is hereby divided into the following zoning districts:

- A. Residential.
- (1) Residence: R-20
 - (2) Residence: R-40
 - (3) Residence: R-2A
 - (4) Residence: R-3A
- B. Commercial.

¹⁴ Editor's Note: See R.I.G.L. § 45-23-60(5).

- (1) Commercial 1: C-1
 - (2) Commercial 2: C-2
 - (3) Commercial 3: C-3
- C. Other Standard Districts.
- (1) Planned Development: PDD
 - (2) Industrial: I
 - (3) Open Space/Recreation: OSR
 - (4) Municipal: M
 - (5) Traditional Village District: TVD
- D. Overlay Districts. The following overlay districts are hereby established:
- (1) Flood Hazard Areas
 - (2) Groundwater Protection Overlay: GWP
 - (3) Historic Village Overlay: HV
 - (4) Scenic Roadways (Reserved)
 - (5) Mixed-Use Zoning Overlay District
- E. Other Land within the Town.
- (1) Narragansett Indian Tribe Settlement Lands.
- F. Principles of Standard Zoning Districts. The following are the general principles upon which the standard zoning districts are based. These principles are intended to be consistent with and implement the Future Land Use Map and Element of the Town of Charlestown Comprehensive Plan 1991 and any amendments as may be adopted from time to time. Any modification of uses allowed within a zoning district shall be consistent with the principles set forth below, pertinent sections of the Comprehensive Plan and the RI CRMC SAM Plan, as may be amended from time to time.
- (1) Residential Districts. These are districts whose primary use is residential. To foster long term environmental sustainability, to maintain the rural character of the Town, to protect residents from excess odors, smoke, gases, dust, noise, vibrations, to reduce the danger of fire or explosion, to eliminate nuisances and incompatible uses, to avoid excess lighting and glare, to provide privacy and safe public highways, to maintain water quality and septic sustainability and to protect the general health, safety and welfare of the Town, § 218-36, Land Use Table, limits where residential uses may be established in nonresidential districts.
 - (a) Residence: R-20. This zoning district is intended primarily for areas of existing platted, high density, single family residential development. This

district is intended to be consistent with the RI CRMC SAM Plan land use classification for water quality protection category of "Lands Already Developed Beyond Carrying Capacity." It is further intended to implement the "high density residential" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. The district minimum lot size is 20,000 square feet.

- (b) Residence: R-40. This zoning district is intended primarily for areas of existing, high density single family residential development distributed throughout the Town and existing village areas. This district is also intended to be consistent with the RI CRMC SAM Plan land use classification for water quality protection category of "Lands Already Developed Beyond Carrying Capacity." It is further intended to implement the "medium density residential" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. The district minimum lot size is 40,000 square feet.
 - (c) Residence: R-2A. This zoning district is intended primarily for areas of low density residential development. It is intended to protect areas of Town with sensitive environmental characteristics. The groundwater recharge areas for the salt ponds are included within this category. This district is intended to be consistent with the RI CRMC SAM Plan land use classification for water quality protection category of "Lands of Critical Concern." It is further intended to implement the "low density residential" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. The minimum lot size is 2 acres.
 - (d) Residence: R-3A. This zoning district is intended primarily for areas of low density residential development. It is intended to protect areas of Town with sensitive environmental characteristics. The groundwater recharge areas for several groundwater aquifers and the salt ponds are included within this category. This district is intended to be consistent with the RI CRMC SAM Plan land use classification for water quality protection categories of "Lands of Critical Concern" and those "Self-sustaining Lands" north of Route One. It is further intended to implement the "low density residential" future land use category of the Town of Charlestown Comprehensive Plan 1991. The minimum lot size is 3 acres.
- (2) Commercial Districts: These are districts whose primary uses are nonresidential and are uses which must be segregated from residential uses because of fire hazards, traffic generation, noise, odors, frequent deliveries, and lighting. Residential uses are prohibited except where allowed by special use permit based upon health and safety reasons necessary to protect the overall health, safety, and general welfare of the Town. These are districts which are intended to provide uses that are to scale and character abutting roadways and adjacent land uses. The commercial districts described herein are intended to promote tourist and visitor facilities and necessary services for town residents while providing a sensitive transition between those uses and neighboring residential uses.

- (a) Commercial 1: C-1. This district is within or abuts village areas and neighboring areas that are predominately residential in character. It is intended to accommodate small convenience type groceries, shopping, offices, and frequently used local services with minimal impact on neighboring residential areas. It is further intended to implement the "Commercial 1" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. New development shall match the scale, density, and form of the existing area or neighborhood. Large commercial enterprises that supply high volume sales or drive-through businesses are not compatible with this district due to local vehicular and pedestrian traffic. The minimum lot size is 20,000 square feet.
 - (b) Commercial 2: C-2. This district is intended to concentrate larger retail and service businesses serving the needs of regions of the Town. It is intended to prevent an unsafe mixture of commercial uses and eliminate potential impacts on residential uses. It is further intended to implement the "Commercial 2" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. It is intended for various retail, office, and service businesses that generate higher volumes of vehicular traffic and dependent upon frequent deliveries and, therefore, need access to major roads to accomplish minimal impacts on residential areas. The minimum lot size is 20,000 square feet.
 - (c) Commercial 3: C-3. This district is intended only for areas abutting the highway known as "US Route 1." These areas are intended to be primarily vehicle oriented because of their location on a major highway. The intent of the district is to provide multiple retail, office, and service businesses that serve large volumes of traffic conveniently. It is further intended to implement the "Commercial 3" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. The intent of this district is to regulate existing and new traffic flow to prevent further traffic problems from occurring while allowing business development in the Town without impact to surrounding properties. It is also intended to serve regional, community, and local needs while respecting adjacent residential neighborhoods and other established commercial areas. The minimum lot size is 40,000 square feet.
- (3) Other Standard Districts:
- (a) Planned Development District: PDD. This district is proposed for only two areas of town. One is a parcel of land west of Route 112 and abutting the Pawcatuck River and the other is a portion of land located between Route 1 and Route 1A, Old Post Road. The district is intended to protect environmentally sensitive areas, groundwater recharge and aquifers and regulate open space, density and aesthetics. The RI CRMC SAM Plan land use classification for water quality protection category of "Undeveloped Lands Zoned for High Density Development" is included in this district for the land south of Route 1. The purposes of the district are to allow for a flexible mixture of uses and amenities with performance standards while

allowing the Town site plan review in the planning of a large parcel. It is further intended to implement the "planned development" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991.

- (b) Industrial: I. This district is intended to preserve and allow industrial uses which must be segregated for health and safety purposes. Manufacturing, warehousing, research and development offices are uses permitted with site development standards while minimizing disturbances to residential areas. It is further intended to implement the "industrial" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991. The minimum lot size is 80,000 square feet.
 - (c) Open Space/Recreation: OSR. This is intended for areas in use as open space, conservation, and recreation. This district contains lands owned by public and nonprofit agencies and its purpose is to allow a variety of uses compatible with conservation recreation areas, such as agriculture, conservation, recreation camps, and wildlife reserves. It is further intended to implement the "open space/recreation/conservation" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991.
 - (d) Municipal: M. This district is intended for Town owned parcels to allow uses to accommodate the functions and needs of the Town. It is further intended to implement the "municipal" proposed future land use category of the Town of Charlestown Comprehensive Plan 1991.
 - (e) Traditional Village District (TVD). This district is to encourage small-scale business and residential uses consistent with the historic and pedestrian-scale characteristics that exist and which are unique to Charlestown village, to preserve the Town's heritage, to strengthen the local economy, to continue small town character and aesthetics and to promote the general welfare of the Town. The TVD regulations set forth herein are consistent with and further implement the Town of Charlestown Comprehensive Plan, dated 1991, and any amendments thereto.
- G. Overlay Districts. These districts include additional development criteria based upon unique characteristics or environmental features of an area. Along with the regulations of the underlying zoning district, uses permitted by right or by special use permit shall be subject to the regulations of the overlay districts. These overlay districts are as intended by the recommendations of the Town of Charlestown Comprehensive Plan 1991.
- H. Narragansett Indian Tribe Settlement Lands. This area is those lands within the Town of Charlestown which were acquired by the Narragansett Indian Tribe as Private and Public Settlements Lands under the provisions of the Rhode Island Indian Claims Settlement Act, 25 U.S.C. § 1701, et seq., and are held in trust by the United States of America for the Narragansett Indian Tribe, a federally recognized Indian Tribe. Other tribal land of the Narragansett Indian Tribe located within the Town of Charlestown, are not "Settlement Lands" as noted above.
- I. Planned Development Authorized. This Ordinance permits the creation of land development projects in which one or more lots are to be developed including, but not

limited to, a planned development district and residential cluster subdivisions as provided for in following Sections of this Ordinance. The Planning Commission is empowered to apply such special conditions and stipulations to an application for such development as may, be required to maintain harmony with neighboring uses, mitigate potential impacts and promote the purposes of this Ordinance and the adopted Comprehensive Plan.

§ 218-34. Interpretation.

When uncertainty exists as to the boundaries of districts as shown on the Official Zoning Maps, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of a highway, street, utility easements, railroad easements, watercourse or body of water shall be construed to be the middle thereof, or such boundaries indicated as approximately following town limits shall be construed as following such town limits.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines. (The actual lot line is that line defined in the land evidence records; Assessor's Plat and Lot designation are to identify the lot and its general relationship to other lots. Lot lines on Assessor's Plats generally show the locus of the lot and do not represent nor are intended to reflect precisely legal descriptions for the lots shown.)
- C. Boundaries indicated as following shorelines shall be construed to follow such shorelines of rivers, lakes and ponds, or of the ocean, shall be construed to follow such shoreline(s) at the edge of the body of water. In the case of tidal waters, the line of mean high water shall be the shoreline and otherwise if there is a change in the shoreline, the boundary shall be construed as moving with the actual shoreline.
- D. Boundaries indicated as parallel to or extensions of features indicated in the above subsections shall be so construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the map.
- E. Where physical or cultural features existing on the ground are at variance with these shown on the Official Map, or in other circumstances, not covered by the above subsections, the Building Inspector shall interpret the district boundaries.
- F. Boundaries of a defined depth zone shall be that line, all points of which are the distance of the defined depth distant from and perpendicular to a line at its point of tangency with the edge of the right of way or public roadway on which the lot fronts. At the end of the defined depth zone, the defined depth zone shall terminate at the lot side line and/or at the straight line extension of the lot side line, of the next adjacent lot, which lot is not in the defined depth zone. In the event the defined depth zone extends to a right of way or public roadway which intersects the road on which the lot fronts, (i.e. a corner lot) the zone shall terminate at the edge of the right of way or public roadway.
- G. Whenever this Ordinance requires consideration of distances, parking spaces, unit density, or other aspects of development or the physical environment expressed in

numerical quantities which are fractions of whole numbers, such numbers are to be rounded to the next lowest whole number.

- H. Where conflicts occur between the regulations of this Ordinance and other regulations effective within the Town, the more restrictive of the regulations shall apply.
- I. When there is a question regarding the interpretation of the provisions of this Ordinance, the Building Inspector shall interpret the intent of this Ordinance by a written decision issued in a zoning certificate. The interpretation shall become the standard interpretation for future application of that provision.

§ 218-35. District use Allowances.

- A. Generally. District use regulations are specified in § 218-36, Land Use Table. Any municipal use by the Town of Charlestown shall be permitted in all districts. Except as otherwise provided in this Ordinance, no building, structure, or land shall be used or occupied in the zoning districts indicated except for the purposes permitted in this Section.
 - (1) A use listed in any district by the letter "Y" is a use permitted by right, provided that all other requirements of federal and state law and this Ordinance have been met.
 - (2) A use listed in any district by the letter "S" is a use that may be permitted by special use permit. Uses permitted by special use permit shall be subject, in addition, to use regulations contained in this Section, to all performance standards and other regulations as specified in other articles herein and all applicable federal and state laws.
 - (3) A use listed in any district without a letter or a blank space is not permitted.
 - (4) A use listed in any overlay district by the letter "U" is determined allowable by consulting the underlying zoning district permitted uses.
 - (5) The laws of the State regarding wetlands, water supply and waste disposal shall be adhered to. No zoning approval shall be issued until approval is obtained from the Rhode Island Department of Environmental Management for sewage disposal where applicable.
 - (6) Although a use may be indicated as permitted or a special use permit in a particular district, it does not follow that such a use is permitted or permissible on every parcel in such district. No use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the performance standards and other regulations of this Ordinance and all applicable federal and state laws applicable to the specific use and parcel in question.
- B. Interpretations. The Building Inspector shall render an interpretation of any provision of this Ordinance, including interpretation of any use not expressly mentioned. A request for an interpretation shall be submitted in writing and be subject to the provisions of a zoning certificate. Appeals on interpretations may be taken to the Board as provided for

in this Ordinance. The following conditions shall govern the Building Inspector, and the Board on appeals, in issuing interpretations:

- (1) No interpretation shall allow the establishment of any use which was previously considered and rejected.
- (2) No interpretation shall permit any use in any district unless evidence is presented which demonstrates that it will comply with each limitation established for the particular use and district.
- (3) No interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district.
- (4) If the proposed use is more similar to a use permitted only as a special use permit in the district in which it is proposed to be located, then an interpretation permitting such use shall be conditioned on the issuance of a special use permit.
- (5) Any use permitted pursuant to this Section shall fully comply with all requirements and standards imposed by this Ordinance.

§ 218-36. Land Use Table. ¹⁵

§ 218-37. Specific Land Use Standards and Conditions.

- A. Temporary Uses. The following temporary uses are permitted subject to the following specific regulations and standards, in addition to any other requirements specified by this Ordinance.
- (1) Carnival/Circus/Public events. A carnival/circus/public event may be permitted subject to all other applicable federal, state and local laws.
 - (2) Contractor's/Real Estate Office. A contractor's/real estate office may be permitted in any district on site where such use is incidental to a construction or new subdivision project. The office shall not contain sleeping or cooking accommodations.
 - (3) Temporary Shelter. When fire or natural disaster has rendered a single-family residential unit unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional standards:
 - (a) Required water and sanitary facilities must be provided.
 - (b) Maximum length of permit shall be six months, but the Building Inspector may extend the permit not to exceed another three months in the event of circumstances beyond the control of the owner.

15. Editor's Note: The Land Use Table is included at the end of this chapter.

- (c) The mobile home shall be removed from the property upon the issuance of any occupancy permit for the new and rehabilitated residence.
- B. Accessory Uses. This section is intended to regulate the type, location, configuration, and conduct of accessory land uses to ensure that accessory uses are not physically or aesthetically harmful to residents of surrounding areas.
- (1) General Standards and Requirements. Any number of different accessory structures may be located on a parcel, provided the following requirements are met;
 - (a) There shall be an authorized principle use on the parcel, in compliance with all the requirements of this Ordinance except for agricultural structures on agricultural land where the agricultural land is enrolled in the Rhode Island Farm, Forest, and Open Space Program.
 - (b) All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this Ordinance.
 - (c) Accessory structures for residential uses are to be used only for parking of vehicles and/or as unfinished storage areas, with the following exception: **[Added 2-14-2011 by Ord. No. 328²⁴]**
 - [1] A finished area for habitable purposes is allowed, not to exceed 300 SF of floor area per property. Plumbing permitted in this area is limited to a half bath (i.e. toilet and sink only). Compliance with DEM regulations for onsite wastewater treatment systems (OWTS) is required. Use of any habitable area as a bedroom or for sleeping purposes is prohibited.
 - [2] Prior to the issuance of a building permit, the owner of the principal residence shall sign and record in the Charlestown Land Evidence Records an affidavit stating the total square footage of the accessory structure, and the total square footage of habitable area and its intended use (recreation, studio, workshop, etc.).
 - (d) Accessory structures shall not be located in the front yard setback requirement, in a required buffer, a required landscape area, or other minimum building setback area. A permitted residential accessory structure may be placed in a side or rear yard area, but no closer than ten feet to a lot line.
 - (e) Accessory structures shall be included in all calculations of lot coverage, impervious surface, stormwater runoff, and any other site design requirements applicable to the principal use of the lot.
 - (f) No accessory structure shall be used for the storage of hazardous, incendiary, or noxious materials.

24. Editor's Note: This ordinance also redesignated former Subsection B(1)(c) through (h) as Subsection B(1)(d) through (i), respectively.

- (g) Motor vehicles, mobile homes, trailers or recreational vehicles shall not be used as accessory storage buildings, utility buildings, or other like uses.
- (h) Gasoline stations can not be considered an accessory use.
- (i) In a residential district, any accessory building shall not exceed more than 25 feet in height unless said accessory building is used for agricultural operations and then shall not exceed 30 feet in height.

C. Agricultural Operations.

- (1) Purpose. The purpose of this Section is to encourage farming and agricultural operations in the Town that follow established best management practices as published by the Rhode Island Department of Environmental Management, Division of Agriculture and the United States Department of Agriculture, Natural Resource Conservation Service. It is also to encourage farming and agricultural operations in addition to principle agricultural activities conducted on the site and the retail sales of certain farm and farm-related products. No agricultural operation shall operate in a manner that causes harmful effects upon abutting property including, but not limited to:
 - (a) The pollution of any waterways or waterbodies, and;
 - (b) The contamination of abutting property from improper application of insecticides, fertilizers, or similar chemical agents.
- (2) General. Retail sales activities listed below are permitted by right on any agricultural land as defined in ARTICLE I § 218-5B, Terms defined. These retail sales shall be permitted in addition to retail sales of farm products normally associated with agricultural operations. Where circumstances unique to a peculiar site in question, relief from any requirement of this Section shall be available by Special Use Permit.
 - (a) Sale of vegetative products not raised on the premises.
 - (b) Sale of compost or manure produced on the premises only.
 - (c) Sale of mulch composed of vegetative origin, such as bark mulch. No more than one hundred fifty cubic yards of mulch not produced on the farm itself may be stock piled on the premises at any one time. Sale of mulch composed of earth products such as stone, sand, or loam is prohibited.
 - (d) Retail sales of farm-related products.
- (3) Sale of Vegetative Products Not Raised On The Premises. Upon any agricultural land, the sale of vegetative farm products not raised on the premises shall be permitted, in addition to sale of any farm products raised or produced upon the premises itself. This is to allow vegetative farm products grown, produced, or raised off premises to be sold upon any farm anywhere in Town. Such products may also be sold within a farm retail sales building or farmstand, as defined herein.

- (4) Farm Retail Sales Building.
- (a) Retail sales may be conducted upon a farm as follows:
- [1] Within a principal dwelling;
 - [2] Within a barn, garage, storage shed, or similar accessory building, or;
 - [3] Within a single building devoted solely to retail sales provided that the total cumulative floor area of such building(s) does not exceed one thousand two hundred square feet per farm.
- (b) A barn, garage, or a greenhouse shall not be considered to be a farm retail sales building if no retail sales are conducted anywhere within the building and if such buildings are not open to the public. Storage areas within any farm retail sales building not open to the public shall not be counted toward the one thousand two hundred square foot maximum floor area per farm, provided that all such areas are permanently marked and identified as such. If any portion of a Farm Retail Building is open to and accessible by the public, it shall be counted toward the one thousand two hundred square foot maximum area. In addition to the sales listed above in Subsection (2), the

following types of retail sales of food and food products are permitted within a Farm Retail Sales building (indoor sales only):

- [1] Prepared food items such as baked goods, canned goods, preserves, herbs, and the like may be sold, provided all food preparation and cooking is conducted upon the farm and within a kitchen licensed by the State.
 - [2] Fresh or frozen meats, prepared or smoked meats, poultry or other perishable foods raised or produced on the premises may be sold, but the sale of freshly cooked meats or poultry is specifically prohibited.
 - [3] All food shall be prepared and packaged upon the premises.
 - [4] No food sold to the public shall be consumed by the public on the premises.
 - [5] Farm-related products may be sold, provided that such area reserved for such sales does not exceed twenty-five percent of the total floor area of the farm retail sales building.
- (5) Farmstand. A farmstand is a freestanding accessory structure or farm vehicle which does not exceed two hundred square feet in total floor area and twelve feet in height and is used only for the sale of seasonable farm products, the major portion of which are grown or produced on the premises. Farmstands may be structures or may be farm wagons or trailers. There shall be no space available to patrons inside the farmstand. Farmstands may, however, provide a front counter security shutter that lifts to form a canopy roof when open for business, shields patrons at the counter from rain and sun. No electrical service shall be provided to any farmstand structure. Motorized vehicles may be provided with batteries as required for normal operation of a motor vehicle, but such electrical service shall not be used for signs, outdoor lighting, or refrigeration.
- (6) Location. Farmstands and Farm Retail Sales Buildings are permitted only upon the premises of a farm with agricultural operations using best management practices as described in Subsection (1) above. Farm retail sales buildings shall meet the minimum yard setback requirements for the zoning district in which the building is located. Farm stands shall not be subject to minimum yard setbacks, but in all cases shall be setback from the edge of a public or private right-of-way a minimum of twenty feet.
- (7) A farm supply Dealer shall be a permitted use, in addition to any other permitted agricultural use, on any lot of land actively devoted to agricultural or horticultural use in any residential zone provided that such lot of land meets the definition of Farm Land as set forth in the "Rules and Regulations for Implementation of the Farm, Forest, and Open Space Act, Effective October 2, 1980" (or as amended) of the State of Rhode Island Department of Environmental Management, and provided that:

- (a) The land has been enrolled as Farm Land in accord with the provisions of R.I. Gen. Laws Section 44-27-1, et seq., and its implementing regulations; and
 - (b) The lot of land is not less than twenty-five (25) acres in area.
- (8) Off-street Parking and Loading. A farm retail sales building shall provide off-street parking for one space for every one hundred square feet of floor area devoted to sales with a minimum of five spaces provided. Farmstands shall provide a minimum of two off-street parking spaces. All such parking areas shall be set back at least ten feet from the edge of a public or private right-of-way and shall be physically restricted or channeled on the lot to define a readily recognizable driveway. There shall be no parking directly on a road shoulder at any time. There are no off-street loading requirements for farm retail sales buildings or farm stands.
- (9) Dwelling Units Allowed.
- (a) Any lot of land actively devoted to agricultural or horticultural use in any residential zone shall be permitted to have one accessory dwelling unit in addition to the principal dwelling unit, provided that:
 - [1] The lot of land constitutes a "farm unit," meaning land owned by the farmer, including woodland and wetlands, at least five acres of which are actively devoted to agricultural or horticultural use and which have produced an annual gross income from the sale of its farm products of at least \$2,500 in each of the prior four years; and
 - [2] The lot of land is not less than 15 acres in area.
 - [3] Any accessory dwelling unit proposed for a lot of land meeting the above criteria shall be established in compliance with locally adopted building codes, either in the existing dwelling unit, an existing accessory building or in a new structure elsewhere on the lot of land. Any new accessory dwelling unit, in accordance with this Section, shall conform to all setback requirements for the principal structure for the zone in which it is located.
 - [4] The property owner must provide evidence to the Building/Zoning Official that the lot of land meets the criteria set forth in this Section before a building permit for the accessory dwelling unit is issued.

D. Utilities.

- (1) Generally. All public and semipublic utilities shall conform to the provision of this Section. Applicable utilities include, but are not limited to, public utility buildings or structures, distribution centers, electric substations, water and/or sewer pumping stations, sewer treatment plants, water towers and standpipes, and the like. Such utilities shall be enclosed or screened according the provision of § 218-74, Landscaping. All utilities shall provide a landscaped fifty foot buffer strip along all lot lines, and shall comply with the general development standards of ARTICLE XIII Development Standards.

- (2) Telecommunication Towers/Poles. **[Amended 4-7-2011 by Ord. No. 336]**
- (a) Purpose. The purpose of this section is to provide guidelines for the siting of towers and antennas that are consistent with the rural character and land uses of the town. The goals of this section are to:
- [1] Establish locations of towers and minimize the total number of towers throughout the community, while providing seamless coverage;
 - [2] Maximize location of antennas on existing structures, and require the joint use (co-location) of new and existing towers in order to minimize or mitigate any adverse impact on the Town;
 - [3] Facilitate the use of public/municipal property and structures for the siting of towers and antennas;
 - [4] Address public safety concerns associated with the siting of wireless communications facilities, including towers, antennas and related facilities, equipment and structures;
 - [5] Provide for the design and siting of wireless communications facilities so as to minimize their visual impact on neighboring properties and on the character of the town.
- (b) Applicability
- [1] New Towers and Facilities. The requirements set forth in this section shall govern the location of all new telecommunication facilities and related equipment, including television and radio transmission towers. Except as provided herein, the general height limitations of the Zoning Ordinance otherwise applicable to buildings and structures shall not apply to towers and antennas.
 - [2] Amateur Radio Antennas. This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.
 - [3] Pre-existing Tower and Antennas. Any tower or antenna for which a building permit has been properly issued prior to the effective date of this zoning amendment shall not be required to meet the requirements of this Section. However, any proposed extension beyond twenty (20) feet in the height of an existing facility, replacement of a facility, or installation of an additional antenna to a facility shall be subject to the requirements of this section.
- (c) Definitions
- ANTENNA — The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

CAMOUFLAGED — A personal wireless service facility that is disguised, hidden, or part of or placed within either an existing structure or a proposed structure which is intended and designed for use other than the mounting of personal wireless service facilities, and which is not modified for that use in any way which is obvious from the exterior of the structure.

CARRIER — A company that provides personal wireless services, also sometimes referred to as a provider.

CO-LOCATION — The use of a single mount on the ground by more than one carrier or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment.

LATTICE TOWER — A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free standing.

MONOPOLE — A self-supporting tower with a single shaft that is designed for the placement of antennas and arrays along the shaft.

TELECOMMUNICATIONS TOWER — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guy towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers.

WIRELESS COMMUNICATIONS FACILITY — A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment, which is used for transmitting, receiving, or relaying telecommunications signals.

(d) General Conditions

[1] Principal or Accessory Use. Antennas and towers may be considered either a principal or accessory use or structure as appropriate. A different existing use or existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. Towers and associated equipment shall meet all the yard setback requirements for the Zoning District in which they are located. All telecommunications uses shall meet the minimum lot size for the Zoning District in which it is located. Towers and associated equipment that may be located within or outside of base facilities may not occupy required parking spaces of an existing building or use.

[2] Tower Design.

- [a] Applicants shall propose internally mounted antennas for all new applications. Externally mounted antennas may be permitted by the Zoning Board only if they are able to make the following findings:
 - [i] That due to existing site features such as topography, dense year round tree cover, the existence of other structures or other unique conditions, the tower will be difficult to see from any public road or residential property, as evidenced by the balloon test, and will not result in an increased visual impact on the community over that of an internally mounted antenna at the same site; and
 - [ii] That an externally mounted antenna combined with some other method of camouflage will allow the applicant to provide the equivalent visual impact to that of an internally mounted antenna.
 - [b] The Zoning Board shall also be required to consider an advisory opinion from the Planning Commission regarding the visual impact of any externally mounted antenna, which may include proposed mitigation measures.
- [3] Building Code and Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is constructed and maintained in compliance with or exceeds the standards contained in the applicable State Building Codes and the applicable standards for towers that are published by the Electronics Industries Association as amended from time to time and shall structurally accommodate reasonable co-location.
- [4] General Requirements. All wireless communications facilities shall be erected, installed, maintained and used in compliance with all applicable federal and state laws and rules.
- [5] Co-Location. All owners and operators of land used in whole or in part for a wireless communications facility, and all owners and operators of such facilities, shall, as a continuing condition of installing, constructing, erecting and using a wireless communications tower facility, and subject to necessary approval hereunder, permit other public utilities or FCC licensed commercial entities seeking to operate a wireless communications tower facility to install, erect, mount and use compatible equipment and fixtures on the mounting structure on reasonable commercial terms. This is provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing facility, and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional wireless communications equipment or fixtures. Erection of a replacement facility to address such concerns shall be considered, where the Zoning

Board determines appropriate. Wireless communications facilities shall be designed to accommodate co-location to the extent technologically and physically practical given the limitations of the site and area.

- [6] Number of Towers. Only one wireless communication tower structure per lot shall be authorized by this ordinance, unless the placement of more than one tower structure on the site results in a substantially better design that is integrated into the neighboring uses and meets community standards. An example of this may be the erection of two flagpole structures located in a recreation facility. The erection of more than one lattice tower or monopole in a residential area would not be an example of a better design.
- [7] Removal of Facilities. All unused telecommunications facilities and structures including non-conforming or pre-existing facilities which have not been used for one year shall be considered abandoned and shall be dismantled and removed at the owner's expense. The owner of such facility shall remove the tower within ninety (90) days; the Town may take the necessary action to remove the facility at the owner's expense. The owner of the property and the facility shall be jointly and individually responsible for removal of said facilities, restoration of the site and for all associated costs, expanded or incurred in the course of removal and restoration. The Zoning Board of Review shall require the posting of a demolition bond in an amount sufficient to insure the removal of the tower.
- [8] Utilization. Included in an application for a telecommunication tower or antenna, an applicant must demonstrate that it has a commitment from one or more licensed wireless service providers to occupy the facility for the purposes of transmitting and/or receiving wireless communications. Wireless communications towers shall be designed to accommodate the maximum number of co-locators reasonably practicable, taking into account the size and appearance of the structure in the context of its location. Owners of telecommunications towers shall make space available to wireless communications services, including, when appropriate, repositioning of tenants on the tower, and reinforcing or replacing tower. The cost of making space available shall be the responsibility of the applicant and may be shared by the tower owner, if agreeable.
- [9] Development Plan Review. Applicants shall be subject to the provisions of Development Plan Review as outlined in § 218-71 of the Charlestown Zoning Ordinance, as amended, when applying for a new facility or the expansion of the footprint of an existing facility.
- [10] Town Requirements. At the time of application for any tower, space shall be made available on telecommunications towers for Town police, fire, rescue and public works communication needs related to public safety, health and welfare, at no cost to the Town. The cost of making

space available shall be the responsibility of the applicant and may be shared by the tower owner, if agreeable.

- [11] Site Selection. Preference shall be given to Town owned sites for locating telecommunications towers. If the applicant is unable to locate a tower on a Town owned site, the applicant must provide proof that the potential to do so was investigated and show why they are unable to.

(e) Special Use Permits

- [1] General. All wireless communications facilities shall require a Special Use Permit as specified in § 218-23, Special Use Permits. In granting a Special Use Permit, the Zoning Board of Review may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties and to carry out the intent of these regulations.

- [2] Factors Considered in Granting Special Use Permits. Consistent with the purposes of this Ordinance, the Zoning Board shall consider the following factors in determining whether to issue a Special Use Permit, although the Board may waive or reduce the burden on the applicant of one or more of these criteria if it finds that the goals and purposes of this section are better served thereby. These factors are in addition to finding required for Special Use Permits as provided in § 218-23 of this Zoning Ordinance:

- [a] Generally that the stated purposes and goals of this section are achieved to the maximum extent possible, and the adverse impacts as may be identified are similarly minimized;
- [b] Height of the proposed tower or antenna and setbacks in relation to lot boundaries, existing structures, public streets and residences;
- [c] Nature of uses on the subject parcel and on the adjacent nearby properties;
- [d] Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness including appearance and color;
- [e] Availability of suitable existing towers for co-location and for location on other structures within the search area; and
- [f] Availability and feasibility of alternative antenna and/or tower facilities sites and configurations that would result in a substantially better design that is in keeping with the community character.

- (f) Application Requirements. The following application and submission requirements are in addition to the general requirements for Special Use Permit applications as provided in the Zoning Ordinance:

- [1] A narrative report that shall describe the following relating to the request for the telecommunications tower, antenna and/or related facility installation:
 - [a] The technical, economic and/or other reasons that demonstrates the need for the telecommunications tower, antennas and related facilities design and describes the desired objective which the proposed facility will achieve;
 - [b] The equipment load and carrying capacity for type of antenna, and or receivers/transmitters which are intended to or may be mounted on the tower;
 - [c] The basis for calculation of equipment load and carrying capacity;
 - [d] Evidence that the proposed tower and/or facility is as visually unobtrusive as possible given technical, engineering and other pertinent considerations;
 - [e] Evidence that the tower height proposed is the minimum height necessary to accommodate the antenna; and that the tower setbacks proposed are the maximum distance possible from adjacent properties, existing structures, and public and private roads that can be accommodated by the site design, notwithstanding the minimum standards required by this section and;
 - [f] Evidence of consideration of alternate sites and co-location and existing towers on which the requirements of the applicant could be met, and if not, the reasons why each co-location site is not adequate for the needs or requirements of the applicant.
- [2] A certification of structural integrity from a Rhode Island registered professional engineer that the tower is designed to withstand all load requirements for structures as set forth in the Rhode Island Building Code (RI General Laws 23-27.3-100.0 et seq.)
- [3] For a continuous, elapsed period of not less than three weeks during daytime hours and prior to the date of the public hearing, a helium balloon of sufficient size and color to be seen at a distance of one mile, shall be placed at a maximum height and at the location of the proposed tower. After the close of the public hearing the balloon shall be immediately removed. The Zoning Board of Review may waive this requirement for tower placement on existing structures.
- [4] Where the applicant is not the owner of the site, the property owner must be a participant in the application and have an authorized representative present at all meetings. The applicant shall furnish a copy of the lease or agreement for the use of the site.
- [5] A map depicting all existing and proposed wireless facilities and towers within 6 miles of the proposed site. A map accurately depicting the

coverage achieved by the facilities proposed for the site, the coverage existing or proposed from relevant adjacent sites, and the combination of existing and proposed.

- [6] A map showing the location of all potential alternative sites that may result in a substantially better design in keeping with the community character, including antenna platform, such as, but no limited to, existing communication towers, structures, electric transmission towers, radio and fire towers, and municipally owned land
- [7] Specific information about the location, height and design capacity of potential alternative sites and proof that owners of potential sites within the search area have been contacted, that permission was sought to install a device on structures, and that permission was denied, or that such locations do not satisfy requirements to provide the service needed.
- [8] A site plan prepared, stamped and signed by a currently licensed and authorized design professional consistent with the applicable statutes and regulations governing design professionals in the State of Rhode Island at a suitable scale to delineate the following:
 - [a] Site boundaries, dimensions, zoning setback lines, and wetlands within the site.
 - [b] Topography at two-foot intervals
 - [c] Tower or pole location and height
 - [d] Size and location of accessory building, equipment or structures, parking and access
 - [e] Fencing, landscaping, and lighting
 - [f] Locus map
 - [g] Areas to be cleared of vegetation and trees, and erosion and sediment control measures
 - [h] Abutters within two hundred (200) feet
- [9] A map showing the applicant's entire property and all abutting properties and streets, at a convenient scale, including the approximate location and dimensions of the applicant's property and all existing and proposed structures, utility lines, wells, septic systems and major natural features
- [10] A map or illustration of suitable scale indicating view lines from nearby properties and streets within one half mile of the proposed tower.
- [11] Photo simulations of the proposed facility taken from various (at least 3) perspectives. Each photo must be labeled with the line of sight,

elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

[12] Evidence showing that aircraft marking or lighting will not be required for the facility, or if required, evidence showing that there are no viable alternative sites or designs that would eliminate the need to mark or light the structure.

(g) Application Procedures. The applicant shall first submit to the Planning Commission for Development Plan Review as outlined in § 218-71 of the Charlestown Zoning Ordinance. The applicant must first receive conditional Development Plan Review approval before applying for a Special Use Permit with the Zoning Board of Review. Once the applicant has received an approval for the Special Use Permit they must return to the Planning Commission for final Development Plan Review approval.

(h) Design and Development Standards

[1] Setbacks, Height and Separation

[a] A wireless communication tower facility shall be set back from any adjacent property line or street at a maximum feasible distance, considering the size and physical constraints of the site, visibility to the nearby sites and other visually sensitive locations, and the proportions and context of the site, in order to provide opportunity to minimize the adverse visual affects of telecommunications facilities. At the minimum, any such facility shall be set back from any property line a distance equal to one and one-half times the height of the facility and set back from any residential structure on a separate parcel a minimum of 250 feet. Such facility shall be set back a distance of at least 400 feet from any public or private street or public right-of-way and large uncamoouflaged facilities must be at least 1000 feet from a school facility.

[b] Towers shall not be located within a Historic District as designated by the Zoning Ordinance, unless disguised in such a manner that meets the requirements of the Historic District Commission (Planning Commission).

[c] Excluding where more than one tower has been proposed on a single site, towers greater than 125 feet in height shall not be located within two (2) miles of each other, unless an applicant can demonstrate that a tower within this distance is required in order to fill a gap in telecommunications coverage.

[2] Landscaping and Screening:

[a] The applicant must demonstrate that the tower or antennas are located within a given site so as to minimize the visual impact

from nearby properties and roadways. Existing onsite vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for the landscaped screening requirement. Appropriate screening shall be installed at tower sites to limit views from adjacent properties and streets. Plantings shall be of such a height and density to ensure screening. Screening shall consist of plant and/or tree material appropriate to the habitat. Screening may be waived on those sides or sections that are adjacent to protected open space land. The owner of the property shall be responsible for ongoing maintenance and shall replace any dead plantings within thirty (30) days.

[b] All telecommunications facilities shall be surrounded by an existing, fully-grown buffer of dense tree growth that extends continuously for a minimum distance of one hundred (100) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must exist on the subject property, be planted on site, or be within a landscape easement on an adjoining site. The Planning Commission shall have the authority to decrease, relocate, or alter the required buffer based on on-site conditions. The one hundred (100) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

(i) Site Requirements:

- [1] Traffic associated with the tower and accessory facilities shall not adversely affect abutting ways and access shall be provided to a site which respects the natural terrain and is approved by the Director of Public Works and by the District Fire Chief to assure emergency access at all times. Consideration shall be given to design that minimizes erosion, construction on unstable soils, and steep slopes.
- [2] Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. A buffer of dense tree growth shall surround all ground-mounted personal wireless service facilities.
- [3] Communication towers shall be enclosed by a fence of at least ten (10) feet in height from finished grade and at least six feet from the base of the structure. Access shall be through a locked gate.
- [4] Equipment shelters for communication towers shall be designed consistent with one of the following design standards:

- [a] Equipment shelters shall be located in underground storage vaults; or
 - [b] Equipment shelters shall be camouflaged behind an effective year round landscape buffer, equal to the height of the proposed building, and/or wooden fence if other types of camouflage are not feasible. The Planning Commission shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood or
 - [c] If mounted on a rooftop, the equipment shelter shall be concealed or camouflages so that the shelter either is not visible at grade or appears to be a part of the original structure.
- [5] Communication towers shall not be artificially lighted except as may be required for public safety purposes, by the Federal Aviation Administration (FAA), or by the Town of Charlestown.
- [6] No signs shall be allowed on any communications tower except as may be required for safety purposes, by the Federal Communication Commission (FCC) or by the Town. All signs shall conform with the sign requirements of the Zoning Ordinance.
- [7] The tower shall be designed to accommodate the maximum number of uses technologically practical.
- (3) Private utility Towers and buildings.
- (a) Special Use Permit will be required
 - (b) Submittal requirements of ARTICLE VI § 218-37D(2)(b) as applicable
- (4) Residential Wind Energy Facilities. **[Amended 3-14-2011 by Ord. No. 338; 9-12-2011 by Ord. No. 341; 11-14-2011 by Ord. No. 344]**
- (a) Purpose. The purpose of this section is to provide for the construction and operation of wind energy facilities as accessory uses and structures for residential and agricultural uses, and to provide standards that address public health, safety and welfare in the placement, design, construction, monitoring, modification and removal of wind energy facilities and minimize negative impacts on scenic, natural and historic resources of the town.
 - (b) Definitions. The following terms used in § 218-37D(4) are defined for use in applying the provisions of this § 218-37D(4) and shall supplement and be in addition to those terms defined in § 218-5B:
 - RESIDENTIAL WIND ENERGY FACILITY HEIGHT — The height of a wind energy facility is measured from pre-development grade to the tip of the rotor blade at its highest point.
 - RATED OUTPUT — The electric power production of the turbine, as specified by the manufacturer.

- (c) Applicability. Only wind energy facilities designed to provide primary and/or accessory electricity for residential or agricultural uses are permitted under the provisions of this section. Maximum output permitted is 20 kW, as rated by the manufacturer, and maximum height allowed is 125 ft.
- (d) Application Procedures for Residential Wind Energy Facilities.
 - [1] General Compliance.

The construction and operation of any proposed wind energy facility shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation (i.e. FAA) requirements.

A wind energy facility shall be considered an accessory use and structure, and any wind energy facility, regardless of height or rated capacity shall require the issuance of a building permit by the Building Official. Prior to the issuance of a building permit, the applicant/owner of the wind facility shall receive all other permits and approvals, as relevant.

A met tower is permitted by right in all zoning districts where structures of any sort are allowed and shall require the issuance of a building permit by the Building Official. A met tower is allowed up to 125 feet in height on a temporary basis not to exceed one-year from the date the building permit is issued. The Building Official may grant a single one-year extension, if justified upon a written request by the applicant. A met tower must comply with § 218-37D(4)(g), Siting Standards.

- [2] A wind energy facility with a total height that is equal to or less than the maximum height allowed for the principal use for the lot as specified in § 218-42B (Building Height) is allowed by Building Permit in all residential zoning districts or on lots used exclusively for residences and/or agriculture, provided that, the standards contained herein are met.
- [3] A wind energy facility supported solely by attachment to a principal residence is permitted to rise ten (10) feet higher than the roof line of that same residence, irrespective of the height restriction specified in § 218-42B, provided that all other standards contained herein are met.
- [4] A wind energy facility with a total height that is greater than what is allowed in Subsection D(4)(d)[2] and [3] herein but that is not greater than 125 feet requires a Special Use Permit prior to the issuance of a Building Permit and is allowed in all residential zoning districts or on lots used exclusively for residences and/or agriculture, provided that, in

addition to the standards required for a special use permit (as contained in § 218-23A), all other standards contained herein are met.

- [5] A wind energy facility that has a rated output of greater than 20 kW, a total height greater than 125 feet or that is on a parcel that ordinarily requires Development Plan Review or Planner Review is not permitted under this section.
- (e) Application requirements shall include the following materials:
- [1] Site plan. The applicant shall submit a site plan with the following information:
- [a] Property lines and physical dimensions of the subject property;
 - [b] Location, dimensions and types of existing structures on the property;
 - [c] Location of the proposed wind turbine, foundations, guy anchors and associated equipment;
 - [d] Setback distances between the wind energy facility and property lines, with evidence of compliance with the setback requirements of Subsection D(4)(g); and
 - [e] Location of any overhead utility lines.
- [2] Engineering Details and Specifications. The applicant shall submit the following details for the proposed wind energy facility:
- [a] Blueprints/drawings of the proposed structures including details for the foundation and electrical components, stamped by a Professional Engineer licensed in the State of Rhode Island, certifying compliance with the Rhode Island State Building Code and the National Electric Code;
 - [b] Wind energy facility specifications, including manufacturer and model, turbine rated output in kW, rotor diameter, tower height, tower type (freestanding or guyed), and overall height; and
 - [c] A copy of the application for interconnection with their electrical utility provider, if the wind energy facility is to be connected to the power grid.
- [3] Neighborhood Sound Impact Analysis. The applicant shall submit manufacturer's documentation of the sound levels generated by the turbine under various wind conditions and at serial distances from the turbine to allow estimation of sound level at the property line.
- (f) Additional Standards for Residential Wind Energy Facilities that require a special-use permit.

- [1] Prior to an issuance of a special use permit for any wind energy facility, the Zoning Board of Review must determine that it meets the standards contained in § 218-23. In addition, the Zoning Board may impose reasonable conditions, safeguards and limitations on time and use, and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impact of the wind energy facility should they occur.
 - [2] Residential wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts on abutters. For facilities more than 60 feet above grade, the applicant must provide evidence that potential shadow flicker impacts will be addressed either through siting or mitigation measures. The applicant shall submit manufacturer's estimation of shadow flicker effects of the turbine at the proposed height, including the expected seasonal times and durations.
 - [3] To protect the general character of the surrounding area the Zoning Board of Review may impose a lower height limit, increased setback requirements or any other mitigation measures.
 - [4] Applicants shall propose monopole towers. Lattice towers may be permitted by the Zoning Board only if they are able to make the following findings: That due to existing site features such as topography, dense year round tree cover, the existence of other structures or other unique conditions, the lattice tower will not result in an increased visual impact over that of a monopole tower at the same site.
- (g) Siting Standards for all Residential Wind Energy Facilities.
- [1] Minimum Setbacks. Except where a wind energy facility is supported solely by attachment to a principal residence and is no higher than 10 feet above the roof level of the principal residence, there shall be a setback between each property line or public road and the center line of the foundation of the wind energy facility equal to the sum of the required district setback for accessory structures for that property line plus the height of the wind energy facility. This requirement may be waived if the applicant can secure an easement over the abutting property that otherwise meets this minimum required setback, provided the property subject to the easement is not divided by a public road within a distance less than the minimum required setback.
 - [2] Sound Setbacks. If necessary, minimum setback must be extended such that the sound pressure level generated by a wind energy facility meets the requirements of § 218-37(D)(4)(i)[3] (Safety and Environmental Standards for all Residential Wind Energy Facilities — Sound). Where a wind energy facility is attached to a principal residence, it must be of a design that can meet the sound setback.
- (h) Aesthetic and Design Standards for all Residential Wind Energy Facilities.

- [1] Color and Finish. All components of a wind energy facility higher than 35 feet above grade shall be painted a neutral, non-reflective exterior color, unless mitigation measures as directed by the town warrant differently.
 - [2] Lighting. Wind turbines shall not be lighted. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for safety, security and operational purposes, and shall be limited by timers, and shielded from abutting properties.
 - [3] Signage. A wind energy facility shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation except for signs necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger; and must comply with Article XI of this ordinance.
 - [4] Utility Connections. Utility connections from the wind facility shall be installed underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - [5] Support Towers. Monopole towers are required for wind energy facilities taller than 35 feet above grade.
- (i) Safety and Environmental Standards for all Residential Wind Energy Facilities.
- [1] Braking System. Wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and other turbine components, or as a means to implement mitigation for noise in excess of that permitted, shadow flicker, or natural resource protection.
 - [2] Physical Safety. All Residential Wind Energy Facilities shall allow ten (10) feet of clearance between moving parts and the ground, or otherwise shield people from moving parts and electrical components.
 - [3] Sound. The sound pressure level generated by a wind energy facility shall not exceed 35 dB(A) from 7:00 p.m. to 7:00 a.m., or 45 dB(A) from 7:00 a.m. to 7:00 p.m. at the property lines. If the ambient sound pressure level exceeds these limits, based on a site-specific sound study, the standard shall be ambient dB(A) plus 3 dB(A). In the event of complaint about noise, the applicant has the burden of proving that the sound generated by the wind energy facility meets the requirements of this ordinance.
 - [4] Wildlife. The potential adverse impacts to wildlife should be minimized through appropriate siting. For example, discourage flight paths into turbines by not placing turbines in close proximity to structures meant

to attract birds such as bird feeders, birdbaths, or birdhouses. Turbine placement should avoid barns or other structures known to contain bat roosts.

(j) Monitoring and Maintenance.

- [1] Wind Energy Facility Conditions. The owner of any wind energy facility shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures.
- [2] Modifications. Any modification that increases the height, sound or rated output of the Residential Wind Energy Facility shall first require the owner to return to the appropriate authority for additional approval.
- [3] Operation. If electronic interference results from the operation of the wind energy facility, or if sound, shadow flicker, or other adverse impacts exceed the allowable limits of this section or other applicable regulations, or a limit placed as a condition of the special use permit, the Building Official shall notify the owner in writing of the violation. If the violation is not remedied within thirty days, the facility shall remain inactive until the violation is remedied.
- [4] Enforcement and Penalties. The Building Official shall be responsible for the enforcement of the provisions of this section. Failure of the owner of any wind energy facility to comply with operational standards, or mitigation measures shall be considered a violation of the zoning ordinance, subject to the provisions of § 218-9.

E. Open Space. No buffer, yard or open space provided around any building to comply with the provisions of this Ordinance shall be used as a buffer, yard or open space for any other building. The space of required front, side or rear yards shall be open and unobstructed with the following exceptions:

- (1) Projections of windowsills, cornices and other ornamental features may extend not more than two feet into a required yard area from the basic structures.
- (2) A permitted residential accessory structure may be placed in a side or rear yard area but no closer than ten feet to a lot line.
- (3) In any district, fences, and walls may be constructed up to six feet in height. In front yards, the maximum height of walls and fences shall be subject to the vision requirements of ARTICLE VI § 218-37F, Sight Triangles.
- (4) Landscape features, such as trees and shrubs, may be placed in any yard area and are subject to the vision requirements of ARTICLE VI § 218-37F, Sight Triangles.
- (5) In business and industrial districts, parking facilities, signs, and outdoor telephone booths may be located in a front yard area if a special use permit is granted by the Zoning Board of Review.

- F. Sight Triangles. On any corner lot and all street intersections, no structure, vegetation or item shall be erected or maintained between the heights of three and ten feet above ground level within the triangle formed by the two street lines and a third line joining points on the street lines twenty feet from the intersection of the street lines.
- G. Cul-de-sac. In any residential district, street frontage may be reduced to not less than seventy-five feet for those lots fronting entirely on turnarounds or a cul-de-sac. Frontage is to be measured between the two side lot lines at the required front yard depth.
- H. Lots divided by district boundaries. Where a lot is divided by a zoning district boundary, the regulations for each district shall apply to the part of the lot on which it is located.
- I. Standards for Individual Uses
- (1) Generally. The uses contained in this Section may cause impacts in the area in which they are proposed to be developed and thus require approval of a special use permit. The performance standards contained within this article are intended to explicitly describe the location, configuration, design, amenities, operation, and other conditions of approval for these uses which along with the conditions for approval of a special use permit will ensure that potential impacts are minimized and are consistent with the Town of Charlestown Comprehensive Plan 1991.
 - (2) Gasoline Stations
 - (a) Location Criteria.
 - [1] The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.
 - [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses, or in relation to other buildings or uses abutting the site.
 - [3] The use will not interrupt or intrude with a concentration of retail uses or impede pedestrian circulation.
 - [4] The use shall be and is located within a highway commercial or general business zone and shall not adjoin or abut a residential district.
 - (b) Spacing. Gasoline stations shall not be allowed within a one mile radius of another such station or within five hundred feet of a municipal building, church, public or private school, or other place of public assembly. No gasoline station shall be constructed in those areas classified as "Lands Already Developed Beyond Carrying Capacity" in the RI CRMC's "Rhode Island's Salt Pond Region: A Special Area Management Plan," 1984 and all amendments thereto.
 - (c) Site Development Criteria.
 - [1] Minimum Lot Area. The minimum lot area shall be no less than forty thousand square feet. There will not be less than two hundred lineal feet of frontage on a Town accepted road. No portion of any building,

canopy, structure, vehicle service area, pump or pump island, shall be located within, project into, or overhang any required minimum front yard or side yard area.

- [2] Accessory Uses. Accessory uses shall not occupy or cover more than ten percent of the total lot area. Such accessory uses shall not be located in any required front or side yard area.
- [3] Prohibited Uses. The following uses shall not be performed in conjunction with any gasoline station.
 - [a] The storage of equipment or vehicles for sale, lease or rental.
 - [b] The outdoor major repair, service or maintenance of motor vehicles.
 - [c] The painting and body work of motor vehicles.
 - [d] The storage of wrecked or abandoned vehicles.

- [e] The use of the lot as a commercial parking lot.
- [4] Minimum Services Required. All gasoline stations shall provide public restrooms for use by the general public, and water and air for motor vehicles. All restrooms shall be situated within the main building. Public telephones are permitted provided they are not within a front yard and are located to be visible from the public right-of-way.
- [5] Architectural Conformity. The exterior of the building shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
- [6] Vending Machines and Portable Display Racks.
 - [a] All types of vending machines except ice machines shall be located inside the building.
 - [b] Only one display rack for automotive products shall be permitted on each pump island. All other display racks are prohibited, except that one such rack not more than three feet in length and three feet in height and two feet in depth, located not more than three feet from a wall of the principal building is permitted.
- [7] Access. Two driveways for access on the required lineal street frontage shall be required. Such driveways shall be at least twenty-five feet apart, shall not be closer than twenty-five feet to a side property line and shall be no closer than one hundred seventy-five feet to the nearest street intersection. Wherever possible a combined driveway and parking area for abutting commercial uses shall be designed and provided.
- [8] Canopy Structure. Where a pump island is covered by a canopy structure, it shall be designed and constructed of the same materials as the main building. The pump island canopy structure shall be attached to and made an integral part of the main building structure.
- [9] Parking. There shall be one parking space for each employee plus a minimum of two parking spaces for each gasoline dispenser and two parking spaces for each service bay. All parking spaces shall be clearly marked and no parking space may be allowed on rights-of-way, yard setbacks or on required landscaped areas.
- [10] Landscaping. At least ten percent of the site shall be permanently landscaped with plant materials intended to beautify and screen. Planting areas shall include, but are not limited to the following.
 - [a] All landscaped planters shall be enclosed with a brick or concrete curb not less than six inches above the finished grade of the site.
 - [b] A minimum of a six feet wide (inside dimension) raised planter, shall be provided along all property lines abutting street rights-of-way between access points for the purposes of separating

pump islands and parking areas from the street right-of-way. Landscaped planters may be rounded at driveway entrances utilizing a minimum fifteen foot radius.

[c] All planted areas shall be maintained so as not to constitute a fire hazard.

[11] Lighting. All exterior lighting shall be of an indirect nature, emanating only from fixtures located under canopies, under eaves on the principal building or at ground level in the landscaping. Exterior lighting shall be arranged and shielded so there shall be no glare or reflections onto adjacent properties or street rights-of-way.

[12] Lawful Nonconforming Stations. Replacement or upgrade of existing storage tanks to modern technologies is allowed and encouraged provided the new tank capacity is no more than twice the existing capacity. No additional tanks or pumps shall be added to a lawful nonconforming gasoline station.

(3) Inns/motels/hotels

- (a) Site Development Standards.
 - [1] Minimum Lot size. A minimum lot size of the zoning district within which the structure is located is required plus four thousand square feet of land per room housing up to two persons and/or six thousand square feet of land per room housing three or more persons shall be required.
 - [2] Any structure used, accessory use or structure or parking area used in association with a hotel or motel shall be located no closer than one hundred feet to any lot line.
 - [3] All inns/motels/hotels within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall use denitrification or other alternative septic system technology as may be approved by the RI DEM.
- (b) Permitted Uses. The following uses shall be permitted as accessory uses to hotels/motels subject to development plan review and all other applicable sections of this Ordinance and other applicable rules, standards or statutes governing such uses.
 - [1] Gift or souvenir shop.
 - [2] Shop for convenience foods and sundries.
 - [3] Dining Rooms, restaurants and coffee shops having a gross floor area of less than two thousand square feet. Drive-in facilities shall not be permitted.
 - [4] Apparel shops.
 - [5] Travel agencies.
- (4) Bed & Breakfasts
 - (a) Use Criteria.
 - [1] No restaurant shall be permitted. Food service shall be limited to breakfast and to resident overnight guests only for no additional fee.
 - [2] The establishment shall be owner occupied and managed within the principal single family structure and not in any accessory structure. If the ownership changes, the new owner shall apply to renew the special use permit for the bed and breakfast.
 - [3] No amplified music, outdoor parties or similar activities for commercial purposes shall be allowed.
 - [4] All requirements of the Health Department, the Fire Marshall's Office and the Rhode Island State Building Code shall be met if required.
 - [5] The owner or manager of a bed and breakfast shall maintain a reservation book or a registration log.

[6] No exterior additions or alterations shall be made for the express purpose of adding to a bed and breakfast facility, other than those required to meet health, safety, and sanitation requirements. The principal building must appear to be a single family dwelling, and give no outward appearance of a business use. Minimal outward modification of the structure or grounds may be made if such changes are deemed compatible with the character of the neighborhood.

(b) Site Development Criteria.

[1] One off-street parking space shall be provided for each guest room besides the parking required for the single family dwelling unit.

[2] The parking area shall not be located within the setbacks of any required yard.

[3] The parking area shall be located at least fifty feet from any adjacent residential district or use and shall be adequately landscaped and screened from view of abutting properties.

(5) Riding Stables.

(a) Generally, Paddocks, pastures, barns, and manure stockpiles and livestock management areas shall be setback at least one hundred feet from the edge of any protected waterbody, wetland, or other flowing water course that drains from the property. No paddock or pasture shall be located over any portion of an individual septic system.

(b) Private Stables.

[1] A special use permit may be granted for each horse, donkey, pony, or mule subject to the following provisions:

[a] Minimum lot size shall be forty thousand square feet in addition to any area required for paddocks and/or pastures.

[b] The paddock area and structures for the housing of such animals shall be at least twenty-five feet away from any property line and fifty feet from any adjacent residential use.

[c] The lot shall at all time be maintained in a clean and sanitary condition, to be free from offensive odors or other nuisance features.

[d] Manure must be collected and maintained in a sanitary manner to prevent offensive odors, fly breeding or other nuisances.

[e] Pasture fencing shall be provided in a manner to safely contain the animals on the property.

(c) Commercial Stable. Where permitted by special use permit, commercial stables are subject to following minimum standards:

- [1] Minimum lot size shall be ten acres besides any area required for paddock and/or pastures.
 - [2] The paddock areas, corrals and all structures for the housing of animals shall be at least one hundred feet away from any property line.
 - [3] All roads and parking areas shall be surfaced to be dust free.
 - [4] Any outdoor lighting shall be hooded and controlled so that the source of light is not visible from any adjoining property line.
 - [5] The lot shall always be maintained in a clean and sanitary condition, to be free from offensive odors or other nuisance features.
 - [6] Manure must be collected and maintained in a sanitary manner to prevent offensive odors, fly breeding or other nuisances.
 - [7] Pasture fencing shall be provided in a manner to safely contain the animal on the property.
- (6) Marinas. Marinas shall be subject to development plan review and shall be located adjacent to waters classified by the RI CRMC as suitable for use by pleasure and cruise boats. The size of the marina shall be determined by the carrying capacity of the land for support facilities, the required parking, the capacity for dry storage, and the accessibility of adjacent roads. Docks, ramps, moorings and related marine service structures shall conform to all accepted siting and engineering standards and the pertinent provisions of this Ordinance.
- (7) Drive-in Uses
- (a) Location Criteria.
 - [1] No drive-in use driveway entrance or exit shall be located within two hundred feet of a municipal building, recreation area or facility, a public or private school, church or any residential district.
 - [2] Drive-in uses shall be located within a business-zoned lot as specified by § 218-36, Land Use Table, with a minimum lot size of five acres and shall only be allowed within the confines of a shopping center where all traffic stacking and traffic circulation shall be handled internally within the shopping center, itself.
 - [3] Drive-in uses that abut residential zones shall have a minimum of one hundred feet landscaped buffer from the proposed residential zone if said residential zone abuts said property.
 - [4] No location and use shall be permitted in a location where a level of service on adjacent and abutting residential roads are affected by reducing the level of service one level downward from the present level of service as to be determined by a traffic engineer, selected by the Town, paid for by the applicant. Any mitigation proposed to maintain

the level of service shall be consistent with the character of the surrounding area and shall be provided at the applicant's expense.

- (b) Permitted uses. Permitted drive-in uses are drive-in banks or savings and loan institutions and pharmacy prescription services. Food and beverage drive-ins are strictly prohibited as uses and are prohibited as accessory uses to permitted principal uses.
- (c) Site Development Criteria.
 - [1] The design of any structure shall be compatible with other structures in the surrounding area and in particular should reflect the shopping center that houses said drive-in uses. The drive-in use shall reflect a common architectural theme within the commercial shopping center, and no franchise architecture shall be allowed.
 - [2] The number of access drives into said shopping center to prevent drive-in uses from affecting traffic circulation between adjacent streets shall be limited to one.
 - [3] No driveway shall be within two hundred feet of a street intersection.
 - [4] Internal access with adjoining sites shall be required where deemed feasible by the Planning Commission through development plan review to prevent the drive-in use impacting traffic movement and circulation onto adjacent roads.
 - [5] A minimum of five stacking spaces is required. More spaces may be required depending on the intensity of use. The Zoning Board of Review shall set the required number of stacking spaces in the special use permit application process.
 - [6] The required drive-thru stacking lane shall not intersect with pedestrian access.
 - [7] Stacking spaces and lanes shall be designed so that they do not impede on an off-site traffic movements or movements into and out of parking spaces.
 - [8] Stacking lanes and spaces shall be separated from other internal driveways by raised medians and landscaping.
 - [9] Driveways shall be at least twenty-four feet wide. No driveway shall be allowed within fifty feet of another driveway.
- (d) Prohibited Drive-In Uses.
 - [1] The sale of food and beverages and other uses not mentioned by this Section is specifically prohibited. The sale of alcoholic beverages by way of a drive-in use is prohibited.

- (e) Any drive-in use which has been granted and approved by the Zoning Board of Review by way of a special use permit and is cited for a repeated violation of any of the provisions of this ordinance or conditions placed on the approval of a special use permit, including but not limited provisions against litter, noise, or air-pollution, can have said drive-in use revoked upon reasonable notice and opportunity to be heard.
- (8) Golf Courses
- (a) Generally. Golf courses shall submit a plan drawn to a scale not smaller than one inch equals one hundred feet showing the conceptual layout of the course, tees, fairways, greens, and related buildings as part of the application for a special use permit.
 - (b) Minimum Lot Size. A golf course or country club shall have a minimum lot size of ten acres. Each accessory use shall provide twenty thousand square feet of additional land area per use. A perimeter buffer of one hundred feet is required.
 - (c) Permitted Uses. Besides the principal use as a golf course, the following uses are permitted as an accessory use to the golf course subject to all other rules and provisions of this Ordinance.
 - [1] Clubhouse.
 - [2] Dining facilities.
 - [3] Tennis courts.
 - [4] Swimming pool.
 - (d) Parking. For the golf course itself four parking spaces per each hole shall be provided plus the cumulative amount required for each other use on the premises.
- (9) Shooting Club/Ranges
- (a) General Standards.
 - [1] The site or area used as a shooting range shall be fenced, posted every fifty feet so that the safety of patrons, spectators and the general public is protected.
 - [2] The Police Chief of the Town shall review and approve the design and layout of any shooting range as to its safety to patrons of the range as well as surrounding property owners.
 - [3] No sales or consumption of alcoholic beverages shall be permitted on the property.
- (10) Commercial Kennels. A commercial kennel's minimum lot area shall be five acres. No structure of a commercial kennel shall be closer than one hundred feet to any

lot line. Each kennel shall provide one run per dog; no commercial kennel shall have more than forty runs.

(11) Dog Day Care/Training Center. Where permitted by Special Use Permit, Dog Day Care/Training Center(s) are subject to the following performance standards:

- (a) Dogs must be leashed while entering and exiting the facility
- (b) There shall be no overnight boarding
- (c) Any outside use of the property for the dogs must be supervised and the dogs must be on leashes
- (d) Dogs inside the facility must not be heard beyond the property lines
- (e) At least one person, onsite at all times during business hours, must be accredited and certified in one or more of the following: American Pet Dog Trainers (APDT), Council for Professional Dog Trainers (CPDT) and/or International Association of Canine Professionals (IACP)
- (f) Pet waste shall not be disposed of into drains or into the septic system of the facility
- (g) Solid pet waste onsite must be scooped up daily before the close of business
- (h) Solid pet waste shall be removed from the site, by the operator or by a contracted hauler, at a minimum of two times a week
- (i) Pet waste odor must not be detectable beyond the property lines
- (j) Hours of operation shall be limited to 7am to 7pm
- (k) A minimum of a 100' setback is required when the property abuts a residential zone or use
- (l) One handler is required for every 15 dogs, not to exceed 40 dogs at the facility
- (m) Outdoor animal noise cannot become a nuisance to abutting properties

(12) Home Occupation

- (a) Intent. It is the intent of this Ordinance to permit such home occupations which:
 - [1] Are incidental to the use of the premises as a residence;
 - [2] Are compatible with residential uses;
 - [3] Are limited in extent; and
 - [4] Do not detract from the residential character of the neighborhood.

- (b) Permitted Home Occupations. Home occupations are permitted if they conform to the following:
 - [1] Visitors, customers, or deliveries shall not exceed those normally and reasonably occurring for a residence.
 - [2] There shall be no alteration of the residential appearance where the home occupation occurs, including the utilization of an existing entrance exclusively for the business.
 - [3] There shall be no signs on the property except for one identification sign as permitted in ARTICLE XI, Signs.
 - [4] Home occupations shall comply with all local, state and/or federal regulations pertinent to the activity.
- (c) Prohibited Home Occupations. The following shall not be permitted as home occupations:
 - [1] Motor Vehicle or boat repair.
 - [2] Beauty salons and barber shops.
 - [3] Health salons, dance studio, and aerobic exercise studios.
 - [4] Limousine or cab service.
 - [5] Medical or dental office.
 - [6] Mortician, hearse service.
 - [7] Painting of motor vehicles or boats.
 - [8] Tow truck services.
 - [9] Veterinary/Grooming/Boarding Services.
 - [10] Warehousing and distribution service.
- (13) Dwelling, Two Family. The dimensional element which shall apply to two family shall be twice that of the comparable values for single family units in the same district. All two family dwellings within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall use denitrification or other alternative septic system technology as may be approved by the RI DEM.
- (14) Extractive Industries. Existing extractive industries shall be allowed to continue on the site of their original extraction. The Zoning Board of Review may permit the expansion of an existing operation to real property acquired before the effective date of this ordinance as a special use permit in all districts according to the following provisions:

- (a) All such operation shall be located not less than one hundred feet from any lot line and one hundred and fifty feet from any street or right-of-way.
 - (b) The Board shall have the power to specify additional requirements concerning the hours of operation, site rehabilitation, fencing, dust control, site clearance, noise and vibration, drainage, degree of slope and require a site remediation plan for after extractive activities are complete.
- (15) Swimming Pools. A swimming pool shall comply with the Rhode Island State Building Code and the requirements for an accessory structure.
- (16) Nursing Homes
- (a) Location Criteria.
 - [1] No facility shall be located on a lot less than two acres in size with one hundred and fifty feet of frontage, plus there shall be at least one thousand, five hundred square feet of lot area for each bed of the facility over ten beds.
 - [2] The front, side and rear setbacks shall conform to the setbacks specified for Commercial 3, C-3, uses in ARTICLE VII, Dimensional requirements unless the lot abuts a residential district or use with a greater setback requirement, in which case, the setback of the greatest dimension shall be used.
 - [3] The Zoning Board of Review may permit adaptive reuse of an existing dwelling in a commercial zone to a nursing home, provided the above requirements are complied with.
- (17) Club/Service Organization
- (a) Location Criteria. Clubs may be allowed by special use permit subject to the following:
 - [1] A minimum lot size of the zoning district in which it is located;
 - [2] A minimum front and rear yard of forty feet;
 - [3] A minimum side yard of twenty feet;
 - [4] In residential districts, the yard requirements shall be doubled.
 - (b) Use Criteria.
 - [1] Off-street parking shall be screened and landscaped and not located in required yard setbacks.
 - [2] Traffic volumes shall be appropriate for the street classification on which the use is located.
 - [3] The proposed application shall not impact the visual, audio, or aesthetic character of the abutting neighborhood.

(c) Application Criteria. The application for a special use permit shall include, but is not limited to, the following information:

- [1] Type of activity,
- [2] Expected peak use and building capacity,
- [3] Anticipated time of peak activity,
- [4] Expected future growth of facilities.

(18) Day Care

(a) Site Development Criteria.

- [1] Day Care uses shall provide for the safe access without affecting traffic safety on adjacent roads or creating a nuisance to abutting residential uses.
- [2] The exterior of structures used for day care shall be architecturally compatible with the district it is located in. Where located in a residential district, the structure shall be designed as a residential unit compatible with the neighborhood.

(19) Automotive Repair

(a) Location Criteria. Automotive repair shall be located no less than two hundred feet from a residential district or use and three hundred feet from a property boundary of a school, park, playground, hospital or other place of public assembly.

(b) Use Criteria.

- [1] Automotive repairs, whether major or minor, shall not be permitted as a home occupation.
- [2] There shall be no parking of damaged vehicles except on a temporary basis not to exceed seventy-two hours. Junk parts and vehicles shall not be kept outside of the building.
- [3] All repair work and outside areas shall be screened so it is not visible from off the premises.

(20) Private Gasoline Island

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, or physical activity in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard in relation to surrounding uses, or in relation to other buildings or uses abutting the site.

- [3] The use will not interrupt or intrude with a concentration of retail uses or impede pedestrian circulation.
- [4] No private gasoline island shall be constructed in those areas classified as "Lands Already Developed Beyond Carrying Capacity" in the RI CRMC SAM Plan and all amendments thereto.

(b) Site Development Criteria.

- [1] No canopy, pump or pump island, shall be located within, project into, or overhang any required minimum front yard or side yard area.
- [2] Where a pump island is covered by a canopy structure, it shall be designed and constructed of the same materials as the main building. The canopy structure shall be attached to and made an integral part of the main building structure.
- [3] All exterior lighting shall be of an indirect nature, emanating only from fixtures located under canopies, under eaves on the principal building or at ground level in the landscaping. Exterior lighting shall be arranged and shielded so there shall be no glare or reflections onto adjacent properties or street rights-of-way.

(21) Bathing Beach

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, or physical activity in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses or impact the traffic pattern of abutting uses.
- [3] The site has no rare or endangered species or state or federally listed species of concern or is utilized as a nesting or nursery habitat for such species.

(b) Use Criteria.

- [1] Permitted uses are limited to swimming, sun bathing, passive recreation, uses not involving any permanent structures or movement of earth, and an accessory permeable parking lot that is dust free.
- [2] All bathing beaches shall have restrooms for use by the general public. All restrooms shall be situated within the accessory parking lot. Public telephones are permitted provided they shall not be within twenty feet of any street frontage and are so located to be visible from the public right-of-way.

(c) Site Development Criteria.

- [1] The minimum lot size shall be forty thousand square feet.
- [2] There shall be one hundred and fifty feet of frontage on a Town accepted and maintained road.
- [3] A landscaped buffer of seventy-five feet shall be provided to any adjacent residential district or use.
- [4] The site shall be located adjacent to the appropriate water quality designation that allows active recreational water activities for humans.

(22) Drive-in Theater

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, lighting or physical activity in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.

(b) Use Criteria.

- [1] Accessory uses permitted are a ticket/entry booth, a concession stand, and public restrooms.

(c) Site Development Criteria.

- [1] The minimum lot size shall be five acres.
- [2] The site shall be adjacent to a road dedicated to the public and maintained by the State.
- [3] A seventy-five foot perimeter buffer shall be provided where the site abuts a residential district or use.

(23) Private School/College.

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, lighting or physical activity in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.

(b) Site Development Criteria.

- [1] The minimum lot size shall be five acres.
- [2] The site shall be adjacent to a road dedicated to the public and maintained by the State.

- [3] A one hundred foot perimeter buffer shall be provided where the site abuts a residential district or use.
 - [4] All private schools/colleges within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall use denitrification or other alternative septic system technology as may be approved by the RI DEM.
 - (c) Architectural Conformity. The exterior of the building(s) shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
 - (d) Master Plan/Development Plan Review required. A master plan of all property under control or ownership for the school shall be submitted as part of the conceptual review stage of the Development Plan Review. The master plan shall detail all existing lots, proposed uses, the proposed layout of streets, driveways, parking areas, landscaping, infrastructure, environmental features and any other item the Planning Commission deems necessary to review the property as a whole.
 - (e) Environmental Analysis. The Planning Commission may require the applicant to submit an Environmental Analysis as outlined in the Charlestown Subdivision Regulations of the proposed development or may contract with an outside consultant at the applicant's expense to adequately review the application.
 - (f) Access and Traffic. The design of proposed access, street layouts, necessary traffic controls, impacts on adjacent Town or State roads, traffic control, existing traffic conditions, and projected traffic generation shall be reviewed by the Planning Commission.
- (24) Convention Center
- (a) Location Criteria.
 - [1] The use will not constitute a nuisance because of noise, fumes, odors, lighting or physical activity in the location proposed.
 - [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.
 - (b) Site Development Criteria.
 - [1] The minimum lot size shall be five acres.
 - [2] A one hundred foot perimeter buffer shall be provided where the site abuts a residential district or use.
 - [3] All convention centers within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall

use denitrification or other alternative septic system technology as may be approved by RI DEM.

- [4] Architectural Conformity. The exterior of the building (s) shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
- [5] Master Plan/Development Plan Review required. A master plan of all property under control or ownership for the center shall be submitted as part of the conceptual review stage of the Development Plan Review. The master plan shall detail all existing lots, proposed uses, the proposed layout of streets, driveways, parking areas, landscaping, infrastructure, environmental features and any other item the Planning Commission deems necessary to review the property as a whole.
- [6] Environmental Analysis. The Planning Commission may require the applicant to submit an Environmental Analysis as outlined in the Charlestown Subdivision Regulations of the proposed development or may contract with an outside consultant at the applicant's expense to adequately review the application.
- [7] Access and Traffic. The design of proposed access, street layouts, necessary traffic controls, impacts on adjacent Town or State roads, traffic control, existing traffic conditions, and projected traffic generation shall be reviewed by the Planning Commission.

(25) Flea Market

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, lights or physical activity in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.
- [3] The use will not interrupt or intrude with a concentration of retail uses or impede pedestrian circulation.

(b) Site Development Criteria.

- [1] The minimum lot size shall be one acre.
- [2] There shall be one hundred fifty feet of frontage.
- [3] Architectural Conformity. The exteriors of buildings shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
- [4] Minimum Services Required. Public restrooms for use by the general public shall be provided. All restrooms shall be situated within an

accessory building. Public telephones are permitted provided they shall not be within twenty feet of any street frontage and are so located to be visible from the public right-of-way.

- [5] Site layout Required. Flea Markets shall submit a plan drawn to a scale not smaller than one inch equals one hundred feet showing the conceptual layout of booths, aisles, parking areas and related buildings as part of the application for a special use permit.
- [6] Renewal of the special use permit is required on transfer of property and/or change of ownership.

(26) Research Lab/Facility

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, or lights in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.

(b) Site Development Criteria.

- [1] The minimum lot size shall be five acres.
- [2] A one hundred foot perimeter buffer shall be provided where the site abuts a residential district or use.
- [3] Architectural Conformity. The exteriors of buildings shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
- [4] Master Plan/Development Plan Review required. A master plan of all property under control or ownership for the lab/facility shall be submitted as part of the conceptual review stage of the Development Plan Review. The master plan shall detail all existing lots, proposed uses, the proposed layout of streets, driveways, parking areas, landscaping, infrastructure, environmental features and any other item the Planning Commission deems necessary to review the property as a whole.
- [5] Environmental Analysis. The Planning Commission may require the applicant to submit an Environmental Analysis as outlined in the Charlestown Subdivision Regulations of the proposed development or may contract with an outside consultant at the applicant's expense to adequately review the application.
- [6] Access and Traffic. The design of proposed access, street layouts, necessary traffic controls, impacts on adjacent Town or State roads,

traffic control, existing traffic conditions, and projected traffic generation shall be reviewed by the Planning Commission.

(27) Microbrew Pub

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, lights or waste in the location proposed.
- [2] No microbrewery shall be allowed within five hundred feet of a municipal building, recreation area or facility, public or private school or church.

(b) Use Criteria.

- [1] There shall be no dancing, floor show or other live entertainment permitted.

(c) Site Development Criteria.

- [1] Architectural Conformity. The exteriors of buildings shall be harmonious with its surroundings and shall include the use of brick, stone, wood, or similar natural materials other than metal and glass.
- [2] The lot shall always be maintained in a clean and sanitary condition.
- [3] Brewery waste must be collected and disposed of in a sanitary manner to prevent offensive odors or other nuisances.

(28) Household Commercial Recycler

(a) Location Criteria.

- [1] The use will not constitute a nuisance because of noise, fumes, odors, litter or lights in the location proposed.
- [2] The use at the proposed location will not create a traffic hazard or traffic nuisance in relation to surrounding uses and impact the traffic pattern of abutting uses.

(b) Use Criteria.

- [1] Recyclable materials shall not include biodegradable wastes, hazardous materials, industrial scrap metals, clothing, or used furniture, appliances, vehicles or parts thereof.
- [2] The facility shall only accept glass, metal, plastics and paper products from residential uses.
- [3] There shall be no outside storage or handling of materials except for unloading from collection vehicles.

[4] The site shall be maintained in a clean and secured fashion.

(c) Site Development Criteria.

[1] No structure or use of the facility shall be located any closer than one hundred feet to a residential use or district.

(29) Nursery/greenhouse

(a) Use Criteria. Nursery or greenhouse shall operate in a manner that causes no harmful effects upon abutting property, including but not limited to:

[1] The pollution of any waterways or waterbodies, and

[2] The contamination of abutting property from any insecticides, fertilizers or similar chemical agents.

[3] No power equipment, such as gas or electric lawn mowers and farm implements may be sold wholesale or retail. Horticultural and landscaping services can be operated as an accessory function to the nursery/greenhouse in business or commercial districts only.

[4] Outdoor storage of fertilizers or chemicals is prohibited.

[5] Where a nursery/greenhouse is located in a residential district, activity shall be limited to the planting and growing of vegetation and shrubs on the premises, their maintenance and incidental seasonal sales of the native plant material.

§ 218-38. Prohibited uses.

A. Prohibited Uses. Any use not specifically mentioned is prohibited. The Building Inspector shall determine if a use fits in one of the categories set forth in the District Use Table in § 218-36. Uses not classified in this Ordinance may be permitted only if such use would be according to the purposes and intent of this Ordinance and consistent with the Comprehensive Plan. The enumeration of prohibited uses shall not create an inference that the Town did not intend to prohibit other uses which are not included in the list of prohibited uses. Farming on agricultural land is a legally conforming activity in all zoning districts when abiding by Rhode Island State Laws and Regulations, dealing with agricultural issues. Normal farming practices and related agricultural activities as determined by the RIDEM. Division of Agriculture and/or R.I. General Laws, are not in violation with this Section, provided the farm is using best management practices.

B. The following uses are specifically prohibited within the Town of Charlestown in order to foster long term environmental sustainability.

(1) (Reserved)

(2) Amusement Park.

(3) Automatic/Commercial Car Wash.

- (4) Automobile Wrecking/Recycling Yard.
- (5) Batching Plant.
- (6) Brewery or Distillery for wholesale distribution.
- (7) Bulk Fuel Depot.
- (8) Coal Distillation/Derivation from coal products.
- (9) Landfill.
- (10) Commercial Slaughterhouse.
- (11) Distillation of Bones.
- (12) Dry Cleaner-coin operated.
- (13) Dry Cleaner — Laundry Plant.
- (14) Electric Generating Plant.
- (15) Extractive Industries.
- (16) Fish Processing.
- (17) Foundry.
- (18) Gaming Facility/Casino.
- (19) Grinding Site.
- (20) Incinerator.
- (21) Manufacture and/or treatment of:
 - (a) Acid,
 - (b) Asphalt (and refining of),
 - (c) Chlorine,
 - (d) Cement,
 - (e) Creosote,
 - (f) Explosives (and storage of),
 - (g) Fertilizer, (excluding compost),
 - (h) Gas from coal or petroleum,
 - (i) Glue,
 - (j) Gypsum,

- (k) Lacquer,
 - (l) Lime,
 - (m) Linoleum,
 - (n) Oils and Fats,
 - (o) Oilcloth,
 - (p) Paint,
 - (q) Paper Products,
 - (r) Plaster of Paris,
 - (s) Precious metals,
 - (t) Rubber,
 - (u) Shellac,
 - (v) Turpentine,
 - (w) Varnish,
 - (x) Vinegar, and
 - (y) Yeast Processing.
- (22) Nuclear Fission/Fusion.
 - (23) Nuclear Waste Processing/Storage Facility.
 - (24) Offal/Dead Animal Reduction or Dumping.
 - (25) Packing/Bailing Site.
 - (26) Pawn Shop.
 - (27) Petroleum Refining.
 - (28) Prison(s).
 - (29) Private Construction Landfill.
 - (30) Private Recycling Center for grease, animal waste or construction materials.
 - (31) Single House Trailers, except according to § 218-50, Mobile Home Parks, and § 218-37A(3), Temporary Shelter
 - (32) When fire or natural disaster has rendered a single-family residential unit unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional standards:

- (33) Smelting of tin, copper, zinc or iron ore, including blast furnace or blooming mill.
- (34) Outdoor storage of unregistered or inoperable vehicles.
- (35) Tanning/Curing of Rawhides.
- (36) Tank Farm.
- (37) Tar Distillation.
- (38) Race Track.
- (39) Underground Storage of Petroleum products and/or storage of hazardous materials unless otherwise permitted.
- (40) Installation of subsurface drainage systems or facilities to artificially lower the groundwater table for any purpose.
- (41) Any other use that is a danger to the public's health, safety, and general welfare because of odors, smoke, gases, dust, noise, excessive light, or vibrations or by danger of fire or explosion.

§ 218-39. Nonconforming Uses.

- A. Existing Buildings and Uses. Any building or use, which was lawfully in operation at the time of the passage of this Ordinance but is not in conformity with the provisions of this ordinance, shall be considered as a lawful nonconforming use.
- B. Continuance. A lawful nonconforming use shall be permitted to continue until such use is discontinued, destroyed, demolished, or changed to another use. If a lawful nonconforming use is halted for one continuous year, the user shall be presumed to have abandoned the nonconforming use, unless that presumption is rebutted by sufficient evidence of intent not to abandon the use. The halted use shall not be allowed to be resumed, and any future use of such structure or land shall conform to the provisions of this Ordinance.
- C. Restoration of Accidentally Destroyed Use. A lawful nonconforming use that is destroyed by accident or by an act of God may be restored within two years, provided that the location and the total floor area are not increased or altered. Nothing shall prevent the performance of normal maintenance work on a lawful nonconforming use.
- D. Change of Use/Intensification. The Zoning Board of Review may, as a special use permit, allow for the change of a nonconforming use to a nonconforming use of a more restrictive character to more closely adhere to the purposes and intent of this Ordinance. If a lawful nonconforming use is changed to a conforming use, it may not be changed back to a nonconforming use. A pre-existing nonconforming use of a building, structure, or land may be added to, enlarged, expanded or intensified by an additional footprint of not more than 50 percent in excess of the existing floor area, land or intensity used only if such addition, enlargement, expansion or intensification is approved by the issuance of a special use permit by the Zoning Board of Review, pursuant to the provisions of § 218-23 of this Ordinance, provided that any such alteration complies with all other

dimensional and area requirements of this Ordinance in effect at the time such relief is sought.

E. Abandonment.

- (1) A lawful nonconforming use of any land, structure or building, which use is discontinued, upon showing a preponderance of the evidence, including, but not limited to, evidence by overt act or failure to act demonstrating the intent to discontinue such use by an owner, for a period in excess of one (1) year shall be presumed to be an abandonment of such nonconforming use. Discontinuation of use alone, even for extended periods, is not sufficient evidence of intent to abandon.
- (2) Upon the abandonment of a lawful nonconforming use, such use shall not be reestablished, and any subsequent use shall conform to the provisions of the Zoning Ordinance of the Town of Charlestown then in effect.

F. Variance and Special Use Permits. Any use established by variance or special use permit shall not acquire the rights of this Section.

ARTICLE VII
Dimensional Requirements

§ 218-40. General.

- A. Generally. District dimensional regulations are specified in § 218-41, Dimensional Table. This Section delineates the minimum standards for lot area, setbacks, building coverage, and building height which apply in each district. § 218-37, Specific Land Use Standards and Conditions, provides additional detailed performance standards which must be met by uses. The purpose of these standards are to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety, and welfare by limiting where uses may be established. The standards also insure that traffic congestion is minimized, control the intensity of use, and prescribe other such performance criteria necessary to implement the Comprehensive Plan and to meet the purposes of this Ordinance.

§ 218-41. Dimensional Table. ¹⁶

§ 218-42. Specific Standards.

- A. Front Lot Lines.

¹⁶ Editor's Note: The Dimensional Table is included at the end of this chapter.

(1) Corner Lots/Lots Fronting on More Than One Street.

(a) Improved Lots.

[1] On improved lots the street line onto which the main entrance to the structure, or the front door, if a residential dwelling faces shall be deemed to be the front lot line. The property line and/or street line intersecting the front lot line shall be deemed to be side lot lines.

[2] Owners of improved lots may elect, once and only once, to select the other street line as the front lot line. The property line and/or street line intersecting the selected front lot line shall thereafter be deemed to be side lot lines. This election shall be made at the time a structural building permit is issued and shall be expressly noted on the application for such permit and on accompanying plans submitted therewith. Such election, or the issuance of such permit in the absence of election, shall finally determine the front lot line of the lot and shall be binding upon the successors, heirs and assigns of the owner to which such permit is issued.

(b) Unimproved Lots.

[1] The owners of unimproved lots of record may elect, once and only once, the street line of their choice as the front lot line. The property line and/or street line intersecting the selected front lot line shall thereafter be deemed to be side lot lines. This election shall be made at the time a structural building permit is issued and shall be expressly noted on the application for such permit and on accompanying plans submitted therewith. Such election, or the issuance of such permit in the absence of election, shall finally determine the front lot line of the lot and shall be binding upon the successors, heirs and assigns of the owner to which such permit is issued.

(2) Conformance with Setbacks. Nothing in this Section shall preclude compliance with the required building setbacks for lot lines as set forth in this Ordinance, upon the final determination of the front lot line in accordance with the provisions of this Section.

B. Building Height. In all districts the height of any building or structure shall not exceed the following:

Lot Size (SF)	Maximum Height (Ft.)
Less than 40,000	30
40,000 and greater	35

(1) Buildings between 30' and 35' will require a minimum 6 pitch for all roof lines above 30' and there will not be allowed any habitable structures, or parts thereof, exterior to the roof structure above 30' (i.e. roof decks, widows walk, etc).

- (2) The following structures or parts of structures that are usually required to be placed above the roof level and are not intended for human occupancy may be erected no more than fifteen percent above the specified height limitations of this ordinance: church spire, church belfry, church tower, grain elevator, chimney, elevator penthouse, silo, necessary mechanical appurtenances, ornamental towers, spires, or water supply structures.
 - (3) Exceptions:
 - (a) The Mixed-Use Zoning Overlay District — The maximum height shall be limited to 35' on all C1 and C2 zoned properties.
 - (b) Buildings and structures erected in Flood Hazard areas (A Zones) and Coastal High-Hazard areas (V Zones), which are required to be elevated to or above the design flood elevation, shall be allowed to increase the 30' height by the difference between the existing grade and the design flood elevation, when the difference is 5' or more, to a maximum of 35'.
 - (c) Existing buildings and structures, which exceed the allowable height requirements for the lot size, if all the other dimensional requirements of this ordinance are met, may be added to with a maximum allowable height as exist on the present building or structure. The maximum height will not exceed 35'.
 - (d) A building or structure destroyed by accident or by an act of God may be restored within two years to its original height provided that the location and the total floor area are not increased or altered.
- C. Yard Regulations. Yards required by this Ordinance and the space above them shall be unobstructed by buildings or structures except as provided in this Section or otherwise provided in this Ordinance:
- (1) Ordinary projections of window sills, cornices, and other structural features may not extend more than twelve inches into the space above required yards.
 - (2) Signs as permitted in ARTICLE XI Signs may be located in front yards.
 - (3) Open or semi-enclosed structures such as porches, canopies, balconies, platforms, garages, carports, covered patios, decks, and similar architectural projections when attached to a principal building shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard. When such structures are not attached by the principal building they shall be considered accessory buildings and shall be governed by the provisions of ARTICLE VI § 218-37B. Accessory Uses.

§ 218-43. Non-Conformity with Dimensional Standards.

- A. Preexisting Substandard Lots.

- (1) A lot with lesser amounts than required in ARTICLE VII Dimensional requirements, may be considered as nonconforming. Such lot must have been shown on a legally recorded plat or deed before the effective date of this Ordinance, and did not adjoin other land of the same owner, and met all the requirements of the zoning ordinance in effect at the time of its creation.
- (2) The yard dimensional requirements for a structure may be reduced and the maximum building coverage requirements for a structure may be increased for a substandard lot of record, at the time of passage of this chapter, in the proportion that the area of such substandard lot is reduced from the minimum area requirements of the district in which the lot is located to a minimum of twelve (12) feet as to side yard, thirty-eight (38) feet as to rear yard and thirty (30) feet as to front yard setback. The necessary computation and determinations of the modifications for building setbacks of yard dimensional requirements for each substandard lot shall be made by the Charlestown Building Inspector at the time of application for a building permit. Whereas a substandard lot of record meets the area and/or width requirement of a lesser zone, the setback, coverage and height requirements of the lesser zone shall apply.
- (3) A pre-existing substandard lot may be increased in area even if the altered lot remains nonconforming to the then-existing dimensional requirements of this Ordinance without Zoning Board of Review approval.

B. Contiguous Substandard Lots.

- (1) On the basis of the lack of public infrastructure in all districts, when two or more contiguous lots are under single ownership, such lots shall be considered to be a single lot and no portion thereof shall be used in violation of any of the requirements of ARTICLE VII Dimensional requirements. No lots contiguous to each other and under single ownership shall be subdivided in a manner below the requirements fixed by this ordinance.

**ARTICLE VIII
Overlay and Mixed Use Districts**

§ 218-44. Flood hazard areas.

These regulations are designed to minimize hazards to persons, damage to property from flooding, to protect watercourses from encroachment and to maintain the capacity of floodplains to retain and carry off floodwaters.

- A. Applicability. This Section shall apply to any construction or any development that lies wholly or partly within special flood hazard areas identified by the Federal Insurance Administration through a scientific and engineering report entitled Flood Insurance Study, Town of Charlestown, Rhode Island, dated June 17, 1986. The accompanying Flood Insurance Rate Maps, Flood Hazard Boundary Maps (FHBM) dated September 30, 1995 and any Floodway Maps and any revisions thereto are hereby adopted by reference and declared to be an overlay district and part of this Ordinance. The requirements set

forth in this Section shall be besides any requirements applicable elsewhere in this ordinance and in any other applicable regulation.

- B. Regulations. Besides other federal, state or town regulations, the following requirements shall apply to any construction or other development located wholly or partly within special flood hazard areas:
- (1) Any proposed construction or other development shall require the approval of the Building Inspector and the issuance of a development permit by the Building Inspector.
 - (2) Before the issuance of a development permit, the applicant shall submit all necessary permits and approvals from all government agencies required by federal or state law.
 - (3) The applicant shall provide data showing the minimum and maximum elevation of the proposed site and the base flood elevation specified for the special flood hazard area.
 - (4) No watercourse may be altered in a manner that will result in any decrease in the water-carrying capacity. No land shall be graded, filled or altered in such manner as to increase base flood levels during the occurrence of base flood discharge within the Town. Where any alteration is permitted, the Building Inspector shall notify the Rhode Island Statewide Planning Program and the Federal Insurance Administration.
 - (5) The filling of land may be permitted only under the following conditions:
 - (a) Said filling shall not encroach upon a watercourse.
 - (b) Said filling shall not increase the potential flood level.
 - (c) Where it is determined that filling will raise the flood level, filling shall be offset by the removal of an equivalent amount of material in the same of the area filled.
 - (6) Drainage shall be provided for any construction or other development to reduce the exposure of the lot or site or any other land areas to flood hazards.
 - (7) No outdoor storage of bulk materials or equipment shall be permitted that is likely to cause damage to property or obstruction to floodwaters, create a potential fire hazard or pollute the waters during flood periods. Such material or equipment shall include, but not be limited to, floatable materials, water soluble materials, volatile or flammable materials, acids or poisons.
 - (8) Provision shall be made for anchoring facilities, equipment, yard features and items normally positioned or stored on a lot or site outside of a structure which are capable of flotation or movement in flood waters.
 - (9) A nonconforming use shall not be enlarged or extended when located in special flood hazard areas.

- (10) In Zones VI-V-30, all new construction must be landward of the reach of mean high tide.
- (11) In Zones VI-V-30, the alteration of sand dunes and/or undeveloped barrier beaches is prohibited for any purpose.
- (12) Recreational vehicles placed on sites within Zones A1-30, AH and AE shall either be (i) on the site for fewer than one hundred and eighty consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet all standards of Section 60.3 (b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in paragraph (c)(6) of Section 60.3.

§ 218-45. Historic Village District.

The purpose of the Historic Village Overlay District (HV) is to protect, preserve and maintain the quality of the Town's villages, to preserve the Town's heritage, cultural and architectural qualities, to foster civic beauty, to strengthen the local economy and to promote the use of such districts for the education, pleasure and welfare of the citizens of the Town.

- A. Designation. The Historic Village Overlay Districts are hereby designated on the Town of Charlestown Official Zoning Maps that are part of this Ordinance and on file at the Town Clerk's Office.
- B. Site Plan Review/Permitted Uses.
 - (1) No new nonresidential structure shall be erected and no existing nonresidential structure shall be added on to, moved or demolished in any manner affecting the exterior appearance or location of such structure until site plan application has been approved by the Planning Commission or the Town Planner may approve minor changes according to the provisions of § 218-45D, Historic District Standards, and all other applicable local, state or federal regulations. No Work shall begin until such approval shall have been filed with the Building Inspector. **[Amended 6-25-2012 by Ord. No. 349]**
 - (2) The regulations of Historic Village District Overlays are in addition to requirements set forth for the underlying zoning districts. Any use permitted in the primary zoning district shall be permitted in the Historic Village Overlay District with the exception of the following:
 - (a) Automobile Repair/Major
 - (b) Automobile Repair/Minor
 - (c) Blacksmith/Welding/Machine Shop
 - (d) Building Supply/Lumber Outlet
 - (e) Cold Storage Locker
 - (f) Funeral Home

- (g) Miniature Golf Course
 - (h) Saw Mill
 - (i) Well Drilling Services
- (3) Residential review (Reserved).
- C. Historic Village District Commission. (Reserved)
- D. Historic District Standards. The Planning Commission acting under the relevant provisions of this Article shall determine the appropriateness of design elements of proposed buildings and alterations of existing buildings within the HV. Proposals shall be evaluated in relation to existing, adjacent and surrounding buildings. To be considered appropriate, buildings shall reflect the Charlestown traditional building style which is rural in character and similar to existing buildings. Nothing in this Section shall be construed to prevent routine maintenance or repair of any structure within a HV. The Planning Commission shall pass only on exterior features of a structure. In the case of an application affecting a structure that the Planning Commission deems valuable to the district, the Planning Commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure. In reviewing plans, the Planning Commission shall consider: **[Added 6-25-2012 by Ord. No. 349]**
- (1) The historic or architectural value, the significance of the structure and its relation to the historic value of the surrounding district including:
 - (a) Horizontal or vertical emphasis;
 - (b) Scale;
 - (c) Stylistic features and themes;
 - (d) Height;
 - (e) Bulk and general massing;
 - (f) Proportion of openings;
 - (g) Materials and textures of buildings and signage. Natural materials which are consistent with and do not create an adverse impact on the existing character and aesthetic integrity of the Charlestown Historic District shall be required. If the Building Official refuses to issue a building permit for the proposed alteration, the applicant shall be referred to the Planning Commission who shall review the application pursuant to § 218-71B and E(3)(b)[14]; and
 - (h) Use of traditional roof pitches.
 - (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding district;
 - (3) All parking will be located on the side or rear of building except where physical site constraints are documented by the applicant. Within the HV the Planning Commission shall determine the adequate off-street parking requirements for uses

reviewed under this Section. The Commission shall encourage applicants to use reserve parking areas, shared parking and satellite parking areas within the HV. Parking and driveway areas should reflect the historic character of the area and be screened where abutting residential uses or districts.

- (4) Any other historical or architectural factors, which the Commission deems to be pertinent to HV.
- (5) Sign Design Standards as specified in ARTICLE XI § 218-63F.
 - (a) Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors, and details of the building.
 - (b) Signs shall fit within the existing facade features, shall be confined to signable areas, and shall not interfere with floor and window openings, conceal architectural details or obscure the composition of the facade where they are located. Signs shall be placed on a facade only in a manner historically appropriate to the style of the building.
 - (c) Wherever possible, signs located on buildings within the same block face shall be placed at the same height, in order to create a unified sign band.
 - (d) Wood and painted materials shall be preferred for sign construction. Flat signs shall be framed with raised edges.
 - (e) If signs are illuminated they shall either be spotlighted or backlit with a diffused light source. Spotighting shall require complete shielding of all light source; light shall be contained within the sign frame and shall not significantly spill over to other portions of the building or site. Backlighting shall illuminate the letters, characters, or graphics on the sign but not its background.
 - (f) Signs shall be mounted so that the method of installation is concealed.
- (6) Prohibited signs.
 - (a) Any sign prohibited by ARTICLE XI, Signs, of this Ordinance.
 - (b) Exterior neon signs.
 - (c) Window signs.
- (7) Moving or Demolition Applications. Moving structures of historic or architectural value may be permitted as an alternative to demolition. The Commission may approve such application if:
 - (a) Such structure is a deterrent to a major improvement program and removal of which will be substantial benefit to the community;
 - (b) Retention of such structure would cause undue financial hardship to the owner; or

- (c) The retention of such structure would not be in the interest of the health or safety of the community.

§ 218-46. Groundwater Protection District.

The purposes of the Groundwater Protection (GWP) District are to protect, preserve and maintain the quality and supply of the groundwater resources upon which the Town depends upon for a present and future water supply. It is also intended to implement the Town of Charlestown Comprehensive Plan 1991. The character of soils and subsoil conditions in this district is such that any use introducing pollutants, contaminants or wastes into the soil or the natural drainage system could adversely affect the quality of drinking water sources. The entire Town is dependent upon groundwater, therefore, regulation of land uses and land use practices that could contribute to the degradation of groundwater quality is necessary to ensure that the Town's current and future water sources are suitable for drinking water use. The entire Town is designated a moderate protection district for groundwater protection to be regulated by the prohibited uses, district use table, and the performance standards of this Ordinance. This Section is further intended to establish the GWP District as a high protection district.

- A. Designation. The GWP consists of the wellhead protection areas and aquifer reservoirs and recharge areas described below and which appear on the Town of Charlestown Zoning Official Maps that are part of this Ordinance and on file at the Town Clerk's Office and on display in the Building Inspector's office.
 - (1) Wellhead Protection Area. This area is defined as the community water system wellhead protection areas in Charlestown delineated by the RI DEM according to the Rhode Island Wellhead Protection Program, RI DEM, May, 1995 and any amendments thereto. The following community water suppliers have wellhead protection areas within Charlestown:
 - (a) Castle Rock Apartments.
 - (b) Shady Harbor Fire District.
 - (c) East Beach Landing Condominiums.
 - (d) Central Beach Fire District.
 - (e) Border Hill Mobile Home Park.
 - (f) Indian Cedar Mobile Home Park.
 - (2) Groundwater Reservoir and Critical Recharge Area. This area is defined as the Lower Wood, Beaver-Pasquisset and Bradford groundwater reservoirs and the

critical portions of their recharge area as delineated by the RI DEM pursuant to the method described in Policies and Procedures for Mapping Recharge Areas to Groundwater Reservoirs for GAA Classification, RI DEM, March 1990 and which are classified GAA by the RI DEM.

- (3) Discrepancy. Should there be a question whether an area is located in a groundwater protection area, the burden to prove the location is outside of the overlay district is the applicant's responsibility.
- B. Permitted Uses. Any use permitted by right or special use permit in the primary zoning district unless listed below or proven in the future to be hazardous to groundwater.
- C. Prohibited Uses.
- (1) Any use not permitted in the underlying zoning district.
 - (2) Any use prohibited in § 218-38, Prohibited uses.
 - (3) Hazardous waste treatment, storage, and disposal facilities.
 - (4) Solid waste transfer stations;
 - (5) Commercial wood preserving and furniture painting and refinishing;
 - (6) All uses which discharge waste water on-site to the subsurface through septic systems, injection wells, dry wells, galleys or other means; except for the discharge of sanitary waste in accordance with an approved RI DEM individual sewage disposal system.
 - (7) The washing of automobiles or trucks except as incidental to residential uses;
 - (8) Underground storage of petroleum products and hazardous materials in any quantity. Replacement or upgrade of preexisting storage facilities to modern technologies would be exempt from this provision only if deemed to be in the public interest to do so;
 - (9) Storage or piping of petroleum or refined petroleum products, except within buildings where the purpose of said petroleum products is to provide heat when burned. Storage of liquid fuel for said heating purpose more than five hundred gallons is prohibited except for storage of said liquid fuel that conforms with the regulations and permitting procedures of the RI DEM.
 - (10) The parking of vehicles for the storage or delivery of fuel oil or hazardous material for a period exceeding two hours in every twenty-four hour period;
 - (11) Uncovered storage of road salt and deicing chemicals and sand, and open storage of sand, soil and gravel;
 - (12) Metal plating and etching;
 - (13) Chemical, bacteriological, and medical research laboratories, and biotechnology facilities;

- (14) Taxidermy.
 - (15) Interior floor drains.
- D. Site Plan Review. Site plan review shall be required before the issuance of any building permit for any proposed use within the GWP District. Uses that are exempt in ARTICLE XII § 218-71C(1), Site Plan Required, shall be exempt from review in the GWP. Proof shall be submitted by the applicant that the proposed use will not cause contaminants to enter the groundwater in concentrations that could limit or impair the use of the groundwater as a drinking water supply. The Planning Commission shall review applications falling under ARTICLE XII § 218-71B, Planning Commission and the Town Planner shall review applications falling under ARTICLE XII § 218-71A, Town Planner.
- (1) Design Review and Standards. In addition to the materials required for site plan review, the following shall also be considered in the GWP District:
 - (a) The simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality and/or quantity that would result if proposed control measures were to fail.
 - (b) Restrictions and conditions may be imposed on a site plan approval that will safeguard groundwater and protect the source of water supply for the Town.
 - (c) The applicant shall submit an Environmental Impact Statement in support of its application. The Environmental Impact Statement shall cover at a minimum the following:
 - [1] A complete list of all chemical, pesticides, petroleum products, and other hazardous materials to be used or stored on the premises, accompanied by a description of measures proposed to protect them from vandalism, corrosion, leakage, spill prevention and countermeasures;
 - [2] A description of potentially hazardous wastes to be generated, indicating a storage and disposal method.
 - [3] A plan showing the dimensions, elevations and nature of the proposed use; the amount, area and type of proposed fill, area and proposed nature of proposed grading; proposed drainage facilities; proposed roads, water and other utilities; and, specifications for building construction and material;
 - [4] An erosion and sedimentation control plan conforming to the 1989 Rhode Island Soil Erosion and Sediment Control Handbook and any amendments thereto, and
 - [5] A plan for stormwater management conforming to the 1993 Rhode Island Stormwater and Installation Standards Manual and any amendments thereto.
 - (d) The applicant may be required to additionally address the following:

- [1] A map showing the existing environmental setting to include all man-made, natural and physiographic features within five hundred feet of the property line including but not limited to wetlands or water bodies, topographic contours at two foot intervals, vegetation and existing development;
 - [2] A soils report by a Professional Soil Scientist, registered with the Society of Soil Scientists of Southern New England, to include the depth to groundwater, and soil strata description to fifteen feet;
 - [3] A report by a groundwater hydrologist on the present surface and groundwater water quality conditions, the rate and direction of groundwater movement and a description of the analysis method used; and the potential impact to ground and surface waters from the proposed use. Such report shall also include the cumulative impacts of discharge pollutants over an extended period of time and a description of mitigation measures to include identification of any irreversible alteration of natural features as a result of the proposed action and potential cumulative impacts of water withdrawal if applicable;
- (2) Construction Standards. The following standards shall be used for all new uses within the GWP District, and all alterations, renovations or upgrades of existing facilities:
- (a) Upgrades of existing underground storage tanks shall be designed to meet or exceed the DEM and EPA standards and have;
 - [1] Exterior coating/interior coating with epoxy resistant to materials it holds;
 - [2] Vented with a minimum of eight foot extension above grade; and
 - [a] A high level sound alarm;
 - [b] Non-shrink groat around inlet piping;
 - [c] Extension to grade from tank itself for manhole cover;
 - [d] Groundwater elevation below the bottom of tank.
 - (b) No washing or rinsing of dumpsters shall occur on-site.
 - (c) Dumpsters that are used to store industrial wastes shall be covered or located within a roofed area and have drain plugs intact.
 - (d) Chemical or hazardous material storage tanks including drums located outside shall have containment dikes or berms surrounding them. Containment dikes shall be coated concrete or metal large enough to contain one hundred and ten percent of tank capacity. Roof shall be placed over contaminate area to prevent precipitation from entering containment area.
 - (e) Roof runoff shall be directed into dry wells or infiltrator units.

- (f) Drum storage areas shall be contained within a dike or berm with concrete or bituminous base.
- (g) Water conserving devices for showers, toilets and sinks shall be installed.
- (h) A minimum of twenty percent undisturbed open space land must be retained.

§ 218-47. Mixed-Use Zoning Overlay District (MUZ).

The purpose of the Mixed-Use Zoning Overlay District is to encourage small-scale business and residential uses consistent with the historic and pedestrian-scale characteristics that exist and which are unique to Charlestown village, to preserve the Town's heritage, to strengthen the local economy, to continue small town character and to promote the general welfare of the Town. The Mixed-Use Zoning Overlay District regulations set forth herein are consistent with and further implement the Town of Charlestown Comprehensive Plan, dated 1991, and any amendments thereto. These regulations are also intended to preserve the rural small town character of the Town, to encourage the most appropriate use of land, to enhance the beauty of the community, to provide affordable housing opportunities, to be consistent with the Rhode Island Coastal Resources Management Council Special Area Management Plan and to protect the character of the Charlestown village neighborhoods. These regulations shall be construed in a manner to further implement the goals, policies and applicable elements of the Charlestown Comprehensive Plan, dated 1991, and any amendments thereto.

- A. **Boundary.** The boundary of the Mixed-Use Zoning Overlay District is attached hereto as Exhibit A and is incorporated herein by this reference (the "Mixed-Use Zoning Overlay District"). The Town Clerk is hereby authorized and directed to revise the Official Zoning Map of the Town of Charlestown that is part of the zoning ordinance.
- B. **General Provisions.** The Mixed-Use Zoning Overlay District shall be governed and controlled by the following:
 - (1) **General Provisions.** All activities, additions, alterations, renovations, and new construction that occur within the Mixed-Use Zoning Overlay District that require the issuance of a building permit shall first be reviewed pursuant to the provisions of ARTICLE XII, Development Plan Review and Land Development Review of the Charlestown Zoning Ordinance.
 - (2) **Density.** No more than one dwelling unit per lot is permitted in the Mixed Use Zoning Overlay District, unless low or moderate income housing units are provided at a rate of fifty-nine (59) percent to each and every market rate dwelling unit. To be eligible to create more than one dwelling unit on any property located within the Mixed Use Zoning Overlay District, all required federal, state and/or local approvals/permits must be obtained and the total number of dwelling units shall be limited to the following formula:

Density is expressed in the following formula, where:

- A = Number of Low or Moderate Income Dwelling Units
 P = Percentage of Low or Moderate Income Dwelling Units - (59%)
 N = Total Number of Dwelling Units.
 M = Number of Market Rate Dwelling Units.
 A = $N \times P$ rounded down to nearest whole number ($M = N - A$)

- (3) New Construction.
- (a) New building construction on any C1 or C2 zoned lot in the Mixed-Use Zoning Overlay District shall not have less square footage devoted to commercial use than the square footage of the footprint of the building. A second or third floor may have residential uses provided that the proper septic and well approvals can be obtained from the proper granting authorities.
- (b) New commercial building construction may have residential uses at ground level attached to the building at the side or rear, however the square footage of ground level residential uses shall not be greater than the commercial building footprint square footage. The building must meet all setback requirements and have proper well and septic approvals from the proper granting authorities. A second or third floor may have residential and/or commercial uses provided that the proper septic and well approvals can be obtained from the proper granting authorities.
- (4) Alterations/Additions. An existing commercial building may add second and third floors containing residential and/or commercial uses. If residential is to be added to an existing commercial building at ground level, it must be attached at the side or rear and may not exceed nor reduce the square footage of the commercial use in the existing commercial building.
- (5) Nonconforming Uses. Current non-conforming residential uses on C1 and C2 zoned lots within the Mixed-Use Zoning Overlay District shall become conforming upon passage of this Ordinance. Such property shall regain the rights of any other residence in a residential zone as long as the residence remains one-family. In addition, any residential use located on a C1 or C2 zoned lot may add an attached commercial use to the residence. All setback requirements for the underlying zoning in which the use is located must be observed, along with well and septic permits granted from the proper authorities.
- (6) Prohibited Uses/Structures. No new residential-only buildings shall be built on any C1 or C2 zoned lot in the Mixed-Use Zoning Overlay District. In addition, no metal buildings or metal-sided buildings are permitted within the mixed-use district.

C. Dimensional and Design Regulations

- (1) General. Unless specifically modified in this provision of the Charlestown Zoning Ordinance, all the otherwise applicable dimensional and design standards for new and altered structures, uses and land shall be required.
- (2) Building Footprint. The maximum building footprint for all new construction of any single building is limited to 10,000 square feet. Buildings with footprints of less than 5,000 square feet are permitted by-right, subject to review pursuant to ARTICLE XII, Development Plan Review and Land Development Review of the Charlestown Zoning Ordinance. Buildings with footprints of 5,000 square feet up to 10,000 square feet shall be permitted only upon the issuance of a special use permit, pursuant to § 218-23 and review pursuant to ARTICLE XII of the Charlestown Zoning Ordinance. More than one building per lot is permitted, subject to compliance with all other applicable provisions of the Charlestown Zoning Ordinance.
- (3) Building Height. All buildings on any lot zoned C1 and C2 within the Mixed-Use Zoning Overlay District shall be limited to 35 feet in height.
- (4) Bulk and Massing. The massing of new commercial buildings shall be deemphasized in a variety of ways, including the use of projecting and recessed sections, to reduce their apparent overall bulk and volume.
- (5) Roofing and Fascia. New buildings shall be topped with pitched roofs with overhanging eaves, but flat roofs with articulated parapets and cornices may be allowed at the discretion of the Administrative Officer or, if referred, the Planning Commission. The use of fascias, dormers and gables is encouraged to provide visual interest.
- (6) Setbacks. The required minimum front yard setback for any principal use located in the Mixed-Use Zoning Overlay District and zoned C1 or C2 shall be no less than twenty (20) feet from the property line. All other dimensional standards of the underlying zoning district shall govern the building envelope for parcels located in the Mixed-Use Zoning Overlay District.
- (7) Landscaping. The provisions of § 218-74 of the Charlestown Zoning Ordinance shall govern the landscape improvement requirements of the Mixed-Use Zoning Overlay District.

§ 218-48. Planned Development District (PDD).

- A. Planned development authorized. This Section authorizes the creation of land development projects within a Planned Development District (PDD) in which one or more lots are to be developed as a coordinated site for a complex of uses, units, or structures.
- B. Public purpose. The purpose of the PDD is to encourage a development resulting in a low intensity mixture of industrial, recreational, residential and commercial uses while maintaining the rural characteristics and the environmental resources of the Town. The purpose of this Section is to provide for the planning of land parcels as an integrated,

coordinated unit as opposed to the traditional parcel by parcel, piecemeal, sporadic and unplanned approach to development. This Section is intended to provide regulations to introduce flexibility of site design and architecture to provide for the conservation of land and open space through the clustering of buildings and activities. It is intended that a PDD will be characterized by integrated planning and architecture, joint or common use of parking, maintenance of open space and other facilities, and a harmonious selection and efficient distribution of uses. In addition, the purpose of this District is to implement the goals, objectives, and recommendations of the Town of Charlestown Comprehensive Plan 1991, as may be amended from time to time. The following are the objectives to achieve these purposes, which are intended to be given equal priority and are numbered for reference only:

- (1) To retain a sense of the rural landscape and character of the Town.
 - (2) To protect surface and groundwater resources through the careful siting of sewage disposal systems, erosion and sediment control, the control of stormwater runoff and groundwater usage.
 - (3) To limit and control access of new development on Town and State roads so that traffic safety and circulation are not affected adversely within and adjacent to the PDD.
 - (4) To assure the clustering of new uses and parking areas on the most appropriate developable land within the PDD in order to retain sensitive environmental resources and preserve open space.
 - (5) To assure that the design of new structures, parking areas, and landscaping is compatible with the natural features and topography of the land within the PDD.
 - (6) To preserve the natural beauty of existing rural roads, farmland, topography and wooded areas, and to provide usable open space, greenways, and recreation facilities.
 - (7) To encourage a less sprawling form of development which makes more efficient use of the land in a traditional village center which requires a shorter network of streets and utilities.
 - (8) To provide for the integrity of existing plant and animal communities.
 - (9) To provide an efficient procedure which can insure appropriate, high quality design and site planning, and a high level of environmental amenities.
 - (10) To provide a variety of affordable housing opportunities and living spaces for a wide range of ages, needs, incomes, and lifestyles.
- C. Boundaries. The area of Planned Development Districts is that land within the boundaries as designated as PDD on the Charlestown Official Zoning Maps filed in the offices of the Town Clerk and copies in the Building Inspector's office, as may be amended from time to time.

D. Use criteria. Permitted uses shall be those outlined in ARTICLE VI, Land Use Regulations, except that drive-through uses are prohibited.

E. General criteria.

- (1) Access and Traffic. The design of proposed access, street layouts, impacts on adjacent Town or State roads, traffic control, existing traffic conditions, and projected traffic generation shall be reviewed by the Planning Commission for an application within a PDD. Common driveways and shared access that serve more than one property are encouraged. Roads within a PDD shall be constructed to the standards for roads established by the Town of Charlestown Subdivision Regulations. Roads shall be of rural rather than urban character. Non-grid road systems are encouraged. An application may be denied by the Commission if the proposal is deemed to create a hazardous condition when the traffic to be generated together with existing traffic conditions will adversely impact the safety of the general public.
- (2) Adequate Facilities. Prior to approving any phase of a PDD development plan, the Commission must be furnished with satisfactory evidence that acceptable capacity exists or improvements will be provided to support the application's proposed development including, but not limited to, the areas of water supply, storm water drainage, sewage disposal, solid waste disposal, public safety, emergency services, recreational facilities, educational services, and transportation. All PDD applications must also demonstrate that the proposed development is approved by any other local, state, or federal agency having jurisdiction over such matters.
- (3) Building Permits. A building permit shall only be issued within a PDD only if the application for which the permit is to be issued, is in conformance with the approved development plan and if the required site improvements are completed and in place.
- (4) Density and Impervious Coverage.
 - (a) Units Permitted.
 - [1] Residential Density. The density of a PDD shall be equal to or less than the density permitted under a residential cluster subdivision within a R-3A zoning district. The density of a PDD cannot be varied. The PDD is not intended as a device to circumvent zoning density regulations, standards, and good planning practice. Site planning layout for single family dwelling units and/or multifamily dwelling units shall utilize the provisions of § 218-52, Residential Cluster Subdivision and/or § 218-51, Multi-Family Dwellings
 - [2] Non-residential Density. Non-residential Development shall not exceed 40 percent of the PDD and shall progress in coordination with the residential development. Lot layout shall utilize the nonresidential provisions of § 218-41, Dimensional Table, for site planning. Non-residential development shall not exceed the impacts of a R-3A

residential cluster subdivision, especially in the areas of water use, septic waste generation and nitrate loading, and impervious coverage.

- (b) Impervious Coverage. The maximum amount of impervious coverage shall not exceed the equivalent percentage of a residential cluster subdivision developed in a R-3A district for the site or a maximum of 10 percent. A wide range of techniques is encouraged to minimize impervious cover.
- (5) Master Plan/Development Plan Review Required. A master plan of all property within each PDD shall be submitted as part of the conceptual review stage of the Development Plan Review and/or Subdivision review process. The master plan shall detail all existing lots, proposed future lots, proposed uses, the proposed layout of streets, driveways, parking areas, landscaping, infrastructure, environmental features, phases, information from an environmental analysis and any other item the Commission deems necessary to review the entire PDD property as a whole. Master plans shall be prepared by a Rhode Island Registered Professional Engineer and/or Land Surveyor and be accompanied by appropriate supporting documentation from a Rhode Island Registered Architect or Landscape Architect where required.
- (6) Environmental Analysis. The Commission shall require the applicant to submit an environmental analysis as outlined in the Charlestown Subdivision Regulations on the proposal or may contract with an outside consultant for one at the applicant's expense to adequately review the application. The environmental analysis shall include a survey of the flora and fauna of the entire site. The Commission may consult with other local boards, commissions, or the staff of state or federal agencies in order to adequately review the environmental analysis. The applicant shall consult with the Rhode Island Natural Heritage Program among other agencies in the preparation of the environmental analysis.
- (7) Fire District Inspection. All PDD applications shall provide adequate water supply and emergency access for fire suppression and evidence of compliance with applicable fire codes. A letter from the fire district within whose boundaries the PDD is located shall be submitted at the conceptual review approving of the PDD as proposed or stating what improvements would be necessary to adequately provide fire protection to the site.
- (8) Legal Instruments. The proposed declaration of covenants, conditions, and restrictions for the PDD must be submitted with the master plan. In addition, any other proposed legal instruments for the protection and maintenance of common-open areas, recreation areas, and utilities if any, must be submitted. These legal instruments must be approved by the Town Solicitor to ensure the Town's interests are protected. The deeds to property in the PDD must provide that each property owner in the PDD is the owner of an undivided interest in the common areas and that private structures of any type are prohibited in the common areas. A copy of all recorded legal instruments must be filed with a building permit application.

- (9) Off-Site Improvements. Construction of facilities or improvements outside of the PDD may be required where the Commission finds the proposed development may impact the general health, safety or welfare of the Town and off-site improvements would mitigate this impact. The Commission shall identify the need for such improvements in setting forth findings of fact based upon information submitted, studies and knowledge of the impacted area, and the Comprehensive Plan. The Commission shall identify any significant negative impacts of a proposed PDD on existing conditions within or in the vicinity of the PDD and the reasons for and the extent to which mitigative measures are required.
- (10) Open Space. Common open space shall comprise not less than twenty-five percent of the total area of the PDD. Such space may include land area to be developed as recreational areas for the common use of all occupants of the PDD, but shall not include streets, off-street parking areas, rights-of-way, required buffers, setback areas, and utility easements.
- (11) Other Information. The Commission may request and the applicant shall provide any other information deemed necessary by the Commission to evaluate the application for compliance with the regulations contained herein and other applicable laws and regulations so that there will be no adverse impacts to the public's health, welfare, or safety.
- (12) Summary Report. The conceptual application for a PDD shall include a written summary report which includes, but is not limited to the following:
 - (a) How the intent and purposes of this Section and Ordinance will be achieved by the proposed PDD.
 - (b) A description of how the PDD will relate to surrounding land uses.
 - (c) Sketches or illustrations of the proposed architecture of the development and a description of how the overall design proposed is compatible with the rural character of the Town.
 - (d) Whether other land use reviews will be required for subdivision review, variances, or special use permits and the timing of development.
 - (e) The different land uses proposed by type and amount of land, including specifically the amount of land for housing, open space, streets, recreation, parking and commercial uses.
 - (f) A statement on how the necessary services will be provided.
 - (g) The names and addresses of all professional consultants who have assisted in the development of the PDD application submitted.
 - (h) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PDD, including a statement of all legal, beneficial, tenancy and contractual interest.

- (i) A section describing how the proposed PDD's is consistent with the applicable goals, policies, and recommendations of the Town's Comprehensive Plan.
- (13) Site Development Standards.
- (a) Architectural Standards. Each PDD shall include the following design standards:
 - [1] Windows shall maintain a consistent design character which shall be maintained throughout the development.
 - [2] Building design shall use traditional New England natural building products and forms.
 - [3] The design of units shall recognize the need for natural light, ventilation, amenity space, privacy, maintenance, and fire protection.
 - [4] Twenty percent of the length of building facades may exceed the heights limits specified in ARTICLE VII § 218-42B, Building Height., in order to provide roofline and facade variations, accents, tower elements and other similar architectural elements which do not increase the floor area of the structure.
 - [5] The overall design shall maintain the visual integrity of hilltops and ridgelines. Development shall be sited no higher than the average canopy height of trees on the ridgeline or hill top.
 - [6] The overall design of the built and landscaped development shall follow the natural topography. The development should not be visually intrusive from adjacent property, roadways or other public areas.
 - [7] Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box-like buildings set back on a large expanse of paved parking. New buildings shall not be large, bulky masses, but shall be scaled down into groupings of smaller attached or detached structures.
 - (b) Landscaping and Screening. Prior to the issuance of permits for any permits with a PDD, the PDD shall conform to the provisions of the landscape regulations of § 218-74, Landscaping, of this Ordinance. A landscaping plan shall be submitted for all PDD applications at the Master plan review and shall additionally address the following standards.
 - [1] The landscape plan shall address visual and audio aspects of the landscape. Scenic views and vistas, particularly as seen from public roads shall be preserved and enhanced. The landscape plan shall show the street view of the property and adjacent properties in predevelopment and post-development conditions.

- [2] Any disturbed portion of a developed lot or property that is not used for the location of buildings, structures, or accessory uses shall be landscaped and maintained or left as natural vegetation.
 - [3] Unique site features such as historic stone walls, archaeological sites, cemeteries or ledge faces, shall be retained and protected. Such features shall be incorporated into the overall landscaping design.
 - [4] Every reasonable effort shall be made to preserve existing healthy, mature trees, and specimen or endangered vegetation shall be retained. Consideration shall be given to using native sustainable plant materials. The Commission may require the preparation of a plan showing the location of significant trees within the PDD in order to maximize the preservation of such trees and their incorporation into the proposed development plan.
 - [5] A front landscaped area may be required for all uses. This area shall be covered with grass and/or other ground cover and shall include appropriate trees and shrubs. As a minimum, one shade tree having a caliper of three inches and height of eight feet shall be planted for every fifty feet or fraction thereof of lot frontage where natural vegetation is not retained.
 - [6] Side and rear yard landscaping may be required for all uses. Sod and/or seeding shall not constitute adequate landscaping. Tree and shrub plantings shall be combined with sod and/or seeding. All building foundations shall be landscaped with sustainable trees and shrubs.
 - [7] Storage areas, service areas, trash receptacles, utility structures and similar structures shall be screened with appropriate plantings or enclosed in a structure with construction materials, colors, and appearance similar to that of the main buildings.
 - [8] A PDD shall have a one hundred foot perimeter undisturbed buffer to provide an adequate transition between the development, existing town or state roads and abutting land uses. The buffer shall remain in its natural state unless otherwise approved by the Commission.
 - [a] When required, loading and other service areas such as trash dumpsters shall be placed to the rear or side of buildings in visually unobtrusive locations. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from public or private streets used by the general public. Screening and buffering shall be achieved through walls, fences and landscaping and shall be visually impervious.
- (c) Lighting. Where lighting is deemed necessary, low intensity light shall be used to illuminate a PDD and shall be capped and directed away from adjacent properties. It shall be shielded from roadways and other public areas. Non-sodium vapor lights shall be used.

- (d) Lots. The proposed uses shall be clustered in such a manner to make efficient use of land resources and to reduce the amount of impervious surfaces and infrastructure. The impact on existing uses and the rural character of the area shall be considered in the layout and the overall design of the PDD.
- [1] Single family and attached clustered family dwelling units are permitted with a maximum of four family units per cluster and a maximum of eight bedrooms per cluster.
 - [2] Non-residential uses abutting residential districts and/or residential uses shall provide twice the regular yard setbacks where abutting such residential district and/or use. To encourage clustering of development in the most appropriate locations, the Planning Commission at its discretion, may approve a development review plan showing a side or rear yard of lesser dimensions where it determines on two or more adjacent lots that such development plan would best achieve the objectives of the PDD.
- (e) Open Space. There shall be twenty-five percent of the total lot area provided as permanent open space. No more than five percent of the open space may consist of constraints to development. The location of the open space shall be contiguous to existing open space areas or in areas of the highest probability of connecting to future open space or greenway corridors.
- [1] Permitted uses in the open space are limited to the following:
 - [a] Passive recreation which is defined as activities which use the land with minimal disturbance, not to exceed five percent of the open space.
 - [b] Recreational trails for non-motorized use, except that motorized wheelchairs are permitted.
 - [c] The Planning Commission may approve structures under two hundred square feet for picnic shelters, maintenance equipment, storage, or other uses accessory to a permitted open space common use.
 - [d] Forest management activities designed to promote healthy and aesthetic forests.
 - [2] Ownership and maintenance of the open space shall be the responsibility of a property owners association. Each lot or interest within the PDD shall be deemed as a unit granting to the parcel owner a proportionate undivided interest in the common area in perpetuity, with such restrictions as may be approved by the Commission in approving the PDD.
 - [3] A conservation easement as approved by the Town Solicitor shall be granted to the Town of Charlestown on the open space to protect the preserved land in accordance with the approved PDD.

- (f) Parking Standards.
- [1] Parking use ratios shall be as stipulated in § 218-56, Required parking. For mixed uses with different parking requirements, the number of parking spaces required shall equal the sum of all the individual uses. Land area shall be provided for the maximum number of spaces required, but actual construction may be phased by use and phases shall be indicated on the master plan.
 - [2] Parking areas shall not be located within any required yard setback, buffer area, open space area or required landscaped area. Off-street parking must be located in rear yards where feasible in order to screen such facilities from adjacent streets. The Commission shall review the proposed location of parking facilities and may require relocation, modification, or additional screening in order to protect views from adjacent property, public and private streets. The Commission shall require that all off-street parking and loading facilities shall be located so that they are not visible from Route 1 or Route 112.
 - [3] For uses requiring more than forty parking spaces, smaller interconnected parking areas of no more than forty spaces shall be provided rather than a single large parking lot. Shared parking shall be encouraged for mixed uses which have different hours, days, and/or seasons of peak parking demand. The Commission may, permit individual parking standards to be reduced for separate uses where it can be demonstrated that adequate parking may be made available on a shared basis. The Commission may require written easements or other legal assurances as may be required to enforce shared parking arrangements. Where reasonable and practical, the Commission shall require common driveways and interconnected parking lots in order to facilitate shared parking.
 - [4] Parking areas, fire lanes, service drives and driveways shall be a dust free surface. Overflow lots that are used infrequently could have grass or other porous surfaces.
- (g) Public Facilities. The applicant is responsible for providing the necessary utilities and appropriate facilities for the PDD. All public facilities needed to serve the PDD must be provided to the exterior boundaries of the PDD by rights-of-way or easements. Where technically feasible and allowed by state law, joint or common water and or sanitation systems should be used. Public utilities shall be installed underground and according to the provisions of the Charlestown Subdivision Regulations.
- (h) Trails. Pedestrian circulation systems must be provided to facilitate movement within the PDD to ensure safe pedestrian access to public uses. Consideration shall be given to the preservation and connection of areas used for wildlife habitat, wildlife corridors, greenways, and recreational trails. Where sidewalks are not proposed in the PDD, trails may be required to

facilitate interior pedestrian access, access to open space, and access to other interconnecting properties. Existing planned and/or platted trails from adjacent properties shall be continued and incorporated in the design of the PDD.

[1] Trail Design.

[a] Trails shall be located off street/rights-of-way wherever possible for pedestrian safety. Whenever trails are located within street/rights-of-way, the trails shall be designed to minimize pedestrian and traffic hazards.

[b] Trails shall be designed to minimize grading and scarring of the landscape and not cause erosion and drainage problems.

[2] Wildlife and Vegetation. Wildlife habitat shall be preserved as required by the Commission and State law. Noise and light sources shall be oriented away from such areas. Vegetation habitat shall be preserved or supplemented by additional landscaping to buffer and screen adjacent land uses, and buffer man-made structures on the property where necessary to protect wildlife.

(14) Restrictions and Conditions. The Commission may make such requirements, conditions, or restrictions felt to be reasonable and necessary to ensure that the proposed PDD is compatible with the existing and permitted land uses in the surrounding areas. Such conditions shall assure a proposed PDD will not adversely affect the health, safety, and welfare of the adjacent landowners and residents of the Town and be consistent with the Comprehensive Plan. Conditions may be imposed, but not limited to, to insure the proposed PDD will not result in undue traffic congestion or traffic hazards, be adequately landscaped, buffered and screened, and mitigate potent impacts on adjacent properties. As an alternative, the applicant may elect to construct additional improvements to offset potential effects of the proposed PDD.

(15) Evaluation and Approval Criteria.

(a) The Planning Commission may be flexible in its consideration of an application under this Section and shall evaluate the project with the requirements of this Section. However, nothing contained herein shall compel the Commission to approve a PDD application. Upon review and evaluation, the Commission may consider one of the following courses of action:

[1] To request modification of the application;

[2] To approve with conditions, a PDD application to permit a number of units which is less than the maximum number permitted by conventional zoning; or

[3] To approve with conditions, a PDD application to permit a number of units which is equal to what would be permitted by conventional zoning; or

- [4] To deny a PDD application.
- (b) The review and evaluation of a proposed PDD and supporting materials shall include, but not be limited to the following criteria:
- [1] The proposed PDD is consistent with the intent and purposes of this Section and the intent and purposes of this Ordinance.
 - [2] Adequate property control is established and provided to protect abutting property owner's and to define legal responsibilities for maintenance and upkeep.
 - [3] The interior circulation plan and the access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and the general public.
 - [4] A sufficient amount of usable open space is provided.
 - [5] The arrangement of buildings, structures and accessory uses does not unreasonably disturb the privacy of abutting property.
 - [6] The architectural design of the projects is compatible with the surrounding area.
 - [7] The drainage and utility system plans are adequate for the safety of the project residents and the general public.
 - [8] The development schedule insures a logical development of the site which will protect the public interest and conserve land.
 - [9] The Building Inspector has certified that the proposed principal and accessory uses will be in compliance with the provisions of the Zoning Ordinance.
 - [10] The PDD will provide a more beneficial use of land through the provision of interconnected open space, the conservation of environmental features, aesthetic features and harmonious design, and an energy efficient site design.
 - [11] Based on the information submitted, the PDD will not have a adverse impact on the surrounding area and will be in harmony and compatible with the neighborhood. Compatibility includes but is not limited to size, scale, mass, architectural design, and landscaping;
 - [12] The proposal complies with the minimum subdivision requirements set forth in the Town's Subdivision Regulations.
 - [13] The PDD will be in accordance with and further the Goals and Policies of the Town's Comprehensive Plan.

- [14] The project will be served by or will provide adequate facilities including streets, recreation facilities, fire protection, water, and sanitation.
- [15] The PDD will result in no significantly greater burden on present and projected public facilities and services than conventional zoning.
- [16] Based upon the application submitted, that undue traffic congestion or traffic hazards will not result from the proposed PDD. The roadways, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed PDD and in the vicinity of the proposed PDD.
- [17] Based on the application submitted, the development will not cause significant air, water, or noise pollution.
- [18] The soil and drainage conditions are of sufficiently stable nature to support the proposed development as indicated by the State's approval of the proposed PDD sewage disposal treatment method.
- [19] Fire hazards will not be created or increased and emergency vehicle access is provided.
- [20] The PDD will not adversely affect any land of significant natural, historical, cultural, recreational or aesthetic value;
- [21] The benefits of preservation of a larger land area is accomplished by approving a development which utilizes a smaller area.
- [22] The proposed PDD, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity.

(16) Subdivisions and Other Regulations.

- (a) Subdivision Approval. If subdivision review and development plan approval are required, an applicant may request that a coordinated review under this Section be carried out simultaneously provided that the application satisfies all of the requirements of the applicable Charlestown Subdivision Regulations. Public notice procedures shall follow the procedural requirements of the Charlestown Subdivision Regulations for major subdivisions. Final Plan review will be conducted subject to the provisions for major subdivision final plans in the Charlestown Subdivision Regulations. No construction or site work for a PDD shall begin until a preliminary plan of such development has been approved by the Planning Commission. Time periods for approvals shall be as stipulated in the Subdivision Regulations.
- (b) Special Use Permits. In applications where special use permits are required for a proposed use in a PDD application, review and approval of the special use permit shall first be carried out by the Zoning Board of Review.

- (c) Other Regulations. All other sections of this Ordinance also serve to regulate a proposed PDD, as do all provisions of Charlestown Subdivision Regulations, and the Divisions and Sections of the Municipal Code of the Town of Charlestown.
- (17) Amendments. Applicants may apply for changes to approved PDD plans. Request for amendments must be submitted in writing to the Planning Commission.
- (a) Minor Changes in Location, Placement and Height. Minor changes in the location, placement and height of structures may be authorized by the Commission when required by engineering or other site construction circumstances not foreseen at the time the preliminary plan was approved.
 - (b) Significant Change in Use, Location, Size and Height. Changes in uses, changes in locations, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes in provision of common open spaces and all other such changes to approved plans may be made only after a public hearing conducted by the Commission.
 - (c) The amendment shall be consistent with the efficient development and preservation of the entire PDD. It shall not affect, in a substantially adverse manner, either the enjoyment of land abutting the PDD or the public interest and shall not be approved solely to confer a special benefit upon any person.
- (18) Timing of Development. In order to regulate the development of new construction within a PDD and to prevent excessive development from exceeding the capacity of the Town and/or other public or private agencies to provide essential services and facilities, the Commission may require the construction to be divided into reasonable phases. If phasing is required by the Commission the following shall apply:
- (a) The Commission shall grant approval of the entire site design first as a master plan. Thereafter the development plans shall be submitted for review by phases as stipulated in the Charlestown Subdivision Regulations.
 - (b) The master plan documents shall contain the information specified in the Charlestown Subdivision Regulations for master plan review as well as the physical limits of the phases, the schedule and sequence of public improvement installation, and the work and completion schedules for approvals and construction of the phases.
 - (c) The Commission may set phasing of construction in order to coordinate the generation of traffic from the PDD to schedules for completion of on-site or off-site traffic control improvements; to ensure that adequate capacity exists or will exist for provision of wastewater treatment or drinking water supplies.
 - (d) The Commission may also phase construction which, if developed too quickly, may create significant negative financial impacts upon critical Town services, including schools, emergency services, stormwater drainage facilities, or other services.

- (e) Where mixed-use development is proposed, the Commission may also establish requirements on the amount of development of a particular land use which must be completed before other types of land uses are completed.
- (f) In establishing phasing requirements, the Commission shall consider the ability of the Town, State, or other public or private agencies to provide adequate permanent services, facilities, or capacity and shall establish timing controls which regulate development according to these capacities, but do not reasonably restrict the development of the PDD according to the policies of the Comprehensive Plan and in accordance with these and other land use regulations of the Town.

§ 218-49. Traditional Village District.

- A. Purpose. The purpose of the TVD is to encourage small-scale business and residential uses consistent with the historic and pedestrian-scale characteristics that exist and which are unique to Charlestown village, to preserve the Town's heritage, to strengthen the local economy, to continue small town character and aesthetics and to promote the general welfare of the Town. The TVD regulations set forth herein are consistent with and further implement the Town of Charlestown Comprehensive Plan, dated 1991, and any amendments thereto. These regulations are also intended to preserve the rural small town character of the Town, to encourage the most appropriate use of land, to enhance the beauty of the community, to provide affordable housing opportunities, to be consistent with the Rhode Island Coastal Resources Management Council Special Area Management Plan and to protect the character of the Charlestown village neighborhoods. These regulations shall be construed in a manner to further implement the goals, policies and applicable elements of the Charlestown Comprehensive Plan, dated 1991, and any amendments thereto.
- B. Permitted Uses. Those land uses that are permitted to be located within the TVD are those land uses permitted by-right or conditionally-permitted only upon the issuance of a special use permit from the Zoning Board of Review, as set forth in § 218-36, Land Use Table.
- C. Boundary. The boundary of the TVD is that area set forth on the map attached as Exhibit B and incorporated herein by this reference. The Town Clerk is hereby authorized and directed to revise the Official Zoning Map of the Town of Charlestown that is part of the zoning ordinance. All lots listed as TVD shall be re-zoned from the existing standard district of C-1 or C-2 to TVD and all lots listed as TVD shall be removed from the Mixed Use Overlay District. The remaining overlay districts shall remain in full force and effect.
- D. General Provisions. The TVD shall be governed and controlled by the following:
 - (1) All activities, additions, alterations, renovations, and new construction that occur within the TVD that require the issuance of a building permit shall first be reviewed pursuant to the provisions of ARTICLE XII, Development Plan Review and Land Development Review, of the Charlestown Zoning Ordinance.

- (2) Prohibited Uses. Prohibited uses within the TVD include the following:
- (a) **OUTDOOR DISPLAYS:** The display and sale of products and services outside of a building or structure is prohibited between the hours of 8 p.m. and 7 a.m. Specific holiday related displays may be shown for three weeks prior to the holiday and one week following the holiday.
 - (b) **FLEET VEHICLES:** Outside parking or storage of three or more vehicles, used for commercial purposes, at one location is prohibited, unless obscured from public roads by a building or year- round vegetated buffer.
 - (c) **OUTDOOR STORAGE:** The keeping of any goods, junk, material, or merchandise or portable storage containers in the same general place for more than twenty-four (24) hours is prohibited unless obscured from public view by a vegetative screen or buffer.
 - (d) All those uses prohibited set forth in § 218-38 of this Code.
- (3) Density. No more than one dwelling unit per lot is permitted in the TVD, unless low or moderate income housing units are provided at a rate of fifty-nine (59) percent to each and every market rate dwelling unit. To be eligible to create more than one dwelling unit on any property located within the TVD, all required federal, state and/or local approvals/permits must be obtained and the total number of dwelling units shall be limited to the following formula:

Density is expressed in the following formula, where:

- A = Number of Low or Moderate Income Dwelling Units
- P = Percentage of Low or Moderate Income Dwelling Units - (59%)
- N = Total Number of Dwelling Units.
- M = Number of Market Rate Dwelling Units.
- A = $N \times P$ rounded down to nearest whole number ($M = N - A$)

- (4) New Construction.
- (a) New building construction on any lot in the TVD shall not have less square footage devoted to commercial use than the square footage of the footprint of the building. A second or third floor may have residential uses provided that the proper septic and well approvals can be obtained from the proper granting authorities.
 - (b) New commercial building construction may have residential uses at ground level attached to the building at the side or rear, in which case the square footage of residential uses shall not be greater than the commercial building footprint square footage. The building must meet all setback requirements and have proper well and septic approvals from the proper granting authorities. A second or third floor may have residential uses provided that the proper septic and well approvals can be obtained from the proper granting authorities.

- (5) Alterations/Additions. An existing commercial building may add second and third floors containing residential and commercial uses. If residential is to be added to an existing commercial building at ground level, it must be attached at the side or rear and may not exceed nor reduce the square footage of the commercial use in the existing commercial building.
- (6) Nonconforming Uses. Current non-conforming residential uses on lots within the TVD shall become conforming upon passage of this ordinance. In addition, any residential use located in the TVD may add an attached or detached commercial use to the residence.
- (7) Prohibited Uses/Structures. No new residential-only buildings shall be built on any lot in the TVD. In addition, no metal buildings or metal-sided buildings are permitted within the TVD.

E. Dimensional and Design Regulations.

- (1) General. Unless specifically modified in this Chapter of the Charlestown Zoning Ordinance, all the otherwise applicable dimensional and design standards for new and altered structures, uses and land shall be required. See also the standards set forth in ARTICLE VII, Dimensional requirements.
- (2) Building Footprint. The maximum building footprint for all new construction of any single building is limited to 10,000 square feet. Buildings with footprints of less than 5,000 square feet are permitted by-right, subject to review pursuant to ARTICLE XII, Development Plan Review and Land Development Review, of this Ordinance. Buildings with footprints of 5,000 square feet up to 10,000 square feet shall be permitted only upon the issuance of a special use permit, pursuant to § 218-23, Special use permits and review pursuant to ARTICLE XII, Development Plan Review and Land Development Review, of this Ordinance. More than one building per lot is permitted, subject to compliance with all other applicable provisions of the Charlestown Zoning Ordinance.
- (3) Building Height. All buildings on any lot zoned within the TVD shall be limited to 35 feet in height.
- (4) Bulk and Massing. The massing of new commercial buildings shall be deemphasized in a variety of ways, including the use of projecting and recessed sections, to reduce their apparent overall bulk and volume.
- (5) Roofing and Fascia. New buildings shall be topped with pitched roofs with overhanging eaves, but flat roofs with articulated parapets and cornices may be allowed at the discretion of the Administrative Officer or, if referred to the Planning Commission. The use of fascias, dormers and gables is encouraged to provide visual interest.
- (6) Landscaping. The provisions of § 218-57 and § 218-74 of the Charlestown Zoning Ordinance shall govern the landscape improvement and buffer requirements of the TVD.

ARTICLE IX
Special Residential Uses

§ 218-50. Mobile Home Parks.

- A. Generally. The Zoning Board of Review may permit in a R-3A district or R-2A district a mobile home park by special use permit provided that:
- (1) The proposed mobile home park is, located on tracts of land owned by one person or entity.
 - (2) Constraints to development shall be subtracted from the total area of the parcel in determining the density of development and maximum number of dwelling units to be permitted on site.
 - (3) Evidence of compliance with all appropriate state laws and regulations, particularly those dealing with licensing of mobile home parks, and with on-site disposal of sewage is submitted.
 - (4) The proposed development will not adversely impact the use of property in the surrounding area.
- B. Planning Commission review. A complete application shall be reviewed by the Planning Commission within forty-five days after receipt. The Planning Commission shall make an advisory recommendation based on the proposed development's consistency with the Town's Comprehensive Plan, the suitability of the land for the use proposed, and its compatibility with abutting land uses. The advisory opinion shall be used as part of the special use permit review by the Zoning Board.
- C. Site plan approval required. A site plan for a mobile home park development shall be presented to the Planning Commission for review as required for a commercial use in ARTICLE XII, Development Plan Review and Land Development Review, after a special use permit has been granted. Building permits shall be issued only for compliance with the conditions required by the Board, and an approved site plan of the Planning Commission.
- D. Permitted uses. Only mobile home parks shall be permitted as principal uses. Uses directly accessory to a mobile home park such as parking areas, carports, service buildings, recreation areas and facilities, and offices for management of the development are permitted.
- E. Standards. The following minimum standards shall apply to all mobile home parks:
- (1) Access and Streets. Mobile home parks shall be designed to minimize congestion and hazards at the access points. Access shall be from town accepted collector streets. All streets shall be constructed consistent with the Charlestown Subdivision Regulations standards for streets.
 - (2) Buffers. A landscaped buffer strip of no less than one hundred feet shall be maintained along all exterior property lines. Such buffer strip shall be planted, screened or otherwise maintained in a natural condition to provide a year-round

buffer of the development from abutting land uses and protection of surrounding areas from influences of the development.

- (3) Minimum Developable Lot Area. The tract of developable land for a mobile home park shall consist of not less than two acres per dwelling unit in an R-2A district and three acres per dwelling unit in an R-3A district and a Planned Development District.
- (4) Minimum Lot Width and Length. The minimum lot width to length ratio shall not exceed one foot of frontage to three feet of length (1:3).
- (5) Mobile Home Parks.
 - (a) Site requirements. The minimum site area of each mobile home lot shall contain a minimum area of at least six thousand square feet.
 - (b) Width and Depth. The minimum site depth of each mobile home lot shall be one hundred feet and the minimum site width of each mobile home site shall be sixty feet.
 - (c) Setbacks. Mobile homes shall be set back a minimum of fifteen feet from any site or lot line.
- (6) Occupancy. The minimum number of mobile homes completed and ready for occupancy before first occupancy is permitted shall be twenty-five percent of the total number of dwelling units.
- (7) Recreation Open Space. At least fifteen percent of the gross land area shall be reserved for recreational and open space uses. This figure is besides any other open areas required by yard or buffer provisions. Of this fifteen percent, no more than five percent shall be "constraints to development." Said open space shall not be used for parking and shall not be used for leaching or absorption of fields; however, easements for waterlines and driveways for access are permitted to cross the open space.
- (8) Off-Street Parking.
 - (a) Minimum off-street parking shall be provided and maintained for mobile home parks as follows:
 - [1] One Bedroom Mobile Homes: 2.0 spaces/unit.
 - [2] Two Bedroom Mobile Homes: 2.5 spaces/unit.
 - [3] Three Bedroom or more Mobile Homes: 3.0 spaces/unit.
 - [4] Besides the parking required for the dwelling units proposed, ten percent of the required number of parking spaces for dwelling units shall be provided for guest or temporary parking. This shall in no case be less than one additional space.

- (b) No parking shall be permitted within any required minimum yard, buffer or recreation open space area.
 - (c) Off-street parking areas and service drives shall be located on the lot being developed. Required parking shall be provided and landscaped according to ARTICLE X, Off-Street Parking and Loading.
- (9) Sewage Disposal. Where public sewers are not available, the applicant shall provide a permit from the RI DEM certifying that the proposed development has received approval for a new or upgraded on-site sewage disposal system. All mobile home parks within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall use denitrification or other alternative septic system technology as may be approved by RI DEM.
- (10) Solid Waste Disposal. Each mobile home park shall be provided with an enclosed waste pen of sufficient size to accommodate all trash and waste generated by all uses on the premises. The waste pen and utility area shall be properly covered, screened, buffered from all buildings and property lines and shall not be located in any required yard, buffer or open space area.
- (11) Utilities. All utilities and other services to include, but not limited to water supply, sewage disposal, storm drainage, garbage and refuse storage, and fire protection shall be provided and conform to applicable town or state regulations. All utilities shall be installed underground.
- (12) Yard Setbacks. No building, accessory building, parking lot or utility area shall be located in any front yard.
- (13) Prohibition in Certain Areas.
- (a) Notwithstanding the provisions of any other part of this Ordinance, no mobile home park may be placed, occupied or maintained in Zones VI-V-30 as shown on the official Flood Insurance Rate Maps for the Town of Charlestown, Rhode Island revised September 30, 1995, prepared by the Federal Emergency Management Agency and on any subsequent amendment or revision to said maps.
- F. Conformity with Subdivision Regulations. Where a mobile home park requires the subdivision of land as defined in the Charlestown Subdivision Regulations all the applicable provisions of those Regulations shall be followed.

§ 218-51. Multi-Family Dwellings.

- A. Generally. The Zoning Board of Review may permit in a R-3A district or R-2A district multifamily dwellings by special use permit provided that:
- (1) The proposed multifamily development is located on tracts of land owned by one person or entity.

- (2) Constraints to development shall be subtracted from the total area of the parcel in determining the density of development and maximum number of dwelling units to be permitted on site.
 - (3) Evidence of compliance with all appropriate state laws and regulations, particularly those dealing with on-site disposal of sewage is submitted.
 - (4) The proposed development will not adversely impact the use of property in the surrounding area.
- B. Planning Commission review. A complete application shall be reviewed by the Planning Commission within forty-five days after receipt. The Planning Commission shall make an advisory recommendation based on the proposed development's consistency with the Town's Comprehensive Plan, the suitability of the land for the use proposed, and its compatibility with abutting land uses. The advisory opinion shall be used as part of the special use permit review by the Zoning Board.
- C. Site plan approval required. A site plan for multifamily dwellings shall be presented to the Planning Commission for review as required for a commercial use in ARTICLE XII, Development Plan Review and Land Development Review, after a special use permit has been granted. Building permits shall be issued only for compliance with the conditions required by the Board, and an approved site plan of the Planning Commission.
- D. Permitted uses. Only multifamily structures shall be permitted as principal uses under the special use permit. Uses directly accessory to multifamily housing such as parking areas, carports, service buildings, recreation areas and facilities, and offices for management of the development are permitted.
- E. Standards. The following minimum standards shall apply to all multifamily dwellings:
- (1) Access and Streets. Multifamily dwellings shall be designed to minimize congestion and hazards at the access points. Access shall be from town accepted collector streets. All streets shall be constructed consistent with the Charlestown Subdivision Regulations standards for streets.
 - (2) Buffers: A landscaped buffer strip of no less than one hundred feet shall be maintained along all exterior property lines. Such buffer strip shall be planted, screened or otherwise maintained in a natural condition to provide a year-round buffer of the development from abutting land uses and protection of surrounding areas from influences of the development.
 - (3) Minimum Developable Lot Area. The tract of developable land for a multifamily dwelling shall consist of not less than two acres per dwelling unit in an R-2A district and three acres per dwelling unit in an R-3A district and a Planned Development District.
 - (4) Minimum Lot Width and Length. The minimum lot width to length ratio shall not exceed one foot of frontage to three feet of length (1:3).
 - (5) Multi-family Dwellings:

- (a) Not more than four dwelling units shall be permitted in a single multifamily dwelling unit structure.
 - (b) A multifamily dwelling structure shall contain no more than a total of eight bedrooms and only one three bedroom unit.
 - (c) Where a multifamily development is proposed as a complex of separated structures, no structure shall be placed within thirty feet of another structure.
- (6) Occupancy. The minimum number of multifamily dwelling units completed and ready for occupancy before first occupancy is permitted shall be twenty-five percent of the total number of dwelling units.
- (7) Recreation Open Space. At least fifteen percent of the gross land area shall be reserved for recreational and open space uses. This figure is besides any other open areas required by yard or buffer provisions. Of this fifteen percent, no more than five percent shall be "constraints to development" lands unsuitable for development. Said open space shall not be used for parking and shall not be used for leaching or absorption fields; however, easements for waterlines and driveways for access are permitted to cross the open space.
- (8) Off-Street Parking.
- (a) Minimum off-street parking shall be provided and maintained for multifamily dwellings as follows:
 - [1] Studio Units: 2.0 spaces/ unit.
 - [2] One Bedroom Units: 2.0 spaces/ unit.
 - [3] Two Bedroom Units: 2.5 spaces/ unit.
 - [4] Three Bedroom or more Units: 3.0 spaces/ unit.
 - [5] Besides the parking required for the dwelling units proposed, ten percent of the required number of parking spaces for dwelling units shall be provided for guest or temporary parking. This shall in no case be less than one additional space.
 - (b) No parking shall be permitted within any required minimum yard, buffer or recreation open space area.
 - (c) Off-street parking areas and service drives shall be located on the lot being developed. Required parking shall be provided and landscaped according to ARTICLE X, Off-Street Parking and Loading.
- (9) Sewage Disposal. Where public sewers are not available, the applicant shall provide a permit from the RI DEM certifying that the proposed development has received approval for a new or upgraded on-site sewage disposal system. All multifamily dwellings within the land classification of the RI CRMC SAM Plan "Lands Already Developed Beyond Carrying Capacity" shall use denitrification or other alternative septic system technology as may be approved by RI DEM.

- (10) Solid Waste Disposal. Each multifamily structure shall be provided with an enclosed waste pen of sufficient size to accommodate all trash and waste generated by all uses on the premises. The waste pen and utility area shall be properly covered, screened, buffered from all buildings and property lines and shall not be located in any required yard, buffer or open space area.
 - (11) Utilities. All utilities and other services to include but not limited to water supply, sewage disposal, storm drainage, garbage and refuse storage, and fire protection shall be provided and conform to applicable town or state regulations. All utilities shall be installed underground.
 - (12) Yard Setbacks. No building, accessory building, parking lot or utility area shall be located in any front yard.
 - (13) Prohibition in Certain Areas.
 - (a) Notwithstanding the provisions of any other part of this Ordinance, no multifamily development may be placed, occupied or maintained in Zones V1-V-30 as shown on the official Flood Insurance Rate Maps for the Town of Charlestown, Rhode Island revised September 30, 1995, prepared by the Federal Emergency Management Agency and on any subsequent amendment or revision to said maps.
- F. Separation of structures. Where a multifamily development is to be constructed as a complex of separate structures, the requirement of § 218-3, Conformity required, relating to principal residential buildings shall not apply.
- G. Conformity with subdivision regulations. Where a multifamily development requires the subdivision of land as defined in the Charlestown Subdivision Regulations all the applicable provisions of those Regulations shall be followed.

§ 218-52. Residential Cluster Subdivision.

- A. Residential Cluster Development Required. Any major subdivision application (6 or more lots), certified as complete, and for which application the Planning Commission has begun its review thereon, after the effective date of this amendment, shall be required to adhere to the cluster subdivision provisions herein described. The Charlestown Planning Commission may, at its discretion, permit a conventional subdivision if the applicant can prove to the satisfaction of the Charlestown Planning Commission that a cluster subdivision is inappropriate due to one or more of the following conditions:
- (1) Existing features on the land, such as unusual topography, exposed bedrock, waterbodies, and the like that may make a conventional subdivision more appropriate to the site than a cluster subdivision.
 - (2) Prevailing development immediately adjacent to the parcel, such as an existing conventional subdivision to which the proposed subdivision is deemed to be an extension.

- (3) A clearly documented environmental condition, such as the inability of a cluster subdivision to support wells and septic systems.
 - (4) Any other condition or circumstance, under which the Planning Commission determines that a conventional subdivision will serve the best interests of the Town, and where such conventional subdivision is found to be consistent with the intent and purposes of this Ordinance, is not based on economic considerations, and will provide the best site layout and design.
- B. Subdivision approval required. No construction or sale of lots within a residential cluster subdivision shall begin until the plan of such has been approved by the Charlestown Planning Commission according to the Charlestown Subdivision Regulations.
- C. Standards.
- (1) Permitted Uses. Only single-family detached homes, agricultural land preserved within open space, open space/recreation areas and the normally associated accessory uses shall be permitted in a residential cluster subdivision.
 - (2) Zoning Districts. Residential cluster subdivisions shall be required in R-3A, R-2A and R-40 Zoning Districts. The Commission may require the developer to provide a community well to serve all structures within the residential cluster subdivision. Open space may be utilized for the protected area required by a community well or for community leach fields for an Individual Septic Disposal System.
 - (3) Frontage Lots. An increase in density may be granted by the Planning Commission if all the frontage lots that could be subdivided from the main parcel or undeveloped frontage lots that were previously subdivided are incorporated into the cluster. Increased density shall be computed by adding the number of frontage lots incorporated into the cluster, plus twenty-five percent of that number to the number of developable lots computed under Subsection C(5) of this Section. Outlots that provide access to land outside the cluster shall not be included in the computation of the maximum number of allowable lots.
 - (4) Minimum Number of Lots. The minimum number of lots in any residential cluster shall be six lots.
 - (5) Density.
 - (a) The maximum number of developable lots in a residential cluster subdivision shall be computed using the following formula:

$$\frac{TA - CD}{LS} = DL$$

Where TA = Total area of proposed parcel to be developed.
 CD = Constraints to development as defined by this Ordinance.
 LS = Minimum zoning district lot size.
 DL = Maximum number of lots, with fractions rounded down to the next lower whole number.

- (b) In no case shall the number of developable lots be greater than the number permitted under a conventional subdivision.
- (6) Perimeter Buffer. There shall be a vegetated buffer of open space, which may include wetlands, at least one hundred feet wide around the entire perimeter of all lots to provide a visual and audio screen between adjacent land uses. No structures may be built in the perimeter buffer. Stormwater control and drainage structures may be permitted by the Commission within the perimeter or other buffers but shall not count towards the minimum area requirement. Waterfront structures, such as docks, piers or boathouses, may be permitted by the Commission. The requirement of one hundred feet may be reduced in a section and provided elsewhere in the cluster when the Commission finds:
- (a) The adjacent land is already in permanent protected open space and the applicant can demonstrate it is likely to remain so.
 - (b) The Commission finds an existing substantial, permanent natural barrier that will serve as a natural buffer.
 - (c) An Environmental analysis indicates that the more sensitive interior lands would be better protected by perimeter development of the residential cluster.
- (7) Minimum dimensional lot requirements. See ARTICLE VII Dimensional requirements.
- (8) Open Space.
- (a) Open space shall be considered to be all land shown on the plan that is not included in building lots, easements dedicated to the Town or street rights-of-way and shall be at least forty percent of the total development area. A minimum of thirty-five percent of the required open space area shall be suitable for active recreation such as, ballfields, playgrounds, tennis courts, swimming pools, footpaths, nature trails or bike paths. Not more than twenty-five percent of the open space shall be made impervious. Access to open space shall be made readily available to all residents of residential cluster subdivision by providing access corridors of a minimum width of thirty feet. Such access corridors shall be clearly posted to distinguish the corridors and commonly owned space area from private property.
 - (b) Land that has been environmentally disturbed or damaged shall not be accepted for a cluster subdivision until such land is restored to a condition that the Commission determines to be satisfactory to effect the purposes of this Section.
 - (c) Ownership of the open space within a cluster development shall be vested in a legally constituted organization that shall be responsible for the use and maintenance of the open space. Documents specifying ownership shall be submitted to the Commission along with the application for approval, and the Commission shall have the right to approve, modify or reject the proposed

form of ownership. As a minimum, the following standards of ownership and management of open space shall be met:

- [1] The required open space shall be a separate and distinct area, owned in common by all landowners in the development and maintained by a homeowners' association of all the persons having ownership in the subdivision. The Commission may permit the ownership of required open space by a public, quasi-public or private nonprofit organization qualified to maintain such open space.
- [2] The deed to each lot shall include a fractional interest in the common open space in an amount inversely proportional to the number of lots or dwelling units in the development. The deed shall also include all covenants, restrictions or easements that shall be imposed upon the use, management or maintenance of the open space.
- [3] The applicant shall provide for and establish a homeowners' association or request the Commission's approval of an alternate method for the care and maintenance of all open space lands and any improvements thereon. Membership in the homeowners' association shall be mandatory for all landowners within the cluster development.
- [4] The Commission may require specific provisions for maintenance of open space, private improvements, drainage systems and utilities, including requirements for security and liability, through a maintenance bond.
- [5] A restriction enforceable by the Town shall be recorded by the applicant providing that the land shall be kept in open space, not built upon for accessory uses such as parking or roadways and requires Commission approval for alterations.

§ 218-53. Accessory Family Dwelling Units.

One accessory family dwelling unit ("AFDU") shall be permitted by special use permit within a principal single-family residence or as an accessory to a permitted business in business districts that allow residential uses, provided that it meets all the following requirements:

- A. The AFDU shall comply with the district dimensional regulations for the principal structure.
- B. The AFDU must be for the sole use of one or more members of the family of the occupant or occupants of the principal residence.
- C. The taking of boarders or the renting of rooms is prohibited in both the principal residence and the AFDU. No rooming or boarding house shall be permitted to have an AFDU.

- D. The AFDU shall be designed and constructed in such a way as to maintain the appearance of the use of the lot as a single family residence in residential districts, and must be attached to or within the principal structure.
- E. AFDU are not permitted in multi-family housing, mobile home parks, bed and breakfasts, hotels, motels and duplex housing.
- F. The AFDU shall contain no more than one bedroom and is limited to no more than 650 square feet of interior floor area.
- G. No garbage disposal shall be installed in the AFDU.
- H. The AFDU shall be equipped with low water consumption plumbing fixtures.
- I. At a minimum, the AFDU must share the following utilities with the principal structure: water, electric and OWTS.
- J. The OWTS must comply with the requirements of the Town of Charlestown Wastewater Management Ordinance and must comply with all other State and Federal regulations prior to the issuance of a Certificate of Use and Occupancy.
- K. Upon approval of the special use permit, and prior to the issuance of a building permit, the owner of the principal residence shall sign and record in the Charlestown Land Evidence Records an affidavit assuring the occupancy of the unit will comply with § 218-53B. The affidavit of occupancy compliance shall be filed with Town in the Land Evidence Records annually thereafter for as long as the accessory family dwelling unit remains in use. *Note: § 218-53B restricts occupancy of the AFDU to family members of the occupants of the principal residence. [Amended 2-14-2011 by Ord. No. 328]*

§ 218-53.1. Income-Restricted Accessory Dwelling Units. [Added 2-14-2011 by Ord. No. 334]

- A. Purpose. The purpose of this section is to provide incentives for the voluntary creation of affordable accessory dwelling units. Encouraging the creation of accessory dwelling units that qualify as low income housing support Charlestown's housing goals, as stated in the Housing Element of the Comprehensive Plan, including the goal that at least 10 percent of Charlestown's year-round housing be low or moderate income housing, in a way that has less impact on the land than the construction of an equal number of new single-family principal dwelling units. The incentives provided in this section are intended to act as municipal subsidies for the housing being created.
- B. Requirements. The requirements for creation of income-restricted accessory dwelling units are as follows:
 - (1) One income restricted accessory dwelling unit shall be permitted in a single-family dwelling, or in an accessory structure on the same lot as the single-family dwelling.

- (2) The income restricted accessory dwelling unit shall comply with district dimensional regulations for the principal structure and accessory structure, if applicable.
- (3) The accessory dwelling unit must be designed and constructed in a way that maintains the appearance of the use of the lot as a single-family residence. This should be accomplished by designing any detached accessory structure to appear as an outbuilding or barn.
- (4) The accessory dwelling unit shall be no larger than 850 square feet of interior floor area.
- (5) The accessory dwelling unit shall be in the same ownership as the principal dwelling unit.
- (6) As the purpose of this section is to provide permanent low and moderate-income housing, the accessory dwelling unit shall be for year-round, rather than seasonal, occupancy. The minimum lease term shall be twelve months.
- (7) A change of use approval from the RI DEM for an on-site wastewater treatment system (OWTS) must be obtained. All accessory dwelling units within lands classified by the RI Coastal Resources Management Council SAM Plan as developed beyond carrying capacity shall use denitrification or other alternative septic system technology approved by RI DEM.
- (8) Accessory dwelling units are not permitted in multi-family housing, mobile home parks, bed and breakfasts, hotels, motels or duplex housing. The taking of boarders or the renting of rooms is prohibited in both the principal dwelling unit and the accessory dwelling unit.
- (9) An existing accessory dwelling unit, whether or not it was legally created, may become a legal income-restricted accessory dwelling unit if it satisfies all of the requirements of this section. An existing accessory dwelling unit, whether or not it was legally created, that does not satisfy the requirements of this section may be converted to an income-restricted accessory dwelling unit by special use permit. In both circumstances the owner must apply and receive all necessary local, state and federal permits that would have been required had the unit been created legally.
- (10) Before a building permit is issued for the accessory dwelling unit, each owner of the property shall receive a copy of this section, and shall acknowledge in writing that he or she has received it and understands the conditions and restrictions applicable to income restricted accessory dwelling units.
- (11) The OWTS must comply with the requirements of the Town of Charlestown Wastewater Management Ordinance.
- (12) No garbage disposal shall be installed in the unit.
- (13) The unit shall be equipped with low water consumption plumbing fixtures.

C. Assurance of affordability and fair marketing

- (1) Affordability of income-restricted accessory dwelling units for at least thirty (30) years shall be assured through a land lease or deed restriction, in a format approved by Rhode Island Housing and Mortgage Finance Corporation (RIHMFC), recorded in the Charlestown Land Evidence Records prior to the issuance of a building permit. The lease or deed restriction shall include information regarding:
 - (a) The square footage of the living area of the accessory dwelling unit;
 - (b) The basis for calculation of the maximum rental price for the unit, both initially and for future renters;
 - (c) Restrictions concerning who may occupy the unit and for what period; and
 - (d) Provisions for monitoring, and assurance of compliance over time.
 - (2) The owner shall contract with a monitoring agency approved by the RI HMFC for the following purposes:
 - (a) To determine pricing for initial lease of the income-restricted accessory dwelling unit;
 - (b) To qualify renter for initial occupancy based on household size and income;
 - (c) To determine pricing for rental by later tenants; and
 - (d) To assist the owner with tenant selection.
 - (3) The Rhode Island Housing and Mortgage Finance Corporation letter of eligibility for the unit shall be recorded in the Charlestown Land Evidence Records.
 - (4) Prior to the issuance of a building permit, the owner of the income restricted accessory dwelling unit shall sign and record in the Charlestown Land Evidence Records an affidavit assuring the occupancy compliance of the unit. The affidavit of occupancy compliance shall be filed with the Town in the Land Evidence Records annually thereafter for as long as the income restricted accessory dwelling unit remains in use. A new affidavit must be filed with each new tenant of the unit. (See Chapter 192 Taxation, § 192-36. Application/Affidavit Requirements.)
- D. Mitigation. The Tax Assessor is hereby authorized to provide for mitigation of the cost to create income-restricted accessory dwelling units, as provided for through a property tax reduction pursuant to Chapter 192-36 Taxation.

§ 218-54. Residential Compound.

Upon approval by the Planning Commission and in accordance with the provisions of this subsection, up to five lots in a residential compound may be created only in R2-A and R3-A zones as an alternative to a conventional subdivision. A residential compound is a minor subdivision whose access to all lots is by means of a private way, which is not paved, but rather requires a pervious surface, in accordance with the Charlestown Planning Commission's Subdivision/Land Development Regulations dated December 16, 1998, as amended.

- A. Purpose. The purpose of a residential compound is to offer an alternative to conventional subdivisions in order to maintain the rural character of certain parcels by reducing the number of buildable lots and reducing impervious paved surfaces. A residential compound may be developed as a minor cluster subdivision and is intended to be sensitive to natural features and physical qualities of the land that may not be otherwise preserved through a conventional subdivision. To achieve these purposes, procedures are established in this subsection so that the Planning Commission may authorize the creation of residential compounds through minor subdivision review.
- B. Subdivision Approval Required. No construction within a residential compound shall begin until a preliminary plan of such has been approved by the Planning Commission as a minor subdivision according to the Charlestown Planning Commission's Subdivision/Land Development Regulations dated December 16, 1998, as amended. The Planning Commission may require the subdivider to provide a conventional subdivision plan as an alternative to the residential compound. In no case shall the number of developable lots in a residential compound exceed 60% of the number of lots that can be developed within the conventional subdivision plan within the respective zoning district. Any subdivision restrictions imposed by the Planning Commission shall be noted on the subdivision plan and in any deeds recorded in the Land Evidence Records of the Town conveying any lots in an approved residential compound. In addition, a notation shall be required which states that:

"Each residential compound shall be limited to agricultural use, single family residential use, and accessory uses customarily incidental and subordinate to such agricultural and single family residential uses. The private way shall be privately maintained and shall remain permanently a private way, which shall not be extended. No further division or subdivision of this approved residential compound lot shall take place at any future date."

- C. Minimum Lot Size. The minimum lot area for residential compounds may vary, provided that the combined acreage of all lots within the compound shall average 2.5 times the minimum lot area within the respective residential zoning district, exclusive of constraints to development and without the consideration in the average of the area of an existing frontage lot incorporated into the residential compound as provided in this section. No single lot shall have a lot area of less than one acre. One frontage lot shall be permitted in combination with one or more lots. An existing vacant frontage lot-of-record may be incorporated into a residential compound without having to increase its lot size, provided that such frontage lot conforms to the lot size requirement within the respective zoning district. In no case shall there be any more than five developable lots subdivided out of any single parcel. Any parcel of land, regardless of size, that is determined by the Planning Commission to be undevelopable, shall not be eligible to be subdivided as a residential compound.
- D. Minimum Frontage Requirement. Any parcel of land that is to be subdivided into a residential compound shall have a minimum frontage of 50 feet on a public street. All interior lots within the residential compound shall have physical access, with variable frontage lengths, to a private way. As a condition of approval, the Planning Commission

must find that the proposed frontage for all lots shall ensure adequate vehicular access for normal and emergency purposes within the residential compound.

- E. Private Way Requirements. All lots in a residential compound are required to have physical access to a private way. The private way in a residential compound may be owned in common or in fee by one landowner in the compound with easement rights provided to the other landowners within the compound. The private way shall connect to a public street, and shall not under any circumstances be connected to any other private way. For design standards of a residential compound private way, see the Charlestown Planning Commission's Subdivision/Land Development Regulations dated December 16, 1998, as amended.
- F. Ownership of Private Way. The private way in a residential compound may be owned in common, in equal portions and in perpetuity by the property owners of each residential compound or may be owned in fee by one landowner in the compound with easement

rights provided to the other landowners within the compound. To ensure the private maintenance of the private ways, each applicant for a residential compound shall file with the Planning Commission a mandatory homeowners' association plan, which shall be a condition of approval of any residential compound. At a minimum, the mandatory homeowners' association plan shall provide for the maintenance of the private way, repair, snow removal, and other improvements that individual future homeowners may require, in accordance with this Ordinance and the Charlestown Planning Commission's Subdivision/Land Development Regulations dated December 16, 1998, as amended. The homeowners association shall indemnify, hold harmless and release the Town from all liability and all damages resulting from any action brought by a third party, including individual future homeowners, in any court due to the failure of the homeowners to repair, use, or maintain the private way to the standards established by the regulations. The owner or owners of the private way, for themselves, their successors, heirs, and assigns in consideration of the Planning Commission approving a residential compound thereby waive all rights to have the private way accepted in the highway system of the Town of Charlestown pursuant to R.I. Gen. Laws § 24-2-8.1.

- G. **Perimeter buffer.** The Planning Commission may require a vegetated buffer of open space, which may include wetlands, at least one hundred feet wide around the entire perimeter of the subdivision, excluding the private way, to provide a visual and audio screen between adjacent land uses. No structure may be built in the perimeter buffer. Stormwater control and drainage structures may be permitted by the Commission within the perimeter or other buffers but shall not count towards the minimum area requirement. Waterfront structures, such as docks, piers or boathouses, may be permitted by the Commission. The requirement of one hundred feet may be reduced if the Commission finds that:
- (1) The adjacent land is already in permanent protected open space and the applicant can demonstrate it is likely to remain so.
 - (2) The Commission finds an existing substantial, permanent natural barrier that will serve as a natural buffer.
 - (3) An environmental analysis indicates that the more sensitive interior lands would be better protected by perimeter development of the residential compound.
- H. **Other Conditions.** The Planning Commission may impose such other conditions it deems necessary to protect the public health, safety, and welfare, including but not limited to drainage, building envelop, setbacks, roadway location, buffers, and lot arrangements.

§ 218-55. Rear Lot Subdivision.

Rear Lot Subdivisions. Upon approval by the Planning Commission and in accordance with the provisions of this subsection, up to two (2) rear lots may be created only in R2-A and R3-A zones as an alternative to a conventional subdivision. A rear lot subdivision is a minor subdivision that does not contain access roads to all lots, but rather requires an easement or a common driveway to achieve proper access.

- A. Purpose. The purpose of a rear lot residential subdivision is to offer an alternative to conventional subdivisions in order to maintain the rural character of certain large parcels by reducing curb cuts and impervious roads. A rear lot subdivision is intended to be sensitive to natural features and physical qualities of the land that may not be otherwise preserved through a conventional subdivision. To achieve these purposes, procedures are established in this subsection so that the Planning Commission may authorize the creation of rear lots through minor subdivision review.
- B. Subdivision Approval Required. No construction within a rear lot subdivision shall begin until a preliminary plan of such has been approved by the Planning Commission as a minor subdivision according to the Charlestown Planning Commission's Subdivision/Land Development Regulations dated December 16, 1998, as amended. The Planning Commission may require the subdivider to provide a conventional subdivision plan as an alternative to the rear lot subdivision. In no case shall the number of developable lots in a rear lot subdivision exceed 60% of the number of lots that can be developed within the conventional subdivision plan within the respective zoning district. Any subdivision restrictions shall be noted on the subdivision plan and in any deeds recorded in the Land Evidence Records of the Town conveying a rear lot subdivision. In addition, a notation shall be required which states that:

"Each rear lot shall be limited to agricultural use, single family residential use, and accessory uses customarily incidental and subordinate to such agricultural and single family residential uses. An easement or common driveway shall be maintained to the rear lot at all times. No further division or subdivision of this approved rear lot shall take place at any future date."

- C. Minimum Lot Size. The combined minimum lot area for a two-lot rear lot subdivision shall be ten (10) acres in an R2-A zone, and fifteen (15) acres in an R3-A zone, exclusive of constraints to development, provided that no single lot shall be less than one (1) acre. One frontage lot shall be permitted in combination with one other rear lot. In no case shall there be any more than two (2) rear lots subdivided out of any single parcel. Any parcel of land, regardless of size, that is determined by the Planning Commission to be undevelopable, shall not be eligible to be subdivided as a rear lot subdivision.
- D. Minimum Frontage Requirement. The minimum frontage requirement for a frontage lot shall equal the minimum frontage requirement in the respective residential zone. The minimum frontage requirement for the rear lot shall be 25 feet which shall be contiguous with the frontage lot's front lot line.
- E. Other Conditions. The Planning Commission may impose such other conditions it deems necessary to protect the public health, safety, and welfare, including but not limited to drainage, building envelop, setbacks, driveway location, buffers, and lot arrangements.

ARTICLE X
Off-Street Parking and Loading

§ 218-56. Required parking.

Any building, improvement, or use approved that is changed after the effective date of this Ordinance shall comply with this Section. If the building, improvement, or use is repaired, renovated, altered, expanded, or redeveloped without change of use in the parking and/or location requirements, the parking requirements of the ordinance in effect at the time of approval shall continue to apply.

- A. Single family residential dwellings shall provide two parking spaces per dwelling unit.
- B. Educational facilities shall provide one space for four students of design capacity plus two spaces for each administrative office.
- C. Inns, motels and hotels shall provide one space per guest room plus seventy-five percent of the requirement for all other uses on the site.
- D. Restaurants, theaters, churches and places of public assembly shall provide one parking space for four seats of design capacity or for four persons of capacity whichever is greater.
- E. Hospitals and institutions shall provide one parking space for every two beds plus one space for each administrative office.
- F. Office buildings or uses shall provide one parking space for every two hundred square feet of floor area.
- G. Retail and service business or uses shall provide at least one parking space for every one hundred square feet of floor area devoted to sales.
- H. Industrial and wholesale uses shall provide one space per four hundred feet of gross floor area plus one space for each vehicle operating from the premises.
- I. All other uses shall provide one parking space for every two hundred square feet of floor area.
- J. All uses with employees shall provide one parking space for each employee besides any other requirements.

§ 218-57. Standards.

Off-street parking lots of more than two motor vehicles capacity shall conform to the following standards of construction:

- A. The area shall have a dust free, hard surface and shall be provided with bumper guards. Vehicles shall not extend over property lines, pedestrian areas or bump any wall or landscaping.
- B. Where such area adjoins a residential district or use, a landscaped fifteen foot setback and an opaque evergreen hedge or fence not less than five feet high shall be erected at

the edge of the setback and maintained between such area and the adjoining residential district or use.

- C. Lighting fixtures shall be so arranged as to be directed downward and away from abutting property and away from adjacent roadways, and shall be at an intensity not greater than that of existing lighting in the area.
- D. On any business or industrial use, parking shall not be permitted within any front yard or required buffer.
- E. Plans and specifications for the required parking facility and its access drives shall be submitted during development plan review, or, if not, required at the time of a building permit application.
- F. Each parking space shall have a minimum width of nine feet, a minimum length of eighteen feet and shall be served by ten feet wide minimum aisles to permit access into all parking spaces. Parking spaces may be drawn on various angles in relation to driveways or aisles, so long as the parking spaces contain the area required.
- G. Circulation areas shall be designed so that vehicles can proceed safely without danger to pedestrians, other vehicles and without interfering with other parking spaces.
- H. Landscaping Standards. Parking areas shall be landscaped before a final approval or Certificate of Occupancy can be issued by the Building Inspector to the following standards:
 - (1) Landscape Plan. All proposed landscaping shall be shown on a separate plan entitled "Landscape Plan" depicting all locations, species, varieties, sizes, and protective measures of plantings.
 - (2) Required Plantings.
 - (a) Interior Trees. All parking areas of ten or more spaces shall include one shade tree for every five spaces or fraction thereof. Such trees shall be eight feet in height and three inches in caliper when planted. Such trees shall be planted on a protected one hundred foot square landscaped island. There shall also be ten square feet of interior landscaping per ten spaces, besides required interior trees. Raised islands shall be required to protect landscaping and to channel traffic safely.
 - (b) Perimeter Trees. All parking areas of ten or more spaces shall include shade trees planted forty feet on center around the perimeter of the parking area. Such distance may be increased or decreased in development plan review for the purposes of ingress and egress drives. Such trees shall be placed within and protected by raised islands. Such trees shall be at least eight feet in height and three inches in caliber when planted.

§ 218-58. Commercial vehicles and trailers.

In any residential district, the parking or storage of commercial vehicles of over one and a half tons capacity and of a commercial nature is prohibited except where such parking or storage is directly related to and is accessory to a permitted use or lawful nonconforming use.

§ 218-59. Major recreation equipment.

The parking or storage of major recreation equipment, which includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, but does not include mobile homes in residence districts, must comply with the following standards:

- A. No major recreation equipment, while parked or stored, shall be used for living, sleeping or housekeeping purposes.
- B. No major recreation equipment shall be stored in any front yard area.
- C. No major recreation equipment shall be stored out of doors in residential districts unless it is operable or can be made so within a three-month period.

§ 218-60. Off-street loading.

All nonresidential structures shall provide off-street loading facilities. Plans for such loading facilities shall be submitted with an application for a building permit or within development plan review where applicable for the main use. Where a loading facility is abutting a residential district, the restrictions contained in § 218-74, Landscaping, shall apply. Such a loading facility shall not allow the projection of vehicles into a street right-of-way.

ARTICLE XI**Signs****§ 218-61. Purpose and Intent.**

- A. Purpose. The purpose of this Section is to promote and protect the public health, welfare and safety by regulating existing and proposed indoor and outdoor advertising signs of all types in the Town of Charlestown. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community and preserve the scenic and natural beauty of designated areas, preserve or enhance town character and scenic vistas by encouraging new and replacement signage which is creative and distinctive, compatible with the surroundings and appropriate to the type of activity to which it pertains. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by unsafe signs, provide more open space, curb the deterioration of the natural environment and enhance community development.
- B. Intent. The intent is to accomplish business and residential signage that does not detract from the New England village character of Charlestown while at the same time honoring the farming, fishing, and mill town heritage of the town. Also, to recognize that today the

town is primarily a residential town with a large transient population of landowners, and a large tourism trade drawn to our parks, beaches and recreation facilities, and businesses.

§ 218-62. Signs Permitted Or Prohibited.

A. Signs Permitted In Any Zoning District. The following new signs are allowed for legally existing uses with a permit required as issued by the Building Official. Such new signs shall be neither illuminated nor indirectly illuminated, except as otherwise specified herein and meet the setback and sideline requirements for the districts in which they are located. Signs in existence prior to the effective date of this Ordinance, are waived the permit fee, but must obtain a permit number for the sign.

(1) The following signs require a permit:

- (a) Awning signs. A legal use business may have awning signs less than ten (10) square feet in area when such awning is designed to be used for the walkway or main entrance of a business or legal use. Individual window awnings shall not contain advertising, but may have a monogram not to exceed three (3) letters which may occupy no more than 10% or six (6) square feet, whichever is less, of the window awning.
- (b) Bulletin Boards. For club/service organizations, such as libraries, churches and schools, when located on-premises, provided such signs do not exceed 15 square feet total and bear no commercial advertising. There shall be not more than one bulletin board per site. Such sign may be indirectly illuminated with downward directed lighting. Where a bulletin board has two or more faces, the area of all faces shall be included in determining the area of the bulletin board, except that where two such faces are placed back to back and are at no point more than 16 inches from one another, the area of the bulletin board shall be taken as the area of the larger face.
- (c) Analog Clocks and/or Time and Temperature Displays. Only analog clocks and/or time and temperature displays are allowed if they are on the property of a legal use. Face displays may not exceed sixteen (16) square feet and must have no advertising on the unit. The same setbacks and heights for signs in the zone must be observed and may use indirect illumination by down-lighting only. Notwithstanding, the above displays in historic districts shall be regulated by Site Plan Review.
- (d) Farm Operations. Signage must comply with all specifications and limitations of ARTICLE XI, Signs.
- (e) Kiosk. A free standing structure designed to provide advertising space for two or more businesses on a single premises or group of contiguous premises as follows:

- [1] In areas where the speed limit is less than 35 miles per hour, the upper sign board of the kiosk bearing the name of the building or business

complex shall not exceed twenty-four (24) square feet, and each business in the complex may have one lower sign board under the kiosk top board with a maximum square footage of six (6) square feet each. In areas where the speed limit is less than 35 miles per hour, the overall width of the upper sign board shall not exceed six (6) feet. By design, the signage of the kiosk is intended to be on both sides non-cumulative.

- [2] In areas with speed limits 35 miles per hour and above, the top board may be 32 square feet and the lower sign boards may be eight (8) square feet. In areas with speed limits 35 miles per hour and above, the overall width of the upper sign board shall not exceed eight (8) feet.
 - [3] These kiosks must be configured so that there is at least a 4-foot sight window from grade level to the lowest sign board and the top edge of the kiosk top sign board must not exceed a twelve (12) foot height from grade level.
 - [4] It is further required that kiosks use uniform coloration and lettering styles for each kiosk allowed. It is not intended to restrict one style throughout the town, only uniformity of size is sought throughout town. It is expected that each business complex would have their own uniqueness.
 - [5] It may further be required to file a building permit application and pay an appropriate fee for the sign structure. Unless otherwise required by this article, no Site Plan Review will be required as the result of the issuance of a building permit for a sign.
 - [6] One kiosk may be erected at each major entrance separated by a minimum of two hundred (200) feet and shall only count as one sign.
- (f) Neighborhood or Named Development. A neighborhood or named development may have a sign at each main road entrance, denoting only the name of the development. It must be permanently affixed to the ground on property owned by the development or land donated by a property owner for such use, be architecturally and historically appropriate and meet all other specifications and limitations of ARTICLE XI. The sign shall contain no more than fifteen (15) square feet of signage, per side if free standing and be elevated no more than one (1) foot above grade.
- (g) Real Estate "For Sale" Signs. Real Estate "For Sale" signs in industrial or commercial zones which advertise the sale, lease or rental of the real property on which it is located and which may not be maintained for more than six (6) months in any twelve (12) month period.
- (h) Signs Customary and Necessary to the Operation of Gasoline Filling Stations. The following signs customary and necessary to the operation of gasoline filling stations — wall-mounted signs displayed over individual entrance doors consisting of the words "wash", "lubrication", "repair" or words of similar import, provided that there shall be not more than one such sign over

each entrance, and that the letters of such sign do not exceed ten (10) inches in height; signs which consist of lettering or other insignia which are a structural part of a gasoline pump, consisting only of a brand name, lead warning sign and other matter as required by law; one 2.5 square foot/side (maximum) sign indicating price per gallon of gasoline to be attached to the pump; also there may be one (1) sign no larger than eight (8) square feet per side using numbers no larger than eighteen (18) inches in height indicating price per gallon of gasoline along highways on which the legal speed limit is less than 35 mph, or one sign no larger than twelve (12) square feet per side using numbers no larger than eighteen (18) inches in height indicating price per gallon along highways on which the legal limit is 35 mph or more, which such sign shall be free-standing and shall have a clearance of at least seven (7) feet from the ground.

- (i) Portable Signs. One portable sign is permitted per road frontage, during business hours only, not to exceed nine (9) square feet per side.
- (2) Signs Permitted In Any Zoning District With No Permit Required. The following new signs are allowed for legally existing uses with no permit. Such signs shall be neither illuminated nor indirectly illuminated, except as otherwise specified herein and meet the setback and sideline requirements for the districts in which they are located.
- (a) Election Signs and Political Signs. Political signs are non-illuminated and must be incidental to a town, state or federal election or referendum. Such signs shall be constructed of durable material and shall not be affixed or attached to trees, traffic signs or utility poles and shall not be located upon any public right-of-way nor upon public property. Such signs shall be erected not more than 60 days prior to such election or referendum. Political signs relating to any election or referendum shall be removed within fourteen (14) days after said election or referendum. In all districts, such signs shall not exceed sixteen (16) square feet in area per side. Signs must have permission of the property owner to be erected. However, the political party or candidate is responsible for removal.
 - (b) Flags. No flag shall contain any advertising. Flags that indicate a "welcome," "open" or similar greeting are not signs. Such flags shall not exceed approximately fifteen (15) square feet. These flags shall be limited to two (2) per business and permitted to fly only during business hours. The area of the flag is the product of the hoist and fly. The flag need not be rectangular in shape. The flags of any nation, state, town, club, service or military organization are exempt from any restrictions contained in this Ordinance.
 - (c) Governmental Signs. Signs erected by the Town of Charlestown, the State Of Rhode Island or the United States of America provided such signs bear no commercial advertising. Such signs may be indirectly illuminated with downward directed lighting.
 - (d) Instructional, Directional and Safety Signs.

- [1] Instructional or directional signs identifying parking, or other functional activity such as bathroom facilities, telephones, entrances, offices, etc, bearing no commercial advertising. There shall be no more than one sign for each applicable activity and each sign shall not exceed two (2) square feet in area, either wall mounted or free standing. Such signs may be indirectly illuminated with downward-directed lighting.
- [2] Safety. For licensed events in town and the protection of public safety, traffic control and pedestrian control signs are permitted. The need for these signs must be approved by the Department of Public Safety (police) as a temporary measure only with the approval of the Building Official to interpret the intent of ARTICLE XI.
- (e) Lawfully Existing Non-Conforming Use. Signage that at time of erection conformed to existing Town ordinance and is for a legal use.
- (f) Memorial Signs or Tablets. Memorial signs, tablets or signs denoting the date of erection of buildings shall be wall-mounted and shall not exceed two (2) square feet in area.
- (g) Name and Address of Resident. Name and address of resident shall not include any commercial advertising. Such signs shall not exceed four (4) square feet in area in any Residential zone, shall be limited to one (1) sign per household and may be elevated as much as one (1) foot from grade.
- (h) "No Trespassing" and the Posting of Land. No Trespassing signs or other such signs regulating the use of the property on which they are located, provided such signs do not exceed three (3) square feet in area in any residential zone or five (5) square feet in any non-residential zone. Such signs must meet all setback and sideline and or rear line requirements for the zone they are in. The top of the sign must not be more than five (5) feet from grade.
- (i) Sale of Produce. Sale of produce raised on the premises signs shall be no larger than twelve (12) square feet or two signs no larger than six (6) square feet each and shall not be lighted in any manner. No off-site signs advertising the produce will be permitted.
- (j) Service Signs. Accessory signs incidental to a business or a profession conducted on the premises indicating hours of operation, credit cards, business affiliations and the like, provided the total area of all such signs for a single business does not exceed two (2) square feet per public entrance (non-cumulative), and is wall-mounted at or immediately adjacent to the entrance to the building on the premises.
- (k) String Lights. A business may use non-flashing holiday-type mini clear outdoor string lights to enhance landscaping; however, they must be used in such a way as to not create a public safety, health or welfare concern and must not detract from the village character of the town.

- (l) Window Signs. A legal use business may have window signs permanently erected or maintained in one window of their establishment, which is visible to any public street or highway, provided the following:
 - [1] No such signs (cumulative) shall comprise more than fifteen (15) square feet in total area;
 - [2] No more than thirty percent (30%) of the window is covered by the signs.
 - (m) Real Estate "For Sale" Signs. Real Estate "For Sale" Signs in Residential Zones shall be permitted on the lot for sale for up to six (6) months in any twelve month period without a permit. Signs maintained in excess of six (6) months shall require a temporary sign permit issued in accordance with § 218-68 of this Ordinance.
- B. Signs Prohibited in All Zoning Districts, Unless Permitted by Special Use Permit as indicated. The following signs shall NOT be permitted in any zoning district:
- (1) Signs With Moving Parts. Signs which have any visible moving parts, including signs which are designed to achieve movement by action of wind currents, or which have mobile or revolving parts or which have animated parts are not allowed. Exceptions are time or temperature devices, barber poles ordinarily and customarily used in connection with barber shops, wind socks, Open flags, and Welcome flags which contain no advertising are allowed if they comply with all other provisions of this Ordinance.
 - (2) Flashing Signs. Illuminated or indirectly illuminated signs which incorporate in any manner any flashing or moving illumination, animation or illumination which varies in color.
 - (3) Hazards to Public Safety. Any sign or sign support which constitutes a hazard to public safety or health, including signs which by reason of size, location, content, coloring or manner of illumination obstruct the vision of a driver, or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads; or which obstruct free ingress to or egress from a fire escape, door, window or other required exit way; or which make use of words such as stop, look, one way, danger, yield, or any similar words, phrases, symbols, lights or characters, in such a manner as to interfere with, mislead, or confuse traffic. No sign shall be placed so as to interfere with clear vision through a sight triangle as described by ARTICLE VI § 218-37F of this Ordinance.
 - (4) Pennants. String pennants are prohibited. Except for the opening of a new business, which shall not exceed 14 days.
 - (5) Search Lights. Search lights are by Special Use Permit only. They may be allowed for special events.
 - (6) Projecting Signs. Projecting signs which are erected so as to project approximately perpendicular from the exterior of any building or wall, and which exceed twelve (12) square feet in area, or which project more than four (4) feet from the exterior

of said building or wall. Nothing herein shall be construed to permit the erection of any projecting sign over a public right of way.

- (7) Trailer Signs. Trailer signs, including portable billboards.
- (8) Off-Site Directional Signs. Off-site directional signs, including billboards are not allowed, except by Special Use Permit.
- (9) Inflatable Signs/Devices. Not allowed in any zone.
- (10) Franchise or Licensed Trademark Signs. All licensed signs or signs required by franchise agreement as to color, shape, or other trademark features shall be prohibited unless they shall be installed in a manner consistent with the restrictions as to number, size, construction method and materials, location and placement structures as set forth in this Ordinance. Trade signs displaying corporate logotypes, trademarks, or mandated to be used under franchise or other form of license shall conform to this ordinance, or if not conforming, shall be used only upon issue of a Special Use Permit. An applicant for such a Special Use Permit for a non-conforming sign shall demonstrate to the Zoning Board that no other reasonable, conforming alternative is possible.
- (11) Roof Signs. All "signs-roof mounted" as defined in ARTICLE I § 218-5, are prohibited in all zoning districts.
- (12) Internally Illuminated Signs. All "Signs-Illuminated" as defined in ARTICLE I § 218-5, are prohibited in all zoning districts.
- (13) All other signs not specifically authorized by this Ordinance are prohibited.

§ 218-63. Standards for New Signs in Residential, Commercial, Industrial, Historic Village District and Mixed Use Zones.

A. Standards for New Signs in Residential Zoning Districts.

- (1) Setbacks for All Signs.
 - (a) The setbacks in residential zoning districts are five (5) feet from the front lot line and fifteen (15) feet to a side or rear lot line and shall conform to the following regulations.
- (2) Standards for new signs for which a permit is required.
 - (a) Freestanding and Wall Mounted Signs. There shall be no more than one sign which shall not exceed six (6) square feet for each permitted commercial use or Special Use Permit granted in a residential zone. If freestanding, this sign shall not be elevated more than one (1) foot from the grade level of the site.
 - (b) Illuminated Signs. Illuminated signs shall not be permitted in residential zoning districts, except as otherwise specified in this Ordinance. Indirectly illuminated signs in a residential zoning district may be lighted only by a

continuous white down-light, so oriented that it shall reflect the light away from the adjoining property and away from the street(s).

- (c) Neighborhood Entrance Signs. Permanent signs at major entrances to residential developments designed only to identify such developments shall be permitted provided such signs bear no commercial advertising and do not exceed fifteen (15) square feet in area (per side, if freestanding). This sign shall not be elevated more than one (1) foot from the grade level of the site.

(3) Standards for Which No Permit is Required.

- (a) Identification Signs. There shall be no more than one sign identifying the name and address of the occupant as specified in this Ordinance for a residential lot. See ARTICLE XI § 218-62A(2)(g).

B. Standards for New Signs in Commercial and Industrial Districts.

(1) Setbacks for All Signs.

- (a) Setbacks from the front lot line are fifteen (15) feet and no closer than fifteen (15) feet to a side or rear lot line and shall conform to the following regulations:

(2) Permitted Signs in Commercial and Industrial Zones shall be:

- (a) Those sign types permitted in residential and mixed use zones.
- (b) Signs displaying the name, activity or service of a permitted business or industry located on the same lot, provided that the signs on a lot do not exceed:

- [1] If a kiosk is not being used, one (1) freestanding sign not larger than twenty four (24) square feet in area and no sign shall exceed twelve (12) feet (top of sign) above finished grade.

- [2] One (1) wall mounted, single face sign per establishment, provided that no such sign shall be higher than two (2) feet or longer than one half the length of space occupied by the establishment, but only as noted in [3] below is the square footage of said sign to exceed forty (40) square feet. No wall sign shall project more than fifteen (15) inches.

- [3] No sign shall exceed the following:

Distance of Sign

From Front Lot Line (feet)	Maximum Permitted Area Of Wall Mounted Sign
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200 - 299	1 sq.ft./lineal foot of building frontage- Maximum area = 100 square feet
300 - 399	1 sq.ft./lineal foot of building frontage Maximum area = 150 square feet

Distance of Sign From Front Lot Line (feet)	Maximum Permitted Area Of Wall Mounted Sign
400+	1 sq.ft./lineal foot of building frontage Maximum area - 200 square feet

[4] Any building exposed to a public way and a major parking area may have two wall signs, one on each opposite face in place of the one identification sign allowed in [2] above. The second sign in the rear of the building is limited to twelve (12) square feet. Where two (2) or more wall signs are affixed to one wall, the gross display area shall not exceed the allowed total area for signs [two (2) feet high by half the length of space occupied by the establishment, but not to exceed forty (40) square feet].

[5] No sign in a commercial or industrial zone shall be placed within forty (40) feet of a residential district boundary or within the sight triangle, described in ARTICLE VI § 218-37F of this Ordinance, or on fences, trees or accessory structures. If the lot configuration does not permit the required setback, the sign shall be placed as far as possible from the lot line and not be illuminated.

C. Standards for New Signs in Mixed Use (MU) Zoning Districts. (Reserved)

D. Standards for Lighting of Signs.

- (1) Signs may be lighted only by continuous white downward-directed lighting. There shall be no illumination of a flashing, intermittent or moving type. Floodlighting shall be downward directed lighted so that the source is directed away from adjacent properties and traffic arteries.
- (2) Hours of Lighting. Illumination of signs is restricted to hours of operation; security lights are excluded.

E. Standards for Scenic Roadway. (Reserved)

F. Standards for All Signs in Historic Village District. The setback from the front lot line is fifteen (15) feet and a sign shall be placed no closer than fifteen (15) to a side or rear lot line and shall conform to all district requirements as well as conform to the following:

- (1) Signs affixed to the exterior of a building shall be architecturally compatible with the style, composition, materials, colors, and details of the building, as well as with other signs used on the building or its vicinity.
- (2) Signs shall fit within the existing facade features, shall be confined to signable areas, and shall not interfere with floor and window openings, conceal architectural details or obscure the composition of the facade where they are located. Signs shall be placed on a facade only in a manner historically appropriate to the style of the building.

- (3) Wherever possible, signs located on buildings within the same block face shall be placed at the same height in order to create a unified sign band.
- (4) Wood and painted materials shall be used for sign construction. Flat signs shall be framed with raised edges.
- (5) Sign colors shall be compatible with the colors of the building facade.
- (6) Signs shall be downward directed lit and light reflection shall be contained within the sign frame and shall not significantly spill over to other portions of the building or site.
- (7) Signs shall be mounted so that the method of installation is concealed.
- (8) The historic village district will require the most restrictive interpretation of this Ordinance. Newly constructed signage shall require consultation with the Town Planner.

§ 218-64. Application for a Sign Permit.

For new signs requiring permits, as indicated in this article, an application for a sign permit shall be made in writing on forms prescribed and provided by the Building Official, and shall include the following information:

- A. Dimensions of the Proposed Sign. The size of the proposed sign, area, height, width, thickness, illumination and material from which it is to be constructed.
- B. Detailed Drawing of the Proposed Sign. A detailed drawing showing the description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign, position of lighting or other extraneous devices, and support structures.
- C. Plot Plan of Proposed Sign. A plot plan showing the location of the sign in relation to the building and all property lines and streets. The Building Official may require any other such information as may be reasonably necessary to administer the provisions of this Ordinance relating to signs.
- D. Based upon the above information, the Building Official may require a building permit and appropriate fee for a sign structure. Unless otherwise required by this Article, no Site Plan Review will be required as the result of the issuance of a building permit for a sign.

§ 218-65. Issuance of Permits and Related Fees.

- A. The Building Official, on finding a proposed new sign to be in compliance with this Ordinance, shall issue a permit.
- B. The permit for a new sign shall be null and void six (6) months after issue unless erection or installation of the sign has begun.

- C. Every sign shall bear the sign permit number conveniently and permanently affixed on the face or support thereof, or in such other place as authorized in writing by the Building Official. Failure to so affix the sign permit number shall constitute cause for revocation of the permit by the Building Official in addition to any other penalties or remedies provided in this Ordinance.
- D. Prior to the initial or re-issuance of business licenses, existing signs must obtain a permit and are waived the fee upon providing the Building Official with signed and dated photos or whatever documentation is otherwise required by the Building Official.

§ 218-66. Special Use Permit.

The following signs shall require a Special Use Permit:

- A. **Off-Site Directional Signs.** Off-site directional signs may be authorized by Special Use Permit upon application to the Zoning Board, where the location of a legal use requires such signs in order to avoid confusion, traffic congestion or similar inconveniences, and to facilitate travel to such location. No more than two such signs shall be permitted for any one use. The area of any such sign shall be no more than four (4) square feet. The use of sign plazas is preferred and, in all cases, only the minimum number of signs necessary to accomplish any of these objectives may be authorized by the Zoning Board. Off-site directional signs may only be indirectly illuminated with downward directed lighting.
- B. **Franchise or Licensed Trademark Signs.** Trade signs displaying corporate logotypes, trademarks, or mandated to be used under franchise or other form of license shall conform to this Ordinance, or if not conforming, shall be used only upon issue of a Special Use Permit. An applicant for such a Special Use Permit for a non-conforming sign shall demonstrate to the Zoning Board that no other reasonable, conforming alternative is possible. No more than one (1) such sign shall be permitted for each such use, and may be permitted only in commercial or industrial zoning districts. The area of any such sign may not exceed twenty four (24) square feet.

§ 218-67. Fees.

- A. An applicant for a sign permit or temporary sign permit shall, when filing an application, pay to the Town of Charlestown the appropriate fee. The fee shall be waived until such time as established by Resolution of the Town Council.
- B. In addition to the filing fee, an applicant shall also, where applicable (e.g., sign plaza), pay a fee for the Town to erect a sign structure. The fee shall be waived until such time as established by Resolution of the Town Council.

§ 218-68. Temporary Signs.

- A. The following temporary signs are allowed in any zoning district provided that they conform to the following provisions, further provided that they are granted a temporary sign permit. Such temporary signs shall not be illuminated nor indirectly illuminated.

These signs shall meet the restrictions and limitations as to lot placement for the designated district in which they are placed.

- (1) **Construction Signs on Buildings or Other Significant Work.** Temporary signs, customary and necessary in connection with the erection of buildings or other significant construction work shall be limited to one (1) sign for each construction project to include only the identification of the project, architect, sponsor or builder. Such signs shall not exceed six (6) square feet in any residential district, twenty (20) square feet in any commercial district, or thirty (30) square feet in any industrial district, and shall be removed before issuance of a Certificate of Occupancy. No sign may be affixed to a tree or telephone pole.
- (2) **Auctions and Special Events Conducted by Non-Profit Organizations.** A temporary sign, no larger than twenty (20) square feet, which advertises an auction or special event conducted by a non-profit organization, provided such sign shall not be in place more than thirty (30) days. No more than ten (10) signs advertising any such event shall be erected or maintained at any one time within the Town of Charlestown.
- (3) **Real Estate "For Sale" Signs.**
 - (a) Temporary "For Sale" signs which are in place for more than six (6) months, and which advertise in any way the sale of the property upon which they are located, shall not exceed six (6) square feet in any residential zone and twenty four (24) square feet in any commercial zone. No such temporary sign shall be maintained for more than ten (10) days after the completion of the sale of property.
 - (b) For subdivisions of ten (10) or more lots, in lieu of individual lot "For Sale" signs, there may be one (1) common sign, not to exceed thirty-two (32) square feet per side, advertising the property for sale, and not to be in place for more than two (2) years. These signs should be the customary signs used in the real estate industry and be made of durable materials.

B. Temporary Sign Permits and Fees.

- (1) Any temporary sign will require a cash deposit, amount to be set by Town Council from time to time. No temporary sign, as described in this Ordinance, shall be erected, installed or maintained without first obtaining a permit thereof. Any such permit may be issued for a period not to exceed six (6) months and shall provide that any sign authorized by such permit shall be removed at the expiration of said six (6) months period, or within ten (10) days after the completion of the activity advertised, whichever shall be sooner.
- (2) No permit for a temporary sign may be extended or renewed, and any temporary sign which remains in place for more than six (6) months shall be deemed a permanent sign and shall be so regulated, unless otherwise specified herein.
- (3) If the applicant shall fail to remove such sign, the Building Official, after a ten (10) days written notice to the applicant to remove such sign(s), and after the

failure of the applicant to do so, shall cause said signs to be removed and the cash deposit shall be forfeited to help defray the cost of the removal and a fee (set by the Town Council from time to time) will be assessed to the violator.

§ 218-69. Hazardous, Obsolete, and Non-Conforming Signs.

- A. No sign deemed hazardous shall be maintained or erected in the Town of Charlestown. Signs must be kept clean, neatly painted and free from all hazards such as, but not limited to, faulty wiring, loose fastenings and must be maintained at all times in such safe condition so as not to be detrimental to the public health and safety.
- B. No sign deemed obsolete shall be erected or maintained which advertises a product, use or activity no longer available, for sale, or in use on the premises. Such obsolete signs shall be removed within thirty (30) days after the date they become obsolete. This provision does not apply to seasonal activities and uses that are closed during regular periods. Any sign must be located on the premises on which the business or service is located; except one sign may be erected on a previous site of a business or service which is relocated for reasons of an unforeseen disaster (e.g., fire, flood) for a period of fifteen (15) months.
- C. Non-conforming signs which are relocated or replaced, shall comply with the provisions of this Ordinance.

§ 218-70. Violations and Removal of Unlawful or Unsafe Signs.

- A. In the event of a violation of any of the foregoing provisions of this Ordinance, the Building Official shall give written notice, specifying the violation, to the named owner of the sign and to the named owner of the land upon which the sign is erected. Said notice will be sent to the owners' last known address as set forth in the records of the Town of Charlestown directing them to cause such sign to conform to the provisions of this Ordinance, or to remove any such sign within thirty (30) days from the date of said notice.
- B. Upon failure to comply with the provisions of said notice specified in Subsection A, above, the Building Official shall notify the Town Solicitor of such violation of the Ordinance and request appropriate legal action to be taken to obtain conformance or removal of such sign. When any sign is in such condition as to be an immediate hazard and peril to the safety of the public or to property, the Building Official is hereby authorized to cause any such sign to be removed summarily without notice.

ARTICLE XII

Development Plan Review and Land Development Review**§ 218-71. Development Plan Review. [Amended 2-14-2011 by Ord. No. 328; 6-25-2012 by Ord. No. 349]**

A. Review Required.

- (1) Purpose. All nonresidential activities within the Town shall require Development Plan Review or Major Land Development Project Review approval before a building permit for such is issued, except for those activities specifically exempted in Subsection A(2) below. Where uncertainty exists, a person may apply in writing to the Building Inspector for a zoning certificate of applicability for Development Plan Review or Land Development Project Review.
- (2) Exempted Uses. The following activities are exempted from the requirements of this Section:
 - (a) Ordinary repair or maintenance of existing structures or uses.
 - (b) Incidental landscaping and maintenance of existing landscaping.
- (3) Approval Waiver. The Town Planner may waive the requirements for Development Plan Review approval where there is a change in use or occupancy and no extensive construction of improvements is sought. The waiver is a decision finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of Development Plan Review. The Town Planner has the right to ask for any information (s)he determines necessary to decide upon a waiver request. The applicant shall submit in writing a request for a waiver along with information relating to the following:
 - (a) The prior use of the site;
 - (b) The zoning district of the site;
 - (c) Description of the proposed use; and
 - (d) Impacts of the proposed use.

B. Applicability. Development Plans with the following characteristics may be reviewed by the Town Planner:

- (1) Development plans for sites where less than two (2) acres shall be disturbed. The area of disturbance shall include any temporary clearing or storage associated with construction related activities; and
- (2) Proposed development requiring fewer than twenty (20) parking spaces; and
- (3) Proposed development having less than 2,000 square feet of new floor area. Such plans shall be prepared in accordance with the applicable provisions of the

Subdivision and Land Development Regulations.²⁶ The Town Planner may refer any application to the Planning Commission for their review under Major Land Development Project Review. Reasons for referral may include, but shall not be limited to, potential impacts to abutters, potential impacts to sensitive on-site resources, traffic and circulation concerns, the presence of hazardous materials, burdens to municipal infrastructure, or potential threats to the quality of municipal water supply.

- C. Development Plans exceeding the criteria of § 218-71B shall be considered Major Land Development Projects and reviewed in accordance with the Subdivision and Land Development Regulations.
- D. Procedures. Before submitting an application, an applicant is encouraged to meet with the Town Planner to informally discuss the proposed project.
 - (1) Town Planner Development Plan Review Procedures.
 - (a) Submission Requirements
 - [1] Site Map. This shall be drawn at a scale of one hundred feet to one inch or larger and shall show all existing topography at a contour interval of two feet, or where slopes are three percent or less at one foot intervals. This map shall show the site area and any pertinent natural features that may affect the proposed uses such as but not limited to: water courses, water bodies, wetlands, wooded areas, floodplains and areas subject to flooding, etc.
 - [2] Development Plan. This is a detailed plan for the proposed development, drawn to a scale of one hundred feet to one inch or larger. The site development plan shall illustrate the location of all existing or proposed site improvements.
 - [3] Elevations and/or Sections. Elevations and/or sections depicting front, rear, and side profiles drawn to the same scale as the site development plan or larger are required. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures located on the site.
 - [4] Engineering Plans. Engineering plans shall be required to describe such development aspects such as road improvements, drainage system, grading plan, parking areas, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary. The applicant shall also submit an estimate detailed by item and construction step of the total cost of all site improvements.
 - (b) Required Submission Data. An applicant shall submit the following application materials to the Town Planner for certification of a complete application. Four copies of all plans and ten copies of a reduced eleven by

26. Editor's Note: See Ch. 188, Subdivision and Land Development.

seventeen inch site plan shall be submitted. The application shall show the following information unless waived by the Planning Commission or the Town Planner based on the scope and complexity of the proposed project:

- [1] Name of the proposed development, name(s), phone number(s) and addresses of the property owner and/or applicant, registered professional engineer and/or land surveyor designing the plan and appropriate stamps of registrations and signatures.
- [2] Locus map at a scale of one inch equals two thousand feet.
- [3] Date, north arrow, graphic scale.
- [4] Boundary line, property dimensions, zoning district(s) and/or overlay districts, zoning dimensional requirements, building envelopes, area of the lot, and abutting property owners' names within two hundred feet, plat and lot numbers and mailing addresses.
- [5] Location and dimensions of existing and proposed structures and signs.
- [6] Existing and proposed wells, water lines, fire hydrants, culverts, pipe sizes, grades, manholes and other utilities locations on the site and within two hundred feet of the site.
- [7] Location, arrangement, area and dimensions of parking spaces, aisles, fire lanes, angle of parking, off-street loading areas, buffers, entrances, exits, pedestrian walkways and acceleration and deceleration lanes.
- [8] Areas and percentages of all paved and impervious surfaces.
- [9] Location widths, descriptions and names of all existing or platted streets, driveways, railroads, utility rights-of-way, parks and other public open spaces, permanent structures, easements and town boundary lines, on the site or within two hundred feet of the site.
- [10] Method of solid waste disposal and location on site.
- [11] Location, type, intensity and direction of illumination of all outdoor lighting fixtures.
- [12] Grading and drainage plan with soil erosion and stormwater runoff control methods.
- [13] Location and dimensions of required buffers.
- [14] Landscaping plan, planting schedule, and construction cost estimate.
- [15] Location, height and materials of walls and fences.
- [16] Floor plans and building elevations showing exterior building design, materials, colors and height.

- [17] Total floor area and ground coverage of each existing and proposed structure and percentage of lot covered by structure(s). Gross floor area proposed for each type of use on the site.
 - [18] The phases, if any, construction schedule and all site development costs.
 - [19] An approval by the RI DEM as to the suitability of the soil and design of individual sewage disposal systems, if such are planned or to be upgraded.
 - [20] Summary of existing and proposed easements, restrictions and covenants placed on the property.
 - [21] Filing Fee.
 - [22] Other elements integral to the proposed development as may be specified by the Commission or Town Planner.
 - [23] A summary, a copy of all applications and approval status of all necessary permits from federal, state, and local agencies.
 - [24] Location of wooded areas, existing groundcover, stone walls, historic cemeteries, wetlands, water courses, and other unique natural or historic features.
- (c) Determination. The Town Planner shall determine whether the application is substantially complete within fifteen (15) business days of receipt and shall notify the applicant of his or her decision in writing by regular mail. The rights to develop the property shall be vested upon determination that an application is substantially complete in accordance with RIGL Chapter 45-24-44 and subject to § 218-73C below.
- (d) Notice Period. After receipt of the notice of the certification of a complete application by the Town Planner, the applicant shall send notice of the application to include a copy of an eleven inch by seventeen inch reduced Development Plan by certified mail to property owners within two hundred feet of the perimeter of the site. Proof of mailing and a copy of the notice shall be provided to the Town Planner. The notice shall outline a fifteen (15) working day comment period, during which abutters may submit written comments on the proposed plan to the Planning Department.
- (e) Decision. Within fifteen (15) working days after the close of the notice period, the Town Planner shall make a decision and shall notify the applicant of his or her decision in writing by regular mail. The Town Planner may approve, approve subject to modifications, approve with conditions, or deny a Development Plan Review application. The Town Planner may also refer a Development Plan Review application to the Planning Commission in accordance with § 218-71B. Failure to make a decision within the review period shall be construed as Development Plan approval.

- (f) Appeal. If a Development Plan is denied by the Town Planner, or if an applicant is otherwise aggrieved by the Town Planner's decision, the applicant may appeal this decision to the Zoning Board of Review in accordance with § 218-25 of the Zoning Ordinance.

E. Development Plan Review Decision Criteria, Standards and Terms of Approval.

- (1) Development Plan Review Decision Criteria. When formulating a decision on an application, the Town Planner shall consider the following criteria:
 - (a) Whether the proposal is consistent with the Comprehensive Plan and any other municipal plans applicable to the site or activity;
 - (b) Whether the proposal meets all applicable requirements of the Zoning Ordinance including, but not limited to, the Development Plan Review Design Standards in Subsection F below;
 - (c) Whether the proposal meets all applicable requirements of the Subdivision and Land Development Regulations;²⁷
 - (d) Whether the information presented in the application is clear and accurate; and
 - (e) Whether imposing reasonable conditions as described in § 218-73C(6) would better meet the standards of the Zoning Ordinance and Subdivision and Land Development Regulations.

F. Development Plan Review Design Standards.

- (1) General Objectives. Sites to be developed shall be of such character that they can be safely used for building purposes without danger to the public health or safety, or peril from fire, flood, or other causes. The proposed development shall relate to the natural terrain and be visually compatible with the rural character of the community. Site development shall comply with the following objectives:
 - (a) That adequate and safe vehicular circulation between the site and the street network is provided;
 - (b) That safe and adequate interior site circulation for motor and pedestrian traffic, parking, and loading facilities is provided;
 - (c) That sites are accessible for emergency vehicles at all times;
 - (d) That environmentally sensitive areas are protected and left undisturbed;
 - (e) That compatibility with and protection of adjacent uses, particularly residential uses, is provided through landscaping, vegetative, and other screening, buffering, planting, and setbacks;
 - (f) That there is consideration of aesthetics in the design;

27. Editor's Note: See Ch. 188, Subdivision and Land Development.

- (g) That the Development Plan preserves structures and landscapes that reflect elements of social, economic, and architectural significance to the Town; and
 - (h) That the Development Plan provides for the protection of scenic roadways and vistas.
- (2) Environmental Considerations. In general, sites to be developed shall alter the natural topography as minimally as possible and shall avoid areas where the following conditions are present:
- (a) Constraints to Development as defined in this ordinance;
 - (b) Areas of high groundwater (seasonal or permanent);
 - (c) Soils with excessively slow or fast percolation; or
 - (d) Ridgelines.
- (3) Specific Standards. Development Plans shall conform to all standards listed, as follows:
- (a) Landscape. Landscaping shall enhance the design, the buildings, the site and be used as a screen to minimize the encroachment of the proposed use on neighboring land uses. Preservation of existing site features such as stone walls, cemeteries, ledge faces or other unique site features shall be required. A Certificate of Occupancy shall not be issued by the Building Inspector until all landscaping is completed.
 - (b) Building Design and Location. Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location, and height of building(s) and such natural features such as slope, soil type, and drainage ways.
 - [1] Architectural designs shall be compatible with the character of the neighboring area. Design compatibility includes complementary building style, form, size, color, and materials.
 - [2] A diversity of roof heights, gable orientations and volumes in new buildings should be considered. Mansard, flat and shallow-pitched roofs are not recommended. Instead new buildings should be designed with traditional roof forms that are compatible with the character of the town, including gambrel, gable and hipped roofs commonly found in New England.
 - [3] Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or tiny) architectural elements should be avoided. If used properly, traditional and contemporary architectural detailing can create variety, interest and

texture on new buildings and additions which is compatible with the character of the area.

- [4] Traditional building materials such as shingles and clapboards should be considered for the exterior skin of additions and new construction. These materials can be used to sheath fireproof construction materials.
- [5] Development projects should reuse existing buildings of character whenever possible. Reuse may take the form of additions to older buildings rather than demolition. Demolition of listed historic buildings, Rhode Island Historical Preservation & Heritage Commission Town Survey, shall be discouraged.
- [6] Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box set back on a large expanse of asphalt parking. It is recommended new buildings should not be large bulky masses, but scaled down to smaller groupings of smaller attached or detached structures.
- [7] Commercial and multifamily buildings shall be sited to provide functional, livable outdoor spaces, and open spaces which enhance the use of the building and, to the greatest extent possible, the neighboring buildings.
- [8] Building siting shall take advantage of climatic and other environmental conditions, shall encourage safety and privacy of adjacent outdoor spaces, and shall reduce the impact of noise received by, or resulting from, the project.
- [9] Buildings that are stylized in an attempt to use the building itself as advertising shall be prohibited, particularly where the proposed architecture is the result of a "corporate" or franchise style.
- [10] The visibility of roof-top equipment shall be minimized by grouping all plumbing vents, ducts and roof-top mechanical equipment away from the public view.
- [11] Code required elements, such as parapet walls and screen walls shall be treated as an integral part of the architecture and these elements shall not visually weaken the design.
- [12] All vents, gutters, downspouts, flashing, electrical conduits, etc., shall be painted to match the color of the adjacent surface, unless being used expressly as a trim or accent element.
- [13] Soffits and other architectural elements visible to the public shall be finished in a material compatible with other exterior materials.

G. Terms of Approval.

- (1) Completion Guarantee.
 - (a) General. No certificate of occupancy shall be issued until all improvements shown on the Development Plan or Land Development Plan are installed and functional.
 - (b) Completion Guaranty. In order to assure that the construction and installation of such improvements required will be installed, the Town Planner or Planning Commission may require that the applicant enter into a completion agreement with the Town in accordance with the requirements in the Subdivision and Land Development Regulations.²⁸
 - (c) Inspection. The applicant shall request a site completion inspection from the Town Planner in accordance with the Subdivision and Land Development Regulations.
- (2) Amendments to Approved Plans. If the applicant wants to amend an approved Development Plan application, a written request shall be submitted to the Town Planner. The Town Planner may approve minor modifications to previously approved applications or refer the amendment request to the Planning Commission for decision. The review of an amended Development Plan shall follow the same procedures as required for Town Planner or Planning Commission Development Plan Review as applicable.
- (3) Fees. Major Land Development Projects reviewed by the Planning Commission shall follow the fees schedule in the Subdivision Regulations. Land Development Projects reviewed by the Town Planner shall pay a \$100 fee.
- (4) Effective Period. Approval shall be effective, except as provided below, for two years, provided, within eighteen (18) months of approval, the applicant shall have obtained a building permit.
- (5) Extensions. The Town Planner may grant up to two separate one-year extensions of the approval upon a written request accompanied by documentation from the applicant. An extension may only be granted where circumstances beyond the applicant's control have prevented completion of the project within the required time. Financial inability of the developer during periods where private financing is reasonably available is not a criterion by which to grant an extension. Extensive permit delays caused by state or federal regulatory agencies may be construed as sufficient cause for granting an extension. Applicants shall provide written documentation of any encumbrance or circumstance that (s)he believe justifies an extension.
- (6) Reinstatement. The applicant may submit a written request to the Town Planner for reinstating an approved plan that has expired pursuant to the term outlined in § 218-73C(4) and outline the reasons for the delay in obtaining a building permit. The Town Planner may reinstate the approved plan, may require the submission of a new plan or may require modifications to the approved plan. Decisions of the

28. Editor's Note: See Ch. 188, Subdivision and Land Development.

Town Planner shall reflect any changes that may have occurred to federal, state, or local regulations that apply to the site or changes that may have occurred in the Comprehensive Plan.

- (7) Conditions of Approval. In rendering a decision for Development Plan Review, the Town Planner may apply such reasonable conditions that are required to ensure that potential impacts of the project will be mitigated, to promote the intent and purposes of the Comprehensive Plan and this Ordinance. Failure to abide by any conditions attached to an approval shall constitute a zoning violation. Conditions of approval may include, but are not limited to, provisions for:
 - (a) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;
 - (b) Controlling the sequence of development, including when it must be commenced and completed;
 - (c) Controlling the duration of use or development and the time within which a temporary structure must be removed;
 - (d) Assuring satisfactory installation and maintenance of required public improvements; and
 - (e) Designing the exact location of the development.
- (8) Inspections and Enforcement. All construction performed under the authorization of a building permit issued shall be in conformance with the approved Development Plan. Failure to abide by an approved Development Plan shall constitute a zoning violation. The Town Planner shall be responsible for the inspection of site improvements ensuring compliance with the approved Development Plans. The Building Inspector shall be responsible for the inspection of site improvements ensuring compliance with the Rhode Island State Building Code and this Ordinance prior to issuing a Certificate of Occupancy.

ARTICLE XIII Development Standards

§ 218-72. Protection of Traffic.

Traffic shall be maintained in a safe fashion by the applicant adjacent to projects approved under this Ordinance as directed by the Public Works Director and the Chief of Police. Pedestrian access between public and private facilities shall be protected and provided in a safe fashion.

§ 218-73. Erosion and Sediment Control.

- A. Erosion and Sediment Control Plan Required. A soil erosion and sediment control plan shall be submitted as part of an application for Development Plan Review when any activity has a disturbed area proposed of more than one-half acre. Such plan shall contain

proper provisions to prevent accelerated erosion and sedimentation and eliminate any increased stormwater runoff created on the proposed site. Plans for soil erosion and sediment control and stormwater management shall be developed according to this Section using the principles as outlined in the 1989 Rhode Island Soil Erosion and Sediment Control Handbook, and the 1993 State of Rhode Island Stormwater Manual, as such may be amended from time to time. A soil erosion plan will be required for a single family residence when slopes exceed 15%. This soil erosion plan will be approved by the Building Official only prior to the issuance of a building permit.

- B. Site Design Requirements. Site design requirements shall be as follows:
- (1) All development proposals shall strive for maximum retention of the natural physical features of the site. Any outstanding physical features such as, but not limited to, the highest crest of a hill, natural low areas collecting stormwater, significant bedrock outcrops and significant glacial deposits shall be preserved.
 - (2) The proposed activity shall be oriented to the site so that grading and other site preparation are kept an absolute minimum. Development shall follow natural topography wherever feasible to minimize cutting, filling, and grading.
 - (3) Tracts shall be developed in workable phases on which all grading and stabilization can be completed within one construction season so that large areas are not left exposed during heavy rainfall duration.
- C. Submission Requirements. A site development plan and a narrative description of the development shall be submitted with the application for Development Plan Review.

Included in such application shall be all the requirements of ARTICLE XII, Development Plan Review and Land Development Review, and the following:

- (1) Start and completion dates
 - (2) Sequence of grading and construction activities
 - (3) Sequence for installation of and/or application of soil erosion and Sediment control measures.
 - (4) Sequence for final stabilization of the site
 - (5) The design criterion for proposed soil erosion and sediment control measures and stormwater management devices.
 - (6) The construction details for proposed soil erosion and sediment control measures and stormwater management devices.
 - (7) The installation and/or application procedures for proposed soil erosion and sediment control measures and stormwater control devices.
 - (8) The operations and maintenance program for proposed soil erosion and sediment control measures and the stormwater control devices.
 - (9) Any other information requested by the Planning Commission, the Town Planner or Building Inspector deemed necessary to complete review of the application.
 - (10) The estimated cost of all measures to be installed.
- D. Completion Bonds Required. The estimated costs of all measures of an approved plan, shall be required to be covered by a cash completion bond to ensure the completion or restoration of any disturbed property. Said cash shall be released on the finding by and at the recommendation of the Planning Commission that the entire approved plan of the application has been entirely completed.
- E. Placement and Maintenance of Control Measures. Site alterations shall not begin unless a development review plan has been approved by the Planning Commission or Town Planner for soil erosion and sediment control and storm water runoff. Site development shall not begin unless the soil erosion and sediment control measures and storm water control devices outlined in an approved plan are installed and are functional. All control measures and devices shall be maintained in effective condition to ensure the compliance of the approved plan.
- F. Inspections. Inspections shall be made by the Building Inspector or his designee to ensure compliance with the approved plan. The permittee shall verify through progress reports that soil erosion and sediment control measures and devices have been installed according to the approved plan and are being operated and maintained. Additional measures may be required if proposed measures fail to control erosion and sedimentation and stormwater. The applicant shall be billed for the cost of all review and inspection fees, necessary administrative work and legal fees related to enforcing compliance with this Section. The Town Solicitor shall take such actions necessary to enforce compliance with this Section.

§ 218-74. Landscaping.**A. Buffer areas.**

- (1) Purpose. This Section requires buffers between certain land uses. The buffers are designed to ameliorate nuisances between adjacent land uses or between a land use and a public road. Such nuisances may include, but are not limited to, dirt, litter, noise, lights, signs, unsightly buildings, or parking areas. Buffers provide spacing to reduce potentially adverse impacts of noise, odor, or danger from fires or explosions.
- (2) Location & Design. Buffers shall be located on the outer perimeter of the lot and extend to the lot boundary line. Buffers shall not be located on any portion of an existing, dedicated, or reserved public or private street or right-of-way. The buffer shall be calculated as parallel to the property line. Where a necessary drainage, utility, or other easement is partially or wholly within a required buffer, such item shall not count as buffer area.
- (3) Use. A buffer may be used for passive recreation. In no event, however, shall play fields, stables, swimming pools, tennis courts or similar active recreation uses be allowed in buffers. A buffer may contain pedestrian, bike, or equestrian trails, provided that:
 - (a) No plant material is eliminated,
 - (b) The total width of the buffer is maintained,
 - (c) All other zoning requirements are met.
- (4) Required Buffers.
 - (a) Public/Institutional Uses. Where a public or institutional use abuts a residential use or district, a twenty foot landscaped perimeter buffer area shall be established on the site and maintained between the site and the abutting residential use or district.
 - (b) Public Utility/Service Uses. Where a public utility or service use abuts a residential use or district, a twenty foot landscaped perimeter buffer area shall be established on the site and maintained between the site and the abutting residential use or district.
 - (c) Industrial Uses. Where an industrial use abuts a residential use or district, a fifty foot landscaped perimeter buffer area shall be established on the site and an opaque screen and/or fence consisting of an evergreen hedge not less than six feet in height shall be planted and maintained between the site and the abutting residential use or district.
 - (d) Commercial/Business Uses. Where a business use abuts a residential use or district, a twenty foot buffer for C-1 and the TVD district, a twenty-five foot buffer for districts C-2 & C-3, landscaped perimeter buffer area shall be established on the commercial site and an opaque screen consisting of an evergreen hedge or a fence not less than six feet in height with evergreen

plantings on the residential side shall be erected and maintained between the site and the abutting residential use or district.

- B. **Front Yard Landscaping.** For all nonresidential areas, all multifamily and mobile home parks, besides the parking lot landscaping requirements of § 218-57 Standards, at least ten percent of the front yard area shall be landscaped. This area shall contain evergreen or deciduous trees at least three inches in caliper and eight feet in height, evergreen and deciduous shrubs that are one to three feet in height and a continuous living ground cover. Seasonal flowers may be added during the growing season.
- C. **Maintenance.**
 - (1) **Responsibility.** The responsibility for maintenance of a required buffer shall remain with the owner of the property. Maintenance is required to ensure the proper functioning of a buffer. The owner shall be responsible for installing live and healthy plants. Plants that die shall be replaced.
 - (2) **Maintenance.** Maintenance shall consist of, but is not limited to, mowing, removal of litter and dead plant materials, and necessary pruning. Regular watering shall be supplied. Failure to maintain any required landscaped area shall constitute a zoning violation.
- D. **Plan Required.** A separate landscaping plan shall be required for review as part of the development review process when required or as part of the construction plan required for the issuance of a building permit.
- E. **Installation Required.** All required landscaping shall be required to be planted and complete before the issuance of a Certificate of Occupancy by the Building Inspector.

§ 218-75. Nuisances.

These regulations pertain to new development under this Ordinance only insofar as such development is permitted under the provisions of this ordinance.

- A. **Electromagnetic Interference.** In all zoning districts, no use, activity, or process shall be conducted which causes electromagnetic interference off the premises where the activity is conducted.
- B. **Humidity and Heat.** In all zoning districts, no use, activity, or process producing humidity in the form of steam or moist air, or producing heat, shall be carried on in such a manner that the steam, humidity or heat is perceptible to normal senses at any lot line.
- C. **Vibration.** In all zoning districts, no use, activity, or process shall be so operated that the ground vibration generated is perceptible without instruments, past any boundary line of the lot on which the use or activity is located.
- D. **Lighting.** In addition to these regulations, exterior lighting shall also be regulated by the provisions of § 155-15 et seq. Exterior lighting shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public streets or into any residential areas. Outside lights must be made up of a light source and reflector so that,

acting together, the light beam is controlled, and directed downward, not aimed upward or across a property line and is compatible with lighting in the neighborhood. No sodium vapor lighting shall be used. [Amended 6-11-2012 by Ord. No. 347]

- E. Combustible/Explosive Materials. In all zoning districts, all uses involving explosive and/or combustible material shall comply with the rules and regulations of the State Fire Marshall. Such uses, if permitted, shall not be located within one thousand feet of a residential district or use.
- F. Gas. In all zoning districts, no use, activity, or process shall emit noxious, toxic, or corrosive fumes or gases in concentrations or amounts causing discomfort or injury to humans, domestic/farm animals or harmful to vegetation.
- G. Hazardous Materials. In all zoning districts, if any permitted use requires the use, storage, or disposal of hazardous materials on-site, the use shall comply with all local, state and federal laws for hazardous materials use. Adequate precautions shall be planned to be taken against negative off-site impacts of a hazardous material release, using the best available state and federally approved technology.
- H. Radiation. In all zoning districts, the airborne emission of radioactive materials shall comply with the The Nuclear Regulatory Commission and the State of Rhode Island Rules and Regulations pertaining to radiation control.
- I. Smoke/Particulate Matter. In all zoning districts, no use, activity, or process shall cause any emission of smoke or particulate matter that can cause any damage to human health, domestic/farm animals, vegetation, or other forms of property, or which can cause excessive soiling. No emission at any point from any chimney or otherwise visible gray smoke of a shade darker than No. One of the Ringelman Smoke Chart as published by the United States Bureau of Mines is permitted. Dust and other types of air pollution, borne by the wind from such sources such as storage areas, yards, roads, and driveways within lot boundaries, shall be kept to a minimum.
- J. Toxic/Odiferous Matter. In all zoning districts, no use, activity, or process shall discharge across the boundaries of the lot toxic or odoriferous matter that causes an obnoxious odor in concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property.

§ 218-76. Liquid wastes.

Liquid waste in all zoning districts, shall comply with the following standards.

- A. Standards. Liquid effluent from any treatment process that is discharged into the ground shall always comply with the State of Rhode Island Rules and Regulations relating to such.
- B. Toxic Substances. No effluent shall contain any other acids, oils, dust, toxic metals, corrosive or other toxic substance in solution or suspension that would create odors, discolor, poison or otherwise pollute any river, pond, stream, wetland or any drinking water supply.

- C. Temperature. No discharge shall raise the temperature of any water body above the temperatures that are normal for such bodies and can support aquatic life in such water body.
- D. Process/Cooling Waters. Process or cooling waters shall be recirculated and reused except as otherwise permitted by state or federal law or otherwise by special use permit.

§ 218-77. Outdoor storage and disposal.

Storage of solid waste shall be in a bulk waste container for all uses other than single family residential uses. Such bulk waste container shall be situated within a permanently screened and landscaped enclosure. Such waste storage shall be located so as to be screened from view outside the property and to be accessible to pick-up. These containers shall be maintained in a sanitary and healthful manner.

§ 218-78. Water bodies.

- A. Generally. No facility designed to leach liquid wastes into the soil shall be located in areas outlined below, except by the granting of a special use permit. Exception: The repair or alteration of an existing waste disposal system.
 - (1) Within one hundred feet of a boundary of a fresh water or coastal wetland as defined by Rhode Island General Laws §§ 2-1-14 and 2-1-20.
 - (2) That area of land within two hundred feet of the edge of any flowing body of water having a width of ten feet or more and that area of land within one hundred feet of the edge of any flowing body of water having a width of ten feet or less; and
 - (3) That area of land within one hundred feet of the edge of any intermittent stream; and
 - (4) The area of land defined as a one hundred year flood hazard boundary indicated by Zone A or Zone V on the official Flood Insurance Rate Maps of the Town of Charlestown prepared by the Federal Emergency Management Agency and dated September 30, 1995 and any and all revisions thereto.
- B. Wetlands. No wetland, as defined by state law, and in any rules and regulations adopted pursuant thereto, shall be excavated, drained or filled nor any other alteration be made to the natural conditions of any wetlands without the prior approval of the R1 DEM, the Charlestown Town Council and/or the RI CRMC.
- C. Submittal Requirements. The following information shall be submitted by the applicant as part of the special use permit application relating to water bodies:
 - (1) Proximity to the one hundred year flood hazard boundary;
 - (2) Location of coastal features and relationship to jurisdiction of the RI CRMC and special area management plans that may be in effect;

- (3) The location and delineation of, and distance from the nearest groundwater aquifer and all wells used for drinking water supply within four hundred feet;
- (4) Proximity to Class SA and/or Class A water body or areas where the water quality is suitable for harvesting shellfish for direct consumption, where applicable;
- (5) Soil types present on the site as defined in the Soil Survey of R.I. of the United States Department of Agriculture.
- (6) Depth of soil to water table.
- (7) Perk rates of all soils on the site between the site and any water body.
- (8) The presence or absence of fragipan between the soil surface and groundwater.
- (9) Detailed soil morphological characteristics to a minimum depth of four feet as analyzed by a professional soil scientist, to determine seasonal high-water table.
- (10) Direction of groundwater flow.
- (11) The dimensions of the proposed structure, and the square footage apportioned to living space.
- (12) Precise reference points to locate the property and the proposed ISDS site.
- (13) The surveyed edge of all coastal and/or freshwater wetlands within one hundred feet of the leach field as verified by the RI DEM or RI CRMC.

§ 218-79. Barrier beaches.

- A. Findings of Fact. Coastal barrier beaches serve as a buffer zones for the salt ponds and the mainland located behind the ponds. The coastal barriers are low in profile and highly vulnerable to wind and wave erosion particularly during hurricanes. Hurricanes cause severe storm-surge flooding, and beach erosion. Debris from buildings on the barriers contributes to further damage to structures on the barriers, and can cause damage to properties on the mainland. All beaches within Charlestown have been classified by the RI CRMC. Portions of some beaches have been designated as undeveloped barrier beaches. The intent of this Section is to regulate development in these areas as they are subject to periodic flooding which can be damaging to abutting property owners and a danger to the health, safety and general welfare of the Town.
- B. Policies. The Town of Charlestown supports the RI CRMC policies and programs to protect coastal barriers for benefits to the public's health, safety and welfare. This Section shall not be construed as an intent on the part of the Town to foster development on coastal barriers, but rather to allow the CRMC to promote its policies under its statutory authorization from the Rhode Island General Assembly.
- C. Site Development Criteria. Except where prohibited in § 218-36, Land Use Table, all structures shall be permitted only by a special use permit obtained from the Zoning Board of Review provided all driveways and parking areas are landward of the building and do not cut into the dune feature and any construction activity that disrupts the dune

feature restores the dune and revegetates it. The following uses shall not require a special use permit from the Board provided they meet all other local, state and federal requirements:

- (1) Boardwalks and steps by roll-out walkways to permit access across the dunes or berms to the ocean beach without damage to the dunes themselves.
- (2) Sand fences for the purpose of encouraging the accumulation of sand only.
- (3) Individual life guard stations.

§ 218-80. Town highway access.

No building permit shall be issued by the Building Inspector for construction requiring an accessway into a town highway until the Building Inspector receives the approval, in writing from the Director of Public Works.

- A. Drainage of Surface Water. Wherever any culvert, drain, or water course have been placed or maintained or have existed under, adjacent to, or within a Town Highway for surface water drainage, no person shall in any way alter such without first obtaining the written approval of the Director of Public Works.
- B. Connection into Town Drainage System. No person shall make any connection into a Town road drainage system, or to drain or dump water onto a Town right-of-way without first obtaining the written approval of the Director of Public Works.

ARTICLE XIV
Growth Management

§ 218-81. Growth Management authorized.

This Section authorizes the creation of growth management that will control the rate of growth as permitted by this ordinance.

§ 218-82. Purpose.

The purpose of growth management is to equitably allocate a limited number of building permits over time, so as to minimize the burden on existing facilities and resources, whose adequacy is essential to the public health, safety and welfare, and in a manner which is consistent with the Charlestown Comprehensive Community Plan. It is the intent of this Section to allow controlled growth in relation to the existing and future capacity of town facilities and the Chariho Regional School District.

§ 218-83. Findings.

The Town Council, Planning Commission, Town staff and consultants have conducted studies to develop a growth management program as called for in the Comprehensive Community

Plan. The Town Council finds that these studies and documents, listed below, establish the basis for the Town's Growth Management Program, and are incorporated herein by reference:

- A. Community Planning Studio, University of Rhode Island, Graduate Program in Community Planning and Area Development. The Growth Management of Charlestown, Rhode Island. Kingston, RI. 4 Dec. 1984.
- B. Hess, Nancy. Charlestown Planning Department Issue Brief: Growth Management Choices for the Future. Charlestown, RI. 1999.
- C. MGT of America, Inc. Chariho Facilities and Financial Study, Draft Final Report #2. Olympia, WA. Jan. 1999.
- D. Pare Engineering. Controlling the Cost of Growth: An Approach for Charlestown, Rhode Island. Lincoln, RI. Jan. 1988.
- E. Shamoan, Samuel J., Community Planner. Town of Charlestown, Growth Management Study. Providence, RI. January 19, 2000.

§ 218-84. Issuance of Residential Building Permits.

Issuance of building permits authorizing creation of one or more dwelling units, as defined by § 218-5, through new construction or change of use shall be allowed only under the procedures and requirements set forth herein. Applicants for such residential building permits shall be authorized to proceed in the manner specified herein, and in accordance with the priority assigned to them. The total number of dwelling units authorized to begin construction in any quarter shall not exceed the calculated quota as established in § 218-36.

§ 218-85. Calculated Quota.

There shall be a finite number of residential building permits for each quarter of each year. A quarter is defined as a three-month period that begins on the first day of January, April, July or October. From the effective date of this Section to April 1, 2000, there shall be no residential permits issued whatsoever. Thereafter, the number of residential permits to be issued shall be limited in accordance with the following formula:

Total Permits per Quarter = (equals) 28.96% of the currently available seats within the Chariho Regional School District PLUS 28.96% of the projected increase of seats within the Chariho Regional School District over the next ten years, commencing with April 1, 2000 + (divided by) .590 + (divided by) forty.

§ 218-86. Initial Quota.

- A. Initially, it has been determined by the Town Council, based upon studies conducted pursuant to the Comprehensive Plan and studies cited in § 218-83, along with data supplied by the Superintendent of the Chariho Regional School District, the Town's present capacity for additional dwelling units is based on the following:

- (1) 1999 Chariho Capacity = 4,012 seats.
 - (2) October 1, 1999 Chariho Enrollment = 3,978 seats.
 - (3) Existing Capacity: 34 seats.
 - (4) Chariho Planned Capacity (approximately): 1,200 seats.
 - (5) Charlestown Planned Capacity (approximately): 360 seats.
 - (6) Divided by 0.590: 610 permits.
 - (7) Divided by 40 quarters: 15 permits.
- B. No more than fifteen (15) permits shall be issued as of the first two quarters following the adoption of this Article. The annual quota shall be the quarterly quota times four, initially 60 permits per year.

§ 218-87. Subsequent Quotas.

Following the method established in § 218-86, the calculation of the formula for the third and all subsequent quarters shall be performed by the Building Official and shall be submitted to the Town Council, the Planning Commission and posted in the office of the Town Clerk not less than thirty (30) days prior to the commencement of the quarter for which the quota is to be applied. To assist the Building Official in his/her calculation, the Building Official shall request, in writing, that the Superintendent of the Chariho Regional School District supply him/her the number of available seats in the school district based on the current capacity less the actual enrollment as of October 1 of the school calendar year, and the increase in seat capacity, projected from January 1, 2000 to December 31, 2009 based upon an adopted plan of the Chariho Regional School Committee. The Building Official shall monitor the Chariho Regional School District's overall capacity by checking with the Superintendent of the Chariho Regional School District every first day of February, March, August and November to determine if there are any changes in available seats. If there are no changes, the Building Official shall notify the Town Clerk that the number of permits to be issued the next quarter will be the same as the previous quarter. If there are changes in seats, the Building Official shall recalculate the quota and notify the Town Clerk of the new number of permits to be issued the next quarter. Notwithstanding any changes, the quota shall not change in the middle of any given quarter.

§ 218-88. Effective Date.

The effective date of this Article shall be the date of its enactment. Any application for a building permit creating one or more additional dwelling units submitted after the effective date of this Article shall be subject to the review procedures set forth herein. Permit applications submitted before the effective date of this Article shall not be subject to any of the quota limitations of this Article. This Article shall supercede any and all ordinances inconsistent herewith.

§ 218-89. Exemptions from the Quota.

The following types of dwellings shall not be subject to the provisions of this Article with regard to the calculated quota. These dwellings have been determined to have no or minimal impact upon the Town's capacity or provide positive benefits to the Town which are consistent with the Comprehensive Community Plan. The Building Official shall accept applications for construction of the dwellings listed below and shall act upon them without regard to the quotas, priority determination and procedures as set forth in this Article. All such permits issued shall be considered to be issued in addition to the calculated quota provisions of this Article. Complete applications for construction of dwelling units so authorized shall be granted permits within the time limits prescribed in the Rhode Island State Building Code, regardless of the availability of permits within the quota.

- A. Vested Rights — An application to construct a dwelling is not subject to this Section pursuant to vested rights provisions of § 218-4 of this Ordinance and for any application in a subdivision or land development which has received final or preliminary approval by the Planning Commission as of the date of this Article.
- B. Elderly Housing — Dwellings which would contribute to meeting the year-round housing needs of elderly citizens through enforceable restrictions limiting occupancy to households whose members are sixty-two (62) years of age or older. Such restrictions would typically include deed restrictions and/or covenants imposed by the applicant and monitored by the Planning Commission.
- C. Retired Adult Communities — Planned developments for retired citizens, with amenities, established through publicly enforceable restrictions limiting occupancy to residents whose members are fifty-five (55) years of age or older.
- D. Multifamily Dwellings — Multifamily dwellings, pursuant to § 218-51, Multi-Family Dwellings of this Ordinance, having zero-bedroom (studio) or one-bedroom units, and which do not exceed a total of 800 sq. ft. floor area per dwelling unit.
- E. Accessory Family Dwelling Unit, as defined in § 218-5, and provided in § 218-53 of this Ordinance.

§ 218-90. Priority Issuance.

Building permits shall be issued by the Building Official up to the maximum number permitted by the applicable calculated quota, in the order of priority assigned below. In the event of a tie, priority shall go to the application with the earlier date and time of the submission of a complete application.

- A. The priority shall be given to applications for construction of Low and Moderate Income Housing as defined by § 218-5 of this Ordinance.
- B. The second priority shall be given to applications for construction of a single family detached dwelling if the applicant has not previously received a permit for any lot in Charlestown and the lot to be built upon is not and was not under common ownership with a lot or parcel which has previously received a building permit as of the effective date of this Article; and either,

- (1) The Applicant owned the lot to be built before the effective date of this Article or,
 - (2) The lot to be built upon has been subdivided from a larger parcel before the effective date of this Article.
- C. The third priority shall be given to applicants whose application for construction of a dwelling has been denied for four (4) consecutive quarters because of the provisions of this Article.
- D. The fourth priority shall be given to applications for construction of a single family detached dwelling if the applicant is subject to the Planning Commission's phasing of subdivisions pursuant to Section 4 of the Charlestown Subdivision/Land Development Regulations.
- E. The remainder of the quota shall be issued to any other applications in the order of complete applications received.

§ 218-91. Procedure for Issuance of Building Permits.

- A. Applications for building permits for construction of one or more dwelling units shall be submitted to the Building Official, who shall adhere to the following procedure in reviewing and issuing permits:
- (1) **Completeness** - The Building Official shall, upon receipt of an application submitted, examine the application, plans and all materials for completeness, which shall include all plans and materials required for a building permit under the applicable provisions of the Zoning Ordinance and the Rhode Island State Building Code. If said application, plans and materials are complete, the Building Official shall stamp it indicating the date and time of official receipt by the Town.
 - (2) **Incomplete Applications** - If the application is incomplete and does not contain all plans and materials as required by the Zoning Ordinance and the Rhode Island State Building Code, the application, plans and materials shall immediately be returned to the applicant who will be informed by the Building Official what is missing from the submission in order to qualify as a complete application.
- B. The Building Official shall not issue permits for any dwelling units in excess of the quota unless such units are exempt, as provided in § 218-89. The Building Official shall keep track of all permits issued plus complete applications submitted during the most recent quarter, beginning with the effective date of this Article. If within any quarter, the number exceeds the quota, additional building permits shall no longer be issued. Applications for additional permits shall be accumulated for action at the beginning of the next quarter, and shall be prioritized and issued under the ensuing quarter.
- C. At the beginning of the next quarter, the Building Official shall add the total number of complete applications on file to the total number of permits issued during the previous three (3) quarters. In the event that the resulting sum (current quarter applications plus the previous three quarters' accumulation) is fewer than the annual quota as defined in § 218-86 and § 218-87, accumulated permits shall be issued up to the quarterly quota limit and new applications may be processed to such limit. In the event that the resulting

sum exceeds the annual quota as defined in § 218-86 and § 218-87, the accumulated permits shall not be issued and no further permits shall be issued for that quarter.

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

§ 218-92. Limitations Permits Issued.

In order to assure that permits for residential building construction are equitably distributed among all qualified applicants, no more than five (5) building permits for dwelling units shall be granted to any single applicant, owner or group of owners of any single subdivision or land development project receiving preliminary approval after the effective date of this Article within any quarter if doing so would result in denial of a permit for any other applicant. No more than five (5) building permits for dwelling units during any quarter shall be issued to any single applicant if doing so would result in denial of a permit for any other applicant.

§ 218-93. Expiration.

This Article shall expire December 31, 2009 and shall be reviewed for applicability by the Planning Commission no later than December 31, 2005.

§ 218-94. (Reserved)

ARTICLE XV
Capital Facilities Impact Fees

§ 218-95. Impact Fees Authorized.

This article authorizes the establishment of impact fees on land development in Charlestown.

§ 218-96. Findings.

- A. The State of Rhode Island through the enactment of the Rhode Island Comprehensive Planning Act of 1988 and the Zoning Enabling Act of 1991 (RIGL Sec. 45-24-30) has sought to encourage municipalities to enact innovative land development regulations and techniques.
- B. Rhode Island General Laws 45-22.4 et seq. authorizes municipalities to impose impact fees on new development that bear a proportionate share of the cost of a public facilities' capital improvements affected by the new development from which it is collected and which reasonably relates to the service demands and needs of the new development.
- C. New development has necessitated capital improvements to public facilities in the Town that must be borne by general tax revenues.

- D. Development of additional dwelling units places additional students in the public schools of the Chariho Regional School District and the Charlestown school system necessitating the acquisition of school sites, the expansion of existing educational facilities, the construction of new educational facilities and improvements and expansion to public facilities owned and/or operated by the Town of Charlestown.
- E. The impact fees established by this Article are derived from, based upon, and bear a proportionate share of the cost of a public facilities' capital improvements affected by the new development from which the fee is collected and which reasonably relates to the service demands and needs of the new development. Such costs are further established by the Capital Budget and Capital Improvement Programs for the Town of Charlestown and/or the Chariho Regional School District.
- F. The report entitled "Town of Charlestown, Rhode Island Growth Management Program, Phase 2 - Impact Fees," dated February 16, 2000, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional new public facilities in Charlestown.

§ 218-97. Intent.

- A. The fees established by this Article are consistent with and are intended to assist in the implementation of the Charlestown Comprehensive Plan.
- B. The purpose of this Article is to assess new development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide improvements to public facilities.

§ 218-98. Imposition of Impact Fees.

- A. Any person, after the effective date of this Ordinance, applying for a residential building permit; an extension of a residential building permit issued prior to the effective date of this Ordinance; converting any property previously exempted from this Ordinance to a non-exempt dwelling unit(s); converting any property from a non-residential use to residential; is hereby required to pay a Capital Improvements impact fee in the manner and amount set forth in this Ordinance.
- B. Exemptions: The following shall be exempted from payment of the Capital Improvements impact fee. Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
 - (1) Alterations or expansion of an existing residence.
 - (2) The construction of accessory buildings or structures.
 - (3) The replacement of a destroyed or partially destroyed residential building.
 - (4) Nonresidential buildings and structures are exempt.

§ 218-99. Computation of the Amount of Impact Fee.

The requirement of funds for provision of public facilities shall be based upon needs as established by the Capital Budget and Capital Improvement Programs and of the Town of Charlestown and/or the Chariho Regional School District and shall be consistent with the policies stated therein. The Building Official is charged with the administration of the Section. The fee amount shall be based upon the following:

- A. A Capital Improvements impact fee schedule per residential dwelling unit shall be established by the Town Council annually for the fiscal year, as part of the Town's adopted Capital Budget and Capital Improvement Programs and Town Budget.
- B. The fee payer is required to pay the fee as established annually by the Town Council. If a fee payer disputes the impact fee determined as described herein, then the fee payer may appeal the decision of the Building Official to the Zoning Board of Review in accordance with § 218-25 and may submit an independent fee calculation study for the land development activity for which a building permit is sought. Any such study submitted shall show the basis and methodology, including all supporting documentation and authority, upon which the independent fee calculation was made.

§ 218-100. Payment of Fee.

- A. The impact fee required by this Ordinance shall be paid to the Building Official prior to the issuance of a building permit.
- B. All funds collected shall be properly identified and promptly transferred for deposit in the Capital Improvements Impact Fee Trust Fund to be held in a separate account as determined in § 218-101 of this Ordinance and used solely for the purposes specified in this Ordinance.

§ 218-101. Capital Improvements Impact Fee Trust Fund Established.

- A. There is hereby established a separate Capital Improvements Impact Fee Trust Fund to be administered by the Town Treasurer. All funds previously collected by the Town under the provisions of the predecessor ordinance to this Article shall be promptly transferred into this account and expended consistent with the requirements of this Ordinance.
- B. The Town Treasurer may invest unused portions of the Trust Fund, provided that sufficient amounts are available to make payments for the use of the funds are provided herein.
- C. Funds withdrawn from this account must be used in accordance with the provisions of § 218-102 of this Ordinance.

§ 218-102. Use of Funds.

- A. Funds collected from Capital Improvements impact fees and deposited in the Capital Improvements Impact Fee Trust Fund by the Town Treasurer shall be used for the sole

purpose of undertaking improvements to public facilities as set forth in the Capital Budget and Capital Improvement Programs of the Town of Charlestown and the Chariho Regional School District necessitated by new development.

- B. Whenever the funds retained in the Capital Improvements Trust Fund are used for public facilities improvements in the Chariho Regional School District, the Town of Charlestown and the Chariho Regional School District shall enter into an appropriate memorandum of agreement to assure the proper use of the funds collected pursuant to this Ordinance.
- C. Funds may be used to make refunds required by § 218-103 of this Ordinance.

§ 218-103. Refund Of Capital Improvements Impact Fees.

- A. If impact fees collected under the provisions of this Ordinance are not expended or encumbered within the period established in § 45-22.4-5,¹⁷ the Town Treasurer shall refund to the fee payer or his or her successors the amount of the fee paid and accrued interest. The Town Treasurer shall notify the fee payer at the last known address by certified mail within one year of the date on which the right to claim refund arises. All refunds due and not claimed within one year shall be retained by the Town.
- B. If the Town Council seeks to terminate any or all impact fee requirements and the expenditure of impact fees, all unexpended or unencumbered funds shall be refunded as provided above. Upon the finding by the Town Council that any or all fee requirements are to be terminated, the Town Treasurer shall place a notice of termination and availability of refunds in a newspaper of general circulation in the community at least two (2) times. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds may be transferred to the general fund and used for any public purpose. The Town is released from this notice requirement if there are no unexpended or unencumbered balances within a fund or funds being terminated.

§ 218-104. Effective Date.

The effective date of this Article for the purpose of assessing the Capital Improvements impact fee established herein shall be the date of its enactment. Any application for a building permit shall be subject to the Capital Improvements impact fee as required herein. This Article shall supersede any and all ordinances inconsistent herewith.

§ 218-105. through § 218-153. (Reserved)

¹⁷ Editor's Note: See R.I.G.L. § 45-22.4-5.

ZONING

218 Attachment 1

Town of Charlestown

Land Use Table

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Agricultural Uses														
Agricultural Accessory Use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Agricultural Operations	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	ARTICLE VI § 218-37C
Commercial Kennel			S	S	Y	Y	Y	Y				Y		ARTICLE VI § 218-37I(10)
Crop Farming	Y	Y	Y	Y	Y	Y	Y	Y	Y	U	Y	Y	Y	
Farm Retail Sales Building	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	ARTICLE VI § 218-37C
Farm Stand	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	ARTICLE VI § 218-37C
Forestry	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		
Gardening	Y	Y	Y	Y	Y	Y	Y	Y	Y	U	Y	Y	Y	
Nursery and/or Greenhouse			S	S	Y	Y	Y	Y	Y	U	Y	Y		ARTICLE VI § 218-37I(29)
Private Stable			S	S					Y	U	Y	Y		ARTICLE VI § 218-37I(5)
Farm Supply Dealer	Y	Y	Y	Y										ARTICLE VI § 218-37C

NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district

CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Residential Uses														
Accessory Family Dwelling Unit	S	S	S	S	S				Y	U		Y	Y	§ 218-53
Bed & Breakfast	S	S	S	S	S	Y	Y		Y	U				ARTICLE VI § 218-37I(4)
TVD Bed & Breakfast													Y	
Community Residence	Y	Y	Y	Y	S	S			Y	U		Y	Y	
Convent/Rectory	Y	Y	Y	Y	Y	Y	Y		Y	U			Y	
Dwelling, Multi-family			S	S					S	U		Y		§ 218-51
Dwelling, Single Family	Y	Y	Y	Y					Y	U		Y		
Dwelling, Single Family Cluster****		Y	Y	Y					Y	U				ARTICLE IX § 218-52A
Dwelling, Two Family			S	S					Y	U		Y		ARTICLE VI § 218-37I(13)
Home Occupation	Y	Y	Y	Y	S				Y	U		Y	Y	ARTICLE VI § 218-37I(12)
Mobile Home Park				S					S	U				ARTICLE IX § 218-50

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**** See ARTICLE IX § 218-52A and Charlestown Planning Commission's Subdivision /Land Development Regulations

ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Open Space/Recreation Uses														
Arboretum	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Athletic/Play Field	Y	Y	Y	Y	S	S	S		S	Y	Y	Y	Y	
Bathing Beach	S	S	S	S					S	U	S	Y		ARTICLE VI § 218-37I(21)
Botanical Garden	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Commercial Riding Stable		S	S	S					S	U	S	Y		ARTICLE VI § 218-3I(5)
Drive-in Theater							S		S	U				ARTICLE VI § 218-37I(22)
Fishing Area			S	S				Y	Y	U	Y	Y		
Golf Course									S	U	Y	Y		ARTICLE VI § 218-37I(8)
Hatchery	S	S	S	S	Y	Y	Y	Y	Y	U	Y	Y	Y	
Marina					S	S	S		S	U	S	Y	Y	ARTICLE VI § 218-37I(6)
Plat Association Office/ Clubhouse	Y	Y	Y	Y					Y	U			Y	
Public Park	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Shooting Range/Club		S	S	S				S	S	U	S	Y		ARTICLE VI § 218-37I(9)
Summer Recreation Camp		S	S	S					Y	U	Y	Y		
Wildlife Refuge	Y	Y	Y	Y	Y	Y	Y	Y	Y	U	Y	Y	Y	

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CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Public/Semi-public Uses														
Adult Day Care Center					Y	Y	Y	Y	Y	U		Y	Y	
Assisted Living/Skilled Care													S	
Ambulance Services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	
Art Center					Y	Y	Y	Y	Y	U		Y	Y	
Cemetery/ Columbrium/ Crematorium		S	S	S							S	Y		
Charitable Institution	S	S	S	S	Y	Y	Y	Y	Y	U		Y	Y	
Church/Place of Worship	Y	Y	Y	Y	Y	Y	Y		Y	U			Y	
Club/Service Organization	S	S	S	S	Y	Y	Y		Y	U	S			ARTICLE VI § 218-37I(17)
Crisis Intervention Center	S	S	S	S	Y	Y	Y	Y	Y	U		Y		
Day Care Center		S	S	S	Y	Y	Y	Y	Y	U			Y	ARTICLE VI § 218-37I(18)
Day Care - Family Home	S	S	S	S	S	S	S	S	S	U			Y	ARTICLE VI § 218-37I(18)
Elementary/High School									Y	U		Y		
Fire or Police Station	Y	Y	Y	Y	Y	Y	Y	Y	Y	U		Y	Y	
Government Administrative Building	Y	Y	Y	Y	Y	Y	Y	Y	Y	U	Y	Y	Y	
Government Garage/Utility Building										U		Y		
Halfway House					S	S	S		S	U				
Hospital						S	S			U			S	

NOTES:

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ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Public/Semi-public Uses Continued														
Library	S	S	S	S	Y	Y	Y	Y	Y	U	Y	Y	Y	
Medical/Dental Center					Y	Y	Y	Y	Y	U			Y	
Municipal Community Center	Y	Y	Y	Y	Y	Y	Y		Y	U		Y	Y	
Municipal Stadium										U		Y		
Museum	S	S	S	S	Y	Y	Y	S	S	U		Y	Y	
Nursery/Kindergarten		S	S	S	Y	Y	S		Y	U		Y	Y	
Nursing Home					S	S	S		S	U				ARTICLE VI § 218-
Pastoral Counseling													Y	
Planetarium	S	S	S	S	Y	Y	Y	S	S	U		Y		
Package Distribution Services							Y	S	S	U				
Petting Zoo					S	S	S		S	U				
Postal Services-Retail					Y	Y	Y			U			Y	
Private School/College		S	S	S	S	S	S		S	U			S	ARTICLE VI § 218-37I(23)
Recreation Center - Major	S	S	S	S	S	S	S	S	S	U	S	Y		
Recreation Center - Minor	Y	Y	Y	Y	Y	Y	Y	Y	Y	U	Y	Y	Y	
Theater/Concert Hall						Y	Y		Y	U		Y	Y	
Tourist Information Center					Y	Y	Y		Y	U	S	Y	Y	
Transient Residential Use					S	S	S		S	U				

NOTES:

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CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Utility Uses														
Cable/Radio/TV Studio					Y	Y	Y	Y	Y	U		Y		
Communication Services/Broadcasting Offices					Y	Y	Y	Y	Y	U				
Public Utility Building/Accessory Structure			S	S				S	S	U		Y		ARTICLE VI § 218-37D
Public Utility Distribution Center without high voltage or towers	S	S	S	S	S	Y	Y	Y	S	U	Y	Y		ARTICLE VI § 218-37D
Public Utilities not otherwise listed					S	S	S	S	S	U		Y		ARTICLE VI § 218-37D
Sewage Pumping Station	S	S	S	S	S	S	S	S	S	U	S	Y	S	
Sewage Treatment Plant						S	S	S	S	U		Y		
Decentralized Wastewater Treatment Facility													Y	
Telecommunication tower/Pole & accessory building/equipment			S	S				S	S	U		Y		ARTICLE VI § 218-37D
Telephone Maintenance Yard					S	S	Y	Y	S					
Water Pumping Station	S	S	S	S	S	S	S	Y	S	U	S	Y	Y	
Water Tower/Standpipe	S	S	S	S	S	S	S	Y	S	U	S	Y	Y	
Water Treatment Plant	S	S	S	S	S	S	S	S	Y	U	S	Y		
Decentralized Water Treatment Facility													Y	
Water Utility Maintenance Yard					S	S	Y	Y	S	U				

NOTES:

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ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Transportation Uses														
Airport								Y		U				
Heliport								Y		U				
Rail/Motor Freight Terminal								Y		U				
Rail/Bus Passenger Station	S	S	S	S	S	S	S	S	S	U		S	S	
Passenger Bus Stop					Y	Y	Y	Y	S	U		Y	Y	
Industrial Uses														
Apparel Manufacturing								Y						
Automobile Manufacturing								Y						
Boat/Marine Manufacturing								Y						
Cold Storage Locker						Y	Y	Y		U				
Contractors Yard						Y	Y	Y		U				
Electronic Manufacture								Y						
Food Processing								Y						
Leather Goods Factory								Y						
Open Lot Storage								Y		U				
Pharmaceutical Factory								Y						
Private Gasoline Pump Island					S	S	S	S				Y		ARTICLE VI § 218-37I(20)
Public Storage Units							Y	Y		U				
Research Laboratory/Facility								S	S	U				ARTICLE VI § 218-37I(26)

NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district

CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Industrial Uses Continued														
Semiconductor/Solid State Facility								Y						
Textile Dyeing/Finishing								Y						
Wholesale Storage/Warehousing								Y						
Wood Products Factory								Y						
Commercial Uses														
Accounting/Bookkeeping Services					Y	Y	Y	Y	Y	U			Y	
Adult entertainment*								S*		U				
Advertising Sales Office					Y	Y	Y	Y	Y	U			Y	
Air Conditioning/Heating/Plumbing Services						Y	Y	Y	Y					
Animal Hospital/Veterinary Office					Y	Y	Y	Y		U			Y	
Antique Store/Gift Shop					Y	Y	Y		Y	U			Y	
Antique/Collectibles Shop													Y	
Apparel/Accessory Shop					Y	Y	Y	Y	Y	U			Y	

NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district

* Prohibited in all districts, except by Special Use Permit in I district, provided such use shall not be located within 400 feet of any educational institution, religious service, day care center, library, residential zone or use, park, recreation area or open space area or use. No adult entertainment establishment may be located within 2,000 feet of any other adult entertainment establishment. Any deviation or variance from these requirements shall be considered a use variance.

ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Architectural/Engineering/ Planning Svcs					Y	Y	Y	Y	Y	U			Y	
Art Gallery					Y	Y	Y		Y	U			Y	
Arts & Crafts Supply Store													Y	
Art Studio/Work Shop													S	
Athletic/Sporting Goods Store						Y	Y	Y	Y	U			Y	
Auction Barn						Y	Y	Y	Y	U			Y	
Automobile Rental Agency					S	Y	Y	Y	Y					
Automobile Repair/Major						Y	Y					Y		ARTICLE VI § 218-37I(19)
Automobile Repair/Minor					Y	Y	Y	Y				Y		ARTICLE VI § 218-37I(19)
Automobile Storage							S	S				Y		
Automotive Supply Store						Y	Y	Y	Y				Y	
Bait/Tackle Shop					Y	Y	Y	Y	Y	U			Y	
Bakery-Wholesale Only							Y	Y		U				
Bake Shop/Retail					Y	Y	Y		Y	U			Y	
Bank					Y	Y	Y		Y	U			Y	
Banquet Hall						S	Y	Y	Y				Y	
Bicycle Shop/Rentals					Y	Y	Y	Y	Y	U			Y	
Blacksmith/Welding/Machine Shop						Y	Y	Y						

NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district

CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Boat/Marine Shop						Y	Y	Y	Y	S				
Book Store					Y	Y	Y	Y	Y	U			Y	
Boutique													Y	
Building Supply/Lumber Outlet						Y	Y	Y						
Business/Consulting Services					Y	Y	Y	Y	Y	U			Y	
Candy Store													Y	
Carpentry/Construction/ Contracting Svcs						Y	Y	Y	Y	U				
Caterers Establishment					S	Y	Y	Y	Y	U			S	
Commercial Parking Lot/Structure						S	Y	Y	Y			Y		
TVD Commercial Parking Lot													S	
Commercial Printing Shop						Y	Y	Y						
Commodity/Mortgage Services					Y	Y	Y	Y	Y	U			Y	
Convenience Store					Y	Y	Y	Y	Y	U			Y	
Convention Facility						S	S	Y	S	U				ARTICLE VI § 218-37I(24)
Copy/Print Center													Y	
Craft Shop					Y	Y	Y	Y	Y	U				
TVD Craft Shop													Y	
Cut Stone/Stone Products Shop							Y	Y		U				

NOTES:

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ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Dance Studio													Y	
Day Spa													Y	
Department Store						Y	Y	Y	Y	U				
Detective/Protective Services					Y	Y	Y	Y	Y	U			Y	
Diving/Scuba Shop					Y	Y	Y	Y	Y	U			Y	
Dog Daycare/Training Center					S	S	S	S	S					ARTICLE VI § 218-37I(11)
Drive-thru Use					S	S	S		S	U			S	ARTICLE VI § 218-37I(7)
Driving Range						Y	Y		Y	U	Y	Y		
Drug Store					Y	Y	Y		Y	U			Y	
Dry Cleaning/Laundry Outlet					Y	Y	Y		Y	U			Y	
Electrical Contractor Services						Y	Y	Y	Y	U				
Electrical Supply Store						Y	Y	Y	Y	U			Y	
Electronics Store													Y	
Employment Services					Y	Y	Y	Y	Y	U			Y	
Entertainment (Live)					S	Y	Y		Y	U	S	Y	S	
Farmer's Market						Y	Y	Y	Y	U		Y	Y	
Farm Supply Dealer						Y	Y	Y		U				
Fish/Seafood Shop					Y	Y	Y	Y	Y	U			Y	

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CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Fitness Center					Y	Y	Y		Y	U	Y	Y	Y	
Flea Market						S	S		Y	U		Y	S	ARTICLE VI § 218-37I(25)
Flooring Services & Sales					Y	Y	Y	Y	Y	U			Y	
Florist					Y	Y	Y		Y	U			Y	
Funeral Home						Y	Y							
Furniture/Home Furnishings Retail Sales					Y	Y	Y		Y				Y	
Furniture/Upholstery Repair Services					Y	Y	Y	Y	Y				Y	
Garden/Landscape Supply Center						Y	Y	Y	Y	S				
Gasoline Station					S	S	S	S						ARTICLE VI § 218-37I(2)
General Store/Country Store					Y	Y	Y		Y	U			Y	
Grocery Store/Deli					Y	Y	Y		Y	U			Y	
Guest House													S	
Hairdressing Establishment/Barber					Y	Y	Y		Y				Y	
Hardware Store					Y	Y	Y		Y	U			Y	
Health Food Store													Y	
Heavy Equipment Sales							Y	Y						
Hobby Shop					Y	Y	Y	Y	Y	U			Y	

NOTES:

Y = Permitted Uses S = Special Use Permit U= Consult underlying district

ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Holistic Health Center													Y	
Hotel						S	S		S	U			Y	ARTICLE VI § 218-37I(3)
Household Appliance Store						Y	Y	Y	Y	U			Y	
Household Commercial Recycler						Y		Y		U		Y		ARTICLE VI § 218-37I(28)
Inn/Cottage Rental					S	Y	Y		Y	U			Y	ARTICLE VI § 218-37I(3)
Insurance Agency													Y	
Janitorial Services						Y	Y	Y	Y	S			Y	
Jewelry Store					Y	Y	Y		Y	U			Y	
Kayak/Canoe Shop					Y	Y	Y	Y	Y	U			Y	
Kitchen Products Store													Y	
Landscape Contracting Services						Y	Y	Y	Y	S				
Lawn Care Services						Y	Y	Y	Y	S				
Legal Services					Y	Y	Y	Y	Y	Y			Y	
Light Equipment Shop					Y	Y	Y	Y	Y	U				
Lighting Fixture Store													Y	
Liquor Store					Y	Y	Y		Y	U			Y	
Linen Shop													Y	
Lingerie Shop													Y	

NOTES:

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CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Locksmith Services					Y	Y	Y	Y	Y	U			Y	
Marine Supply Store													Y	
Masonry Services						Y	Y	Y	Y	S				
Massage Establishment					Y	Y	Y		Y	U			Y	
Microbrew Pub					S	Y	Y		Y	U				ARTICLE VI § 218-37I(27)
Miniature Golf Course						Y	Y		Y	U		Y		
Motel						S	S		S	U			S	ARTICLE VI § 218-37I(3)
Motor Vehicle Sales							Y							
Music Store					S	Y	Y	Y	Y	U			Y	
Nail Salon													Y	
News rack					Y	Y	Y	Y	Y	U				
Novelty/Souvenir Shop					Y	Y	Y	Y	Y	U			Y	
Office Supply Store													Y	
Off-site Carpet Cleaning Services					Y	Y	Y	Y	Y	U				
Outdoor Café					S	S	S	S	S	U			S	
Outdoor Retail Warehouse							Y	Y	Y					
Painting/Paper Hanging Sales & Services						Y	Y	Y	Y				Y	
Paper Products Store					Y	Y	Y	Y	Y	U			Y	

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ZONING

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
Perfumery													Y	
TVD Pet Grooming Services													Y	
Photo Studio					Y	Y	Y						Y	
Physical Therapist													Y	
Plumbing/Heating Supply Store						Y	Y	Y	Y	U			Y	
Product Assembler/Shipper					Y	Y	Y	Y	Y	U			Y	
Professional Office					Y	Y	Y		Y	U			Y	
Residential Water Treatment Srvs					Y	Y	Y	Y	Y	U			Y	
Real Estate Services					Y	Y	Y	Y	Y	U			Y	
Recreational Vehicles/Equip Sales						Y	Y	Y	Y	U				
Restaurant					Y	Y	Y		Y	U			S	
Saw Mill						Y	Y	Y						
Shoe Repair					Y	Y	Y		Y	U			Y	
Shoe Store													Y	
Shopping Center					Y	Y	Y			U			S	
Small Scale Woodworking Shop													Y	
Speciality Food Store					Y	Y	Y	Y	Y	U			Y	
Supermarket						Y	Y	Y	Y	U			Y	
Tailor					Y	Y	Y		Y	U			Y	
Take Out Food Services													S	

NOTES:

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CHARLESTOWN CODE

Principal Use	R-20	R-40	R-2A	R-3A	C-1	C-2	C-3	I	PD	GWP	OSR	M	TVD	Reference
Commercial Uses Continued														
TVD Tavern													Y	
Tavern/Nightclub					S	Y	Y		Y	U				
Taxidermist					Y	Y	Y	Y	Y					
Thrift/Consignment Shop					Y	Y	Y	Y	Y	U			Y	
Tobacco Shop					Y	Y	Y	Y	Y	U			Y	
Travel Agency					Y	Y	Y	Y	Y	U			Y	
Video Rental Shop					Y	Y	Y	Y	Y	U			Y	
Well Drilling Services						Y	Y	Y	Y	U				
Window Cleaning Services						Y	Y	Y	Y	U			Y	
Windows & Doors, Sales & Service													Y	

NOTES:

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ZONING

218 Attachment 2

Town of Charlestown

Dimensional Table

Zoning Districts	Minimum Lot Size (square feet)	Frontage & Lot Width (ft)	Primary Structure			Building Coverage (percent)	Building Height (feet)	Building Height (feet)	Accessory structures		
			Front Yard (feet)	Rear Line (feet)	Side Line (feet)				Front Yard (feet)	Rear Line (feet)	Side Line (feet)
Residential Districts:											
R-20	20,000	120	40	50	20	20		15	40	10	10
R40	40,000	150	40	60	25	15		25	40	10	10
R40 Cluster Subdivision*	20,000	100	40	50	20	15		15	40	10	10
R2A	2 acres	200	50	100	35	10		25	50	10	10
R2A Multi-family **	2 acres per DU	200 + 10/DU	100	60	35	10		25	100	10	10
R3A	3 acres	300	50	100	35	10	See § 218-42A(2)	25	50	10	10
R2A,R3A Cluster Subdivision*	40,000	125	50	60	25	10		25	50	10	10
R3A Multi-family**	3 acres per DU	300 + 20/DU	100	75	35	10		25	100	10	10
Two Family Dwelling ***	2 x min. lot size	R2A: 250 R3A/PD: 300	50	100	50	10		25	50	10	10
Non-conforming legal lots of record Less than 20,000 sq. ft.	Less than 20,000	n/a	30	38	12	*****		15	30	10	10
Traditional Village District	20,000	120	20	30	20	25	35	35	20	30	20
Nonresidential Districts:											
C-1	20,000	120	40	30	20	25		30	40	30	20
C-2	20,000	150	40	30	20	25		30	40	30	20
C-3	40,000	150	40	30	20	25		30	40	30	20
Open Space/Recreation	****	100	100	100	35	30	See § 218-42A(2)	30	100	100	35
Municipal	****	****	30	30	20	30		30	30	30	20
Industrial	80,000	200	100	100	35	30		30	100	100	35
Planned Development	3 acres *****	200	100	100	50	25		30	100	100	50
Non-conforming legal lots of record Less than 20,000 sq. ft.	Less than 20,000	n/a	30	38	12	*****		30	setback of principal structure		

CHARLESTOWN CODE

NOTES:

- * See § 218-52 Residential Cluster Subdivision
 - ** See § 218-51 Multi-Family Dwellings
 - *** See ARTICLE VI § 218-37I(13) Dwelling, Two Family.
 - **** No minimum lot size for Open Space/Recreation or Municipal District.
 - ***** No frontage requirement for Municipal District.
 - ***** See § 218-48 Planned Development District (PDD)
 - ***** See § 218-43 Non-Conformity with Dimensional Standards
- DU Dwelling Unit

ZONING

218 Attachment 3

NOTE: This Proposed Future Land Use Plan is for general planning purposes and is not a zoning map. Certain boundaries are known to include inaccuracies due to problems with conflicting source map data. Development of zoning regulations and associated maps will take place subsequent to the adoption of this plan. Proposed land use areas are for general planning purposes, exact boundaries will be determined during the zoning process.

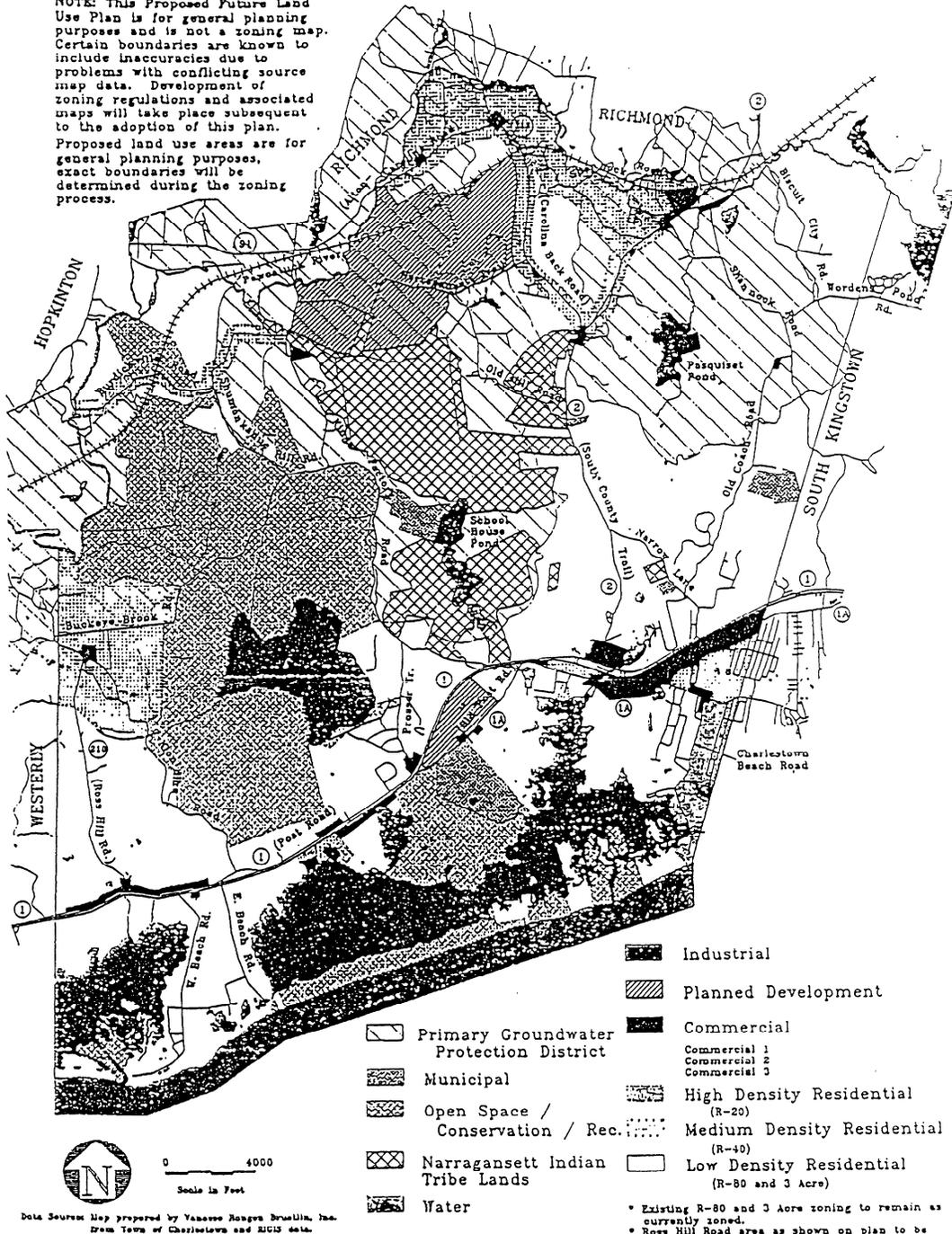


Figure 5
PROPOSED FUTURE LAND USE PLAN

ZONING

218 Attachment 4

Exhibit A
Mixed-Use Zoning Overlay District Boundaries
[Added 10-18-2004 by Ord. No. 265]

Map	Lot
7	
	52
	53
	54
	55
	56
	59-1
12	7
	8
	9
	10
	11 (C1 portion)
	12
	13
	13-1
	13-2
	14
	20
	21
	22
	24 (C1 portion)
	25-1
	26
	48-1
	49
	50
	51
	52
	62
	63
	108
	109
	109-1
	110
	111
	126
	128
	130
	132
	132-1
	132-2
	133
	133-1
	133-2

CHARLESTOWN CODE

Exhibit A
Mixed-Use Zoning Overlay District Boundaries
(Cont'd)

Map	Lot
12	134
	135
	135-1
	135-2
	135-3
	135-5
	136
	137
17	190
	187
	188
	189
13	1
	2
	3
	4
	5
	5-1
	5-2
	6
	7
	9
	10
	11
	12
	12-1
	13
	14
	15
	16
	17
	18
	19
	19-1
	19-2
	19-3
	19-4
	19-5
	19-6
	20
	21
	22

ZONING

Exhibit A Mixed-Use Zoning Overlay District Boundaries (Cont'd)

Map	Lot
13	23
	24
	25
	26
	27
	28
	30
	30-1
	31
	32
	33
	34 (C2 portion)
	34-1
	34-2
	34-3 (C2 portion)
	34-4
	35
	36
	37
	38
	39
	40 (C2 portion)
	41
	42
	43
	44
	45
	47
	48
	50
	50-3
	58-1
	59
	167
	168

ZONING

218 Attachment 5

Town of Charlestown
TVD District Map
[Added 10-10-2006 by Ord. No. 301]

