

## AMENDMENTS TO THE ZONING ORDINANCE

### ARTICLE 1: ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

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#### **Sec. 102. Overlay and special management districts.**

These are districts that are superimposed on existing zoning district(s) or part of a district, and impose specified requirements in addition to, but not less than, those otherwise applicable for the underlying district(s).

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#### **Affirm:**

- B. *Special Flood Hazard Area Overlay District.* The Special Flood Hazard Area Overlay District contains flood zones regulated by the Federal Emergency Management Agency as Special Flood Hazard Areas (SFHAs), including floodways, coastal high hazard areas, and areas adjacent to flood zones. The purpose of the SFHA Overlay District is to protect the public health, safety, and general welfare in areas subject to recurrent and dynamic flooding events, which present serious hazards to the residents of South Kingstown, by regulating the development and alteration of structures within SFHAs.

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- H. *Coastal Resiliency Overlay District.* The Coastal Resiliency (CR) Overlay District contains the land area depicted on CRMC Design Elevation Maps as being vulnerable to storm surge during a 100-year storm event plus 5-feet of sea level rise (SLR) that lie outside of the FEMA SFHAs. The CRMC Design Elevation Maps allow municipalities and property owners to plan for the effects of future SLR combined with impacts from storm surge, coastal erosion, and wave conditions. The purpose of the CR Overlay District is to protect the public health, safety, and general welfare by promoting resiliency in areas that are anticipated to be subject to recurrent and dynamic flooding events, which present serious hazards to the residents of South Kingstown.

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### ARTICLE 3: USE REGULATIONS

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#### **Sec. 301. Schedule of Use Regulations Table**

***Affirm the deletion of the High Flood Danger (HFD) Overlay District column in its entirety***

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**ARTICLE 6: OVERLAY ZONES, SPECIAL ZONES  
AND SPECIAL MANAGEMENT DISTRICTS**

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**Delete Section 601 'High Flood Danger (HFD) Overlay District' in its entirety and replace with the following:**

**Sec. 601. Special Flood Hazard Area (SFHA) Overlay District**

Sec. 601.1. *Establishment of district.* There is hereby established a Special Flood Hazard Area (SFHA) Overlay District, the boundaries of which are shown on the Official Zoning Map. The SFHA Overlay District is delineated by the boundary and overall extent of the Special Flood Hazard Areas identified and shown on Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs). These areas include all zones identified as 'A', 'AE', and 'VE' Flood Zones representing the areas with a 1% annual chance of flooding. The 1% annual chance flood is also referred to as the base flood or 100-year flood. The provisions of this Ordinance shall apply to all lands located within the SFHA Overlay District.

Sec. 601.2. *Purpose.* The purpose of the Special Flood Hazard Area (SFHA) Overlay District is to ensure public safety, to minimize hazards to persons and property from recurring and dynamic flooding, to protect the health, safety, and general welfare of the residents of South Kingstown, and to require resilient development within at-risk coastal and riverine areas. Regulation of new development and significant alterations to existing structures within the District provides for orderly growth and development that recognizes the natural characteristics of the land and the values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands.

Sec. 601.3. *Definitions.* For the purpose of this section, the following phrases shall be defined as provided below:

- A. *Coastal Barrier Resources System.* The Coastal Barrier Resources Act (CBRA) was passed by Congress in 1982 to encourage conservation of hurricane-prone, biologically rich coastal barriers, which are referred to as the units within the Coastal Barrier Resources System (CBRS). CBRA prohibits most new federal expenditures that encourage development or modification of coastal barriers. Therefore, most new or substantially improved residences, businesses, or other developments in the CBRS are not eligible for certain federal funding and financial assistance, including coverage under the National Flood Insurance Program (NFIP). Development can still occur within the CBRS, as long as private developers or other non-federal parties bear the full cost. CBRS boundaries are shown on maps that were originally adopted by Congress, and with few exceptions, only Congress can change the CBRS boundaries. These CBRS areas, herein referred to as CBRS units, are shown on maps maintained by the U.S. Fish and Wildlife Service.

- B. *Cumulative improvement value.* Within a Special Flood Hazard Area, the cumulative value of all improvements made to a structure that did not, or does not, meet the building code requirements for construction within the flood zone, whether or not substantially damaged or substantially improved, as determined by the Building Official, over the most recent five (5) year period.
- C. *Development project.* New construction of a structure intended for occupancy, substantial improvement of a structure, as determined by the Building Official, repair and/or renovation of a substantially damaged structure, as determined by the Building Official, or any improvement of a structure that has a cumulative improvement value equal to or exceeding fifty percent (50%) of the value of the structure.

Sec. 601.4. *Establishment of base flood elevation.* Pursuant to Rhode Island General Law (RIGL) Chapter 45, Section 24-31, any structure located within a SFHA, as depicted on the official FEMA FIRM, shall have building height measured from base flood elevation (BFE). Building permit applicants may choose to utilize the BFE required by the FIRM, including up to an additional 5' of freeboard, or may choose to establish BFE using one of the Coastal Resource Management Council (CRMC) Design Elevation Maps. Each CRMC Design Elevation Map depicts a specific level of anticipated sea level rise and provides recommended design flood elevations for structures, or in other words, the elevation at which a building should be constructed to withstand a once in hundred-year storm event given the amount of sea level rise depicted on the specific map. Utilization of CRMC's Design Elevation Maps to establish BFE is intended to increase the ability of the structure to withstand future storm surge conditions, therefore increasing coastal resiliency and further protecting public health and safety.

Sec. 601.5. *Applicability.*

- A. Development projects, as defined in Section 601.3, located within the Special Flood Hazard Overlay District which use the BFE identified on FEMA FIRMs utilizing allowable freeboard (1' minimum up to 5' maximum) shall be subject to the provisions of Sec 601.7.A.
- B. Development projects, as defined in Section 601.3, located within the Special Flood Hazard Overlay District which utilize a CRMC design elevation map to establish BFE and where the design elevation chosen is greater than 5' above the FEMA BFE shall be subject to the provisions of Section 601.7 and be permitted only upon issuance of a special use permit by the South Kingstown Zoning Board of Review, as required by Section 601.6.A. The purpose of requiring a special use permit for such development projects is to ensure appropriateness and consistency of construction activities with the sea level rise scenario depicted on the selected CRMC map.
- C. Select construction activities, as defined in Sec 601.6.B, located within a Coastal Barrier Resources System (CBRS) unit, shall be permitted only upon issuance of a special use permit by the South Kingstown Zoning Board of Review. The purpose of requiring a special use permit for such activities is to ensure appropriateness of construction activities within CBRS units. All CBRS units are located within the Special Flood Hazard Overlay District.

- D. For the purposes of this Section, development projects that have received a completed CRMC Preliminary Determination and/or an approval of an Onsite Wastewater Treatment System application from the Rhode Island Department of Environmental Management (RIDEM) on or before February 28, 2019 shall be exempt from the development standards outlined in Section 601.7.B of this Ordinance.

Sec. 601.6. *Special use permits.*

- A. *Development projects utilizing a CRMC map to establish BFE.* Within the SFHA Overlay District, in addition to the standards set forth in Section 907, the Zoning Board of Review shall only grant a special use permit for a development project that utilizes a CRMC design elevation map to establish BFE upon submittal of credible evidence by the applicant, to the satisfaction of the Board, that the following standards have been met:
1. The structure shall maintain land-based, adequate vehicular access to U.S. Route 1 along an existing roadway, with the projected amount of sea level rise inundation depicted on the Design Elevation Map utilized to establish BFE. The applicant must use CRMC's sea level rise maps to demonstrate maintained vehicular access.
  2. The footprint of the proposed structure lies completely outside of any land area that is below the mean high-water mark with the projected amount of sea level rise depicted on the selected Design Elevation Map utilized by the applicant to establish BFE. The applicant must use CRMC's maps to demonstrate that no portion of the building will lie above an area projected to be inundated by sea level rise.
  3. The structure will be serviced by an approved Onsite Wastewater Treatment System (OWTS) that will function compliantly with the projected amount of sea level rise depicted on the Design Elevation Map utilized to establish BFE. Submitted evidence must include a certification from a Rhode Island registered Professional Engineer and RIDEM licensed OWTS system designer that the OWTS is anticipated to remain compliant at the projected level of sea level rise.
  4. The structure will be adequately serviced by public potable water or a private potable water supply approved by RIDOH. All private wells shall be located completely outside of any land area that is below the mean high-water mark with the projected amount of sea level rise depicted on the selected Design Elevation Map utilized by the applicant to establish BFE.
  5. The structure shall be constructed with the foundation type required by the State Building Code for the flood zone projected by CRMC to be in effect with the projected amount of sea level rise depicted on the Design Elevation Map utilized to establish BFE. CRMC's Design Elevation Maps provide the projected flood zone given the amount of sea level rise indicated; development projects shall utilize the foundation type required by the State Building Code which conforms to the projected flood zone.
  6. For development projects proposed within CRMC's jurisdiction, the project has received a Preliminary Determination from CRMC, and all recommendations included

in the Preliminary Determination have been addressed to the satisfaction of the Zoning Board.

B. *Select construction activities located within a CBRS unit.*

1. Within a CBRS unit, the Zoning Board of Review shall only grant a special use permit for the construction activities outlined below upon submittal of credible evidence by the applicant, to the satisfaction of the Board, that the following additional standards have also been met:
  - a. *Indoor and/or outdoor recreation facility owned and operated by a nonprofit neighborhood association.* Before any special use permit shall be granted permitting the use of land for an indoor and/or outdoor recreation facility owned and operated by a nonprofit neighborhood association, the applicant shall, in addition to complying with all other requirements for the granting of special use permits as set forth elsewhere in this Ordinance, show to the satisfaction of the Board that the proposed recreation facility is located:
    - i. Within the same geographical area from which such neighborhood association's membership is derived, and
    - ii. On a lot of record which is contiguous to other lots of record owned by members of the association. For the purposes of this section, lots which are separated by a street shall be construed to be contiguous to each other.
  - b. *Individual beach cabanas, dressing rooms, or bathhouses, limitations.* Individual beach cabanas, dressing rooms, or bathhouses permitted by special use permit under the provisions of Article 3, shall be:
    - i. No larger than 100 square feet in floor area.
    - ii. No more than 15 feet in height.
    - iii. Used for daytime occupancy only.
    - iv. Not designed for use as dwellings.
    - v. Limited to one such individual beach cabana or dressing room or bathhouse per lot.
2. The Zoning Board of Review shall have the ability to condition any granted special use permit as necessary to ensure the above findings are met. Such conditions may include, but not be limited to the following:
  - a. Modification of waste disposal and water supply facilities.
  - b. Limitations on periods of use and operation.
  - c. Imposition of performance standards, operational controls and sureties.

- d. Requirements on the location, construction, durability and safety of roads, driveways, parking areas and access routes.
3. At a minimum, every special use permit granted pursuant to this Section shall be conditioned on the construction conforming to the State Building Code requirements of the projected flood zone, as outlined in subsection A.5., above.

Sec. 601.7. *Development standards and dimensional requirements.* When considered as part of a development project (as defined in Sec. 601.3.C), the following height standards shall apply to the Special Flood Hazard Area Overlay District, except as provided in A and B below.

A. *Maximum Building Height*

1. No structure shall exceed the following height measurements:
  - a. Structures that are elevated to a distance above grade of less than or equal to 5' shall be limited to 35' of building height;
  - b. Structures that are elevated to a distance above grade of greater than 5' but less than or equal to 10' shall be limited to 30' of building height;
  - c. Structures that are elevated to a distance above grade of greater than 10' but less than or equal to 15' shall be limited to 25' of building height.
  - d. Structures that are elevated to a distance above grade of greater than 15' shall be limited to 20' of building height.
2. No part of any structure shall exceed the maximum height listed above except for those exclusions listed in the definition of Building Height in Article 12 (20).

B. *Development Standards*

1. Properties for which any portion of any principal building footprint lies within the SFHA Overlay District shall not be limited to a maximum building lot coverage percentage as defined by Section 401. Instead, building size shall be determined by Floor Area Ratio (FAR) and Maximum Deck Area (MDA) as described below:
  - a. For all properties located within the SFHA Overlay District, the maximum amount of livable space shall be determined by using an FAR of 0.30 to calculate the maximum allowable GFA for the parcel.
  - b. For all properties located within the SFHA Overlay District, the maximum amount of total deck area (MDA) shall be no greater in size than 15% of the calculated maximum allowable GFA for the parcel.
  - c. For properties with more than one (1) principal structure (*i.e.* multi-households) all structures shall share the total allowed GFA and MDA for the parcel. In such cases, the maximum allowable GFA and MDA for each principal structure shall be equal to the maximum GFA or MDA divided by the number of principal

structures on the parcel, as applicable. This requirement may be modified only when two (2) or more structures on a multi-household parcel are being simultaneously improved, have applied for simultaneous special use permits (or a single special use permit for the applicable structures), and the total GFA of the structures combined does not exceed the maximum GFA allowed for the parcel. In such cases, the GFA and/or MDA may be unevenly distributed between structures.

2. For lots with rear lot lines abutting a coastal feature, applicants may propose the minimum front-yard setback to be the average setback of those parcels located within 250 feet of the parcel on the same side of the street, in both directions.

Example Table: Maximum Gross Floor Area and Floor Area Calculations

Parcel Area (PA)	Floor Area Ratio (FAR)	Maximum Gross Floor Area (GFA)	Max. Deck Area (MDA)	Max. Deck Allowance
PA	0.3	= PA x FAR	15%*	= GFA x MDA
5,000		1,500 sf (5,000 x 0.3)		225 sf (1,500 x 15%)
7,500		2,250 sf (7,500 x 0.3)		337.5 sf (2,250 x 15%)
10,000		3,000 sf (10,000 x 0.3)		450 sf (3,000 x 15%)

\* Integrated decks located within the footprint of the structure shall not count toward the MDA calculation.

C. *Inapplicability to Certain Development Projects.* Notwithstanding A and B above, the standards in this section shall not apply to:

1. *Nonresidential Zoning Districts.* The standards established in this section shall not be applied to development projects wholly within a Commercial (CD, CW), Industrial (I-1, I-2, I-3), Government and Institutional (GI, and Public Marina Special Management District (PMSMD) zoning districts.

2. *Coastal Community Overlay District.* The standards established in this section shall not apply to development projects located wholly within a Coastal Community Overlay District (Sec. 608).
  3. For the purposes of this Section, the standards established in this section shall not apply to development projects that have received a completed CRMC Preliminary Determination and/or an approval of an Onsite Wastewater Treatment System application from the Rhode Island Department of Environmental Management (RIDEM) on or before February 28, 2019.
- D. Other than described in A and B above, nothing in this section shall be construed as to modify any dimensional requirements established elsewhere in this ordinance.

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### **Sec. 608. Coastal Community Overlay District**

#### ***Revise Section 608.7 as follows:***

#### *Sec. 608.7. Changes to coastal community structures allowed by Zoning Board.*

- A. The following changes to coastal leased land community structures are permitted subject to the issuance of a special use permit from the Zoning Board of Review:
1. Except as specifically permitted above, any applicant seeking an expansion, replacement unit or addition to an existing structure, trailer or manufactured home shall be required to apply for a special use permit as required under Section 203 of this ordinance. In consideration of such applications, the Zoning Board shall be guided by the requirements, allowances and limitations of Article 2. Nonconformance and Article 9, Administration Enforcement and Relief, Section 907 A.2., Special use permit.
  2. The enclosure and conversion of open porches or decks to living area.
  3. Detached accessory structures to cottages or trailers for storage or other purposes.
  4. Any replacement or new construction projects utilizing a CRMC design elevation map to establish a base flood elevation (BFE). The Zoning Board of Review shall only grant a special use permit for such project upon submittal of credible evidence by the applicant, to the satisfaction of the Board, that the following standards have been met:
    - a. The structure shall maintain land-based, adequate vehicular access to U.S. Route 1, with the projected amount of sea level rise inundation depicted on the Design Elevation Map utilized to establish BFE. The applicant must use CRMC's sea level rise maps to demonstrate maintained vehicular access.



- b. The footprint of the proposed structure lies completely outside of any land area that is below the mean high-water mark with the projected amount of sea level rise depicted on the selected Design Elevation Map utilized by the applicant to establish BFE. The applicant must use CRMC's maps to demonstrate that no portion of the building will lie above an area projected to be inundated by sea level rise.
  - c. The structure will be serviced by an approved Onsite Wastewater Treatment System (OWTS) that will function compliantly with the projected amount of sea level rise depicted on the Design Elevation Map utilized to establish BFE. Submitted evidence must include a certification from a Rhode Island registered Professional Engineer and RIDEM licensed OWTS system designer that the OWTS is anticipated to remain compliant at the projected level of sea level rise.
  - d. The structure will be adequately serviced by public potable water or a private potable water supply approved by RIDOH. All private wells shall be located completely outside of any land area that is below the mean high-water mark with the projected amount of sea level rise depicted on the selected Design Elevation Map utilized by the applicant to establish BFE.
  - e. The structure shall be constructed with the foundation type required by the State Building Code for the flood zone projected by CRMC to be in effect with the projected amount of sea level rise depicted on the Design Elevation Map utilized to establish BFE. CRMC's Design Elevation Maps provide the projected flood zone given the amount of sea level rise indicated; development projects shall utilize the foundation type required by the State Building Code which conforms to the projected flood zone.
- B. Decks allowed by special use permit (unenclosed and unroofed) shall not exceed 50 percent of the GLFA as defined herein or 200 square feet, whichever is less.
- C. Any application involving two or more structures, trailers or manufactured homes shall require a special use permit by the Zoning Board of Review.
- D. Where a special use permit application involves changes to more than five units, the Building Official/Zoning Officer shall require the applicant to contact CRMC to ascertain if a "preliminary determination" process is appropriate as a pre-requisite to the Zoning Board of Review's formal consideration.

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***Revise Section 608.9 as follows:***

Sec. 608.9. *General standards for changes to coastal community structures.* The following standards shall apply to all changes to coastal leased land community structures:

- A. Expansion to existing structures or replacement structures must maintain or increase existing separation between structures.
- B. Where possible, replacement structures shall provide a minimum separation of 15 feet from other existing structures.
- C. All structures shall be limited to one story, which shall be no greater than 17 feet.

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***Add Section 609 as follows:***

**Sec. 609. Coastal Resiliency Overlay District.**

Sec. 609.1 *Establishment of District.* There is hereby established a Coastal Resiliency (CR) Overlay District, the boundaries of which are shown on the Official Zoning Map. The CR Overlay District contains the land area depicted on the Coastal Resources Management Council (CRMC) Design Elevation Maps as being vulnerable to storm surge during a 100-year storm event with the presence of 5-feet of sea level rise (SLR) that lies outside of the Federal Emergency Management Agency's (FEMA) Special Flood Hazard Areas (SFHA).

Sec 609.2. *Purpose.* The purpose of the CR Overlay District is to protect the public health, safety, and general welfare by promoting awareness of future projections of sea level rise and the associated impacts from flooding and storm surge to current and future property owners. CRMC's Design Elevation Maps allow municipalities and property owners to plan for the effects of storm surge, coastal erosion and wave conditions given future projected amounts of sea level rise. Each CRMC Design Elevation Map depicts a specific level of anticipated sea level rise and provides recommended design flood elevations for structures, or in other words, the elevation at which a building should be constructed to withstand a once in hundred-year storm event given the amount of sea level rise depicted on the specific map. Utilization of CRMC's Design Elevation Maps is intended to increase the ability of the structure to withstand future storm surge conditions, therefore increasing coastal resiliency and further protecting public health and safety.

Sec. 609.3. *Recording of Resiliency Information Prior to Building Permit Application.* For all new construction, prior to application for a building permit, the applicant shall request information from the Planning Department relative to future projected sea level rise scenarios. The information to be furnished by the Planning Department shall be determined by the Director of Planning. Upon provision of the information to the applicant, the Planning Department shall record the information in the Town's Land Evidence Records, so that future property owners may benefit from the knowledge. The Town intends this informational exercise to ensure that current and future property owners are aware of the risks from future sea level rise, flooding and storm surge. Elevating structures to a design elevation depicted on a CRMC Design Elevation Map, however, is optional.

Sec 609.4. *Development standards and dimensional requirements.* When considered as part of a development project (as defined in Sec. 601.3.C), the following height standards shall apply to the Coastal Resiliency Overlay District, except as provided in B below.

A. *Maximum Building Height*

1. No structure shall exceed the following height measurements:
  - a. Structures that are elevated to a distance above grade of less than or equal to 5' shall be limited to 35' of building height;
  - b. Structures that are elevated to a distance above grade of greater than 5' but less than or equal to 10' shall be limited to 30' of building height;
  - c. Structures that are elevated to a distance above grade of greater than 10' but less than or equal to 15' shall be limited to 25' of building height.
  - d. Structures that are elevated to a distance above grade of greater than 15' shall be limited to 20' of building height.
2. No part of any structure shall exceed the maximum height listed above except for those exclusions listed in the definition of Building Height in Article 12 (20).

B. *Inapplicability to Certain Development Projects.* Notwithstanding A above, the standards in this section shall not apply:

1. *Inapplicability to Development Projects within Nonresidential Zoning Districts.* The standards established in this section shall not be applied to development projects wholly within a Commercial (CD, CW), Industrial (I-1, I-2, I-3), Government and Institutional (GI, and Public Marina Special Management District (PMSMD) zoning districts.
2. *Inapplicability to Development Projects within Coastal Community Overlay District.* The standards established in this section shall not apply to development projects located wholly within a Coastal Community Overlay District (Sec. 608).
3. For the purposes of this Section, development projects that have received a completed CRMC Preliminary Determination and/or an approval of an Onsite Wastewater Treatment System application from the Rhode Island Department of Environmental Management (RIDEM) on or before February 28, 2019 shall be exempt from the development standards outlined in A above.

C. Other than described in A above, nothing in this section shall be construed as to modify any dimensional requirements established elsewhere in this ordinance.

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**ARTICLE 12: Definitions**

***Revise the definition of Building Height as follows:***

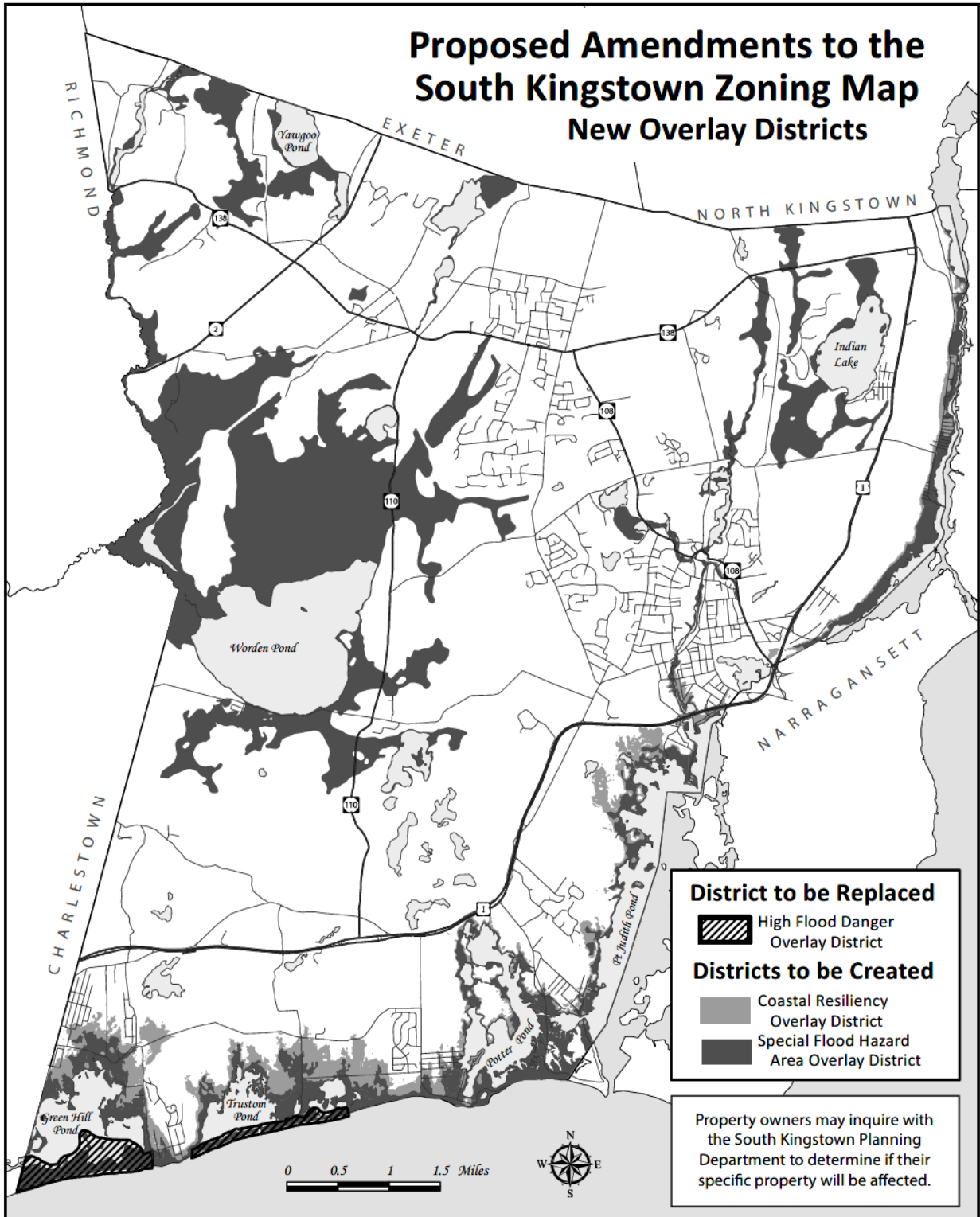
- (20) *Building height.* For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For

an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs) or depicted on the Rhode Island coastal resources management council (CRMC) suggested design elevation three foot (3') sea level rise (CRMC SDE 3 SLR) map as being inundated during a one hundred (100) year storm, the greater of the following amounts, expressed in feet, shall be excluded from the building height calculation:

- A. The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or proposed freeboard, less the average existing grade elevation; or
- B. The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a one hundred (100) year storm, less the average existing grade elevation. CRMC shall reevaluate the appropriate suggested design elevation map for the exclusion every ten (10) years, or as otherwise necessary.

# Proposed Amendments to the South Kingstown Zoning Map

## New Overlay Districts



**District to be Replaced**

- High Flood Danger Overlay District

**Districts to be Created**

- Coastal Resiliency Overlay District
- Special Flood Hazard Area Overlay District

Property owners may inquire with the South Kingstown Planning Department to determine if their specific property will be affected.