

**PUBLIC NOTICE
TOWN OF CHARLESTOWN**

**ZONING AMENDMENTS RELATING TO RESIDENTIAL CLUSTER
SUBDIVISIONS**

Notice is hereby given that the following ordinance was adopted by the Town Council of the Town of Charlestown after a public hearing, duly advertised and posted, held on February 9, 2015 at 7:00 p.m., at the Charlestown Town Hall, 4540 South County Trail, Charlestown RI.

**ORDINANCE NO. 365
AN ORDINANCE IN AMENDING CHAPTER 218 ZONING**

Note: Words set as ~~strikeover~~ are to be **deleted** from the ordinance; words set in underline are to be **added** to the ordinance.

Section 1. The Town Council of the Town of Charlestown hereby ordains that Chapter 218 of the Code of Ordinances, Town of Charlestown, entitled Zoning is amended as follows:

See Exhibit A, attached hereto and incorporated herein by reference as if set forth in its entirety, involving amendments to **§218-52. Residential Cluster Subdivision.**

Section 2. The Town Clerk is hereby authorized to cause said changes to be made to Chapter 218 of the Town of Charlestown's Code of Ordinances.

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

Attested To By:

Passed By Town Council On:

Amy Rose Weinreich, CMC Town Clerk

February 9, 2015

**Exhibit A
ZONING AMENDMENTS RELATING TO RESIDENTIAL CLUSTER
SUBDIVISIONS**

Section 218-52. Residential Cluster Subdivision.

A. Purpose. The purpose of residential cluster is to design alternative subdivisions which provide for permanent preservation of open space, particularly large contiguous areas within the site proposed for development, or linked to off-site protected areas; and to locate development on sites best suited for development, while avoiding land which is ecologically, agriculturally or historically important.

B. Residential Cluster Development Required. ~~[Amended 5-18-2000 by Ord. No. 221]~~
Applicability. 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.~~ Any minor subdivision application (5 or fewer lots) may be submitted as a cluster subdivision if desired by the applicant. The Charlestown Planning Commission may, at its discretion, permit a conventional subdivision where a cluster would otherwise be required 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.

C. 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 and Land Development Regulations.

D. 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~~ are allowed in R-3A, R-2A and R-40 Zoning Districts, and are required for a major subdivision. ~~The Planning 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. [Amended 5-18-2000 by Ord. No. 221]~~

~~(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 0 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.~~

~~(3)(4) Minimum Number of Lots. The minimum number of lots in any residential cluster subdivision shall be ~~six~~ three lots.~~

~~(4)(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.~~

~~(a) The number of developable lots allowed in a residential cluster subdivision shall be the number of lots which would be allowed under a conventional subdivision, determined by the submittal of a yield plan, as defined in the Charlestown Subdivision and Land Development Regulations, and accepted by the Planning Commission.~~

~~(b) In no case shall the number of developable lots be greater than the number permitted under a conventional subdivision.~~

~~(5) Minimum Lot Size and Frontage. The minimum lot size and minimum road frontage and lot width for a residential cluster lot in the R-40, R-2A and R-3A Districts are shown below, and are contained in the Dimensional Table (Section 218-41) along with all other dimensional regulations for cluster lots.~~

~~(a) R40 Cluster~~

~~(1) Minimum Lot Size = 20,000 SF~~

~~(2) Minimum Frontage and Lot Width = 100 feet~~

(b) R-2A and R-3A Cluster

(1) Minimum Lot Size = 40,000 SF

(2) Minimum Frontage and Lot Width = 125 feet

(6) Community Wells and On-Site Wastewater Treatment Systems. Community wells and wastewater treatment systems are permitted, and may be required, by the Planning Commission in place of individual wells and treatment systems. In order to facilitate their establishment, the cluster subdivision open space (see below) may be utilized for the protected area required by a community well or for a community leach field.

~~(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) Perimeter Buffer. The Planning Commission may require a vegetated buffer of open space, which may include wetlands, around the entire perimeter, or a portion of the perimeter, of the cluster subdivision, to provide a visual and audio screen between adjacent land uses, with consideration given to the presence of natural resources on an adjacent parcel that would be protected by a buffer. No structure may be built in the perimeter buffer, with the exception of stormwater control and drainage structures, and waterfront structures, such as docks, piers or boathouses, if approved by the Planning Commission. The width of the buffer shall be as determined by the Planning Commission, with consideration of the ameliorative effects of the following:

- (a) Land adjacent to the cluster subdivision which is already designated as open space, with evidence provided of its permanent protection.
 - (b) The existence of any substantial natural barrier on either the cluster subdivision parcel or adjoining parcel that will serve as a permanent buffer.
 - (c) The presence of sensitive interior lands that would be better protected by perimeter development of the cluster subdivision, as determined by an environmental analysis.
- (7) ~~Minimum dimensional lot requirements. See ARTICLE VII Dimensional requirements.~~
- (8) Open Space. Land permanently protected from development as part of the residential cluster subdivision shall be designated as 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.~~ The amount of land area set aside as open space may vary depending upon the characteristics of the land. Although the area designated as open space may include wetland and areas defined as having constraints to development, it shall include a minimum of forty percent (40%) of the total developable land area of the parcel. A minimum of The Planning Commission may allow up to thirty-five percent (35%) of the required open space area shall be suitable to be used for active recreation such as; ballfields, playgrounds, tennis courts, swimming pools, footpaths, nature trails or bike paths. Not more than twenty-five percent (25%) 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 Planning 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 Planning Commission along with the application for approval, and the Planning 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 Planning 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 Planning 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 Planning 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 Planning Commission approval for alterations.

Advertised in the Westerly Sun: February 16, 2015