

**PUBLIC NOTICE
TOWN OF CHARLESTOWN**

ZONING AMENDMENTS RELATING TO RESIDENTIAL COMPOUNDS

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. 366
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, eliminating current §218-54 and §218-55 and replacing with a revised **§218-54. Residential Compound.**

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:
Amy Rose Weinreich, CMC Town Clerk

Passed By Town Council On:
February 9, 2015

**Exhibit A
ZONING AMENDMENTS RELATING TO RESIDENTIAL COMPOUNDS**

~~§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.~~

§218-54. Residential Compound.

Upon approval by the Planning Commission and in accordance with the provisions of this section, up to ten (10) lots in a residential compound may be created in the R-40, R2-A and R3-A Zones as an alternative to a conventional subdivision. A residential compound is a 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 Subdivision and Land Development Regulations.

- 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 impervious road surface. A residential compound 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 section so that the Planning Commission may authorize the creation of residential compounds through either minor or major 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 or major subdivision according to the Charlestown Subdivision and Land Development Regulations. Any residential compound

consisting of six (6) or more lots shall be subject to the provisions of §218-52 requiring design as a cluster subdivision.

C. Density. The allowable density for a residential compound shall be no more than fifty percent (50%) of 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. If the yield plan indicates an odd number of lots, the half lot resulting from the fifty percent (50%) reduction shall be rounded down to the nearest whole number, except as provided below. By way of example, if the yield plan shows five (5) lots, only two (2) lots shall be permitted. Rounding up is only permitted as follows:

- (1) Density Increase for Low or Moderate Income Housing. The Planning Commission may allow the increase in the density of a residential compound by one (1) lot, by allowing the applicant to round up to the nearest whole number, following the 50% reduction of the accepted yield plan, if said lot is to be set aside for the construction of a low or moderate income housing unit, as defined in this Ordinance.
- (2) Two Lots from a Three Lot Yield Plan. In cases involving only a three (3) lot yield plan (and no other odd numbered yield plan), the Planning Commission may allow two (2) residential compound lots provided that the subject parcel meets the following area requirements:
 - a. Twelve (12) acres of land free from development constraints in an R-3A Zone;
 - b. Eight (8) acres of land free from development constraints in an R-2A Zone; or
 - c. One hundred and sixty thousand (160,000) square feet of land free from development constraints in an R-40 Zone.

D. Lots. Individual lot sizes may vary, except that no single lot in the R-40 Zone shall have an area of less than 20,000 square feet, and no single lot in the R-2A and R-3A Zones shall have an area of less than one (1) acre. An existing frontage lot of record, and/or a frontage lot that could be created on the parcel without the construction of the public road as shown on the yield plan, can be incorporated into the residential compound at a one to one ratio. There shall be no more than ten (10) developable lots served by a single common private way. However, more than one residential compound (of up to ten lots each) may be subdivided out of a single parcel if the Planning Commission determines that it meets the purposes of this section.

E. Minimum Frontage Requirement. Any parcel of land that is to be subdivided into a residential compound shall have a minimum frontage of fifty (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.

F. Private Way Requirements. The private way constructed to provide access to the lots in a residential compound 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 Subdivision and Land Development Regulations.

G. Ownership and Maintenance 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 maintenance of the private way, an 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 Subdivision and Land Development Regulations. 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.

H. Exception to Common Private Way. A residential compound may be developed without a common private way if it consists of two lots only, and one lot has the minimum required frontage on a public road for the respective zoning district. The second lot must have a minimum frontage of twenty-five (25) feet contiguous with that of the frontage lot. Access to the second lot may be by its own driveway from the public road, or by means of a common driveway and appropriate access easement.

I. Perimeter Buffer. The Planning Commission may require a vegetated buffer of open space, which may include wetlands, around the entire perimeter of the subdivision, excluding the private way, 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. The width of the buffer

shall be as determined by the Planning Commission, with consideration of the ameliorative effects of the following:

- (1) Land adjacent to the residential compound which is already designated as open space, with evidence provided of its permanent protection.
- (2) The existence of any substantial natural barrier on either the residential compound parcel or adjoining parcel that will serve as a permanent buffer.
- (3) The presence of sensitive interior lands that would be better protected by perimeter development of the residential compound, as determined by an environmental analysis.

J. Restrictions. 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, the following notations shall be added to the final plans:

- (1) 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.
- (2) The private way shall be privately maintained and shall remain permanently a private way, which shall not be extended. The owner or owners of the private way, for themselves, their successors, heirs and assigns hereby waive all rights to have the private way accepted into the highway system of the Town of Charlestown.
- (3) No further division or subdivision of this approved residential compound lot shall take place at any future date.

K. 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 envelope, setbacks, roadway location, buffers, and lot arrangements.

