

Town Council Meeting
October 8, 2020

Denise L. DiFranco, President, called the Foster Town Council to order on October 8, 2020, at 7:00 p.m. This was a virtual meeting using Zoom via computer or phone.

The following members were present:
Denise L. DiFranco, President
Cheryl Hawes, Vice President
Chris Stone
Heidi Rogers
Bob Moreau

Also present:
Susan Dillon
Kelli Russ
Michael Antonellis
Joanna Achille
Julia Chretien

I. PLEDGE OF ALLEGIANCE The Pledge of Allegiance was recited.

II. PUBLIC COMMENT None.

III. CONSENT AGENDA

- 1) Approval of Minutes for
 - a) September 10, 2020, and
 - b) September 17, 2020
- 2) Approval of Payroll Warrants
 - a) #10 - \$32,412.43
 - b) #11 - \$32,028.79
 - c) #12 - \$35,939.49
 - d) #13 - \$34,541.20
 - e) #14 - \$40,793.96
- 3) Approval of General Warrants
 - a) General Warrant #26 - \$4,033.11 FY 2020
 - b) General Warrant # 5 - \$176,520.46
- 4) Additions and Abatements

Chris Stone moved, Cheryl Hawes seconded, to approve the Consent Agenda as presented.

Motion passed 5 – 0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

IV. PUBLIC HEARINGS

1. Proposed Solar Ordinance

Denise L. DiFranco introduced the topics for the public hearings.

Solar Installation Ordinance

Town Planner Michael Antonellis referred to a memorandum dated March 9th detailing recommendations from former planner Jennifer Siciliano to the Solar Ordinance (see Exhibit A). These included changes to the proposed language. The breakdown is into three different categories: minor, medium and major.

The minor is under 1,750 square feet and is permitted by right, serves the lot it is located on, and is allowed in all zones. Panels cannot exceed 12 foot in height.

The medium installation is over 1,750 square feet, serves the lot it is located on, but requires site plan approval, a

special use permit, and 100-foot setbacks. Panels are also limited to 12 feet in height.

The major installation is over 1,750 square feet, does not serve the lot, and cannot exceed 40 acres. It needs site plan approval, a special use permit, and requires 100-foot setbacks, a bond for decommissioning, design standards, a copy of the lease on file at the town, landscaping, no removal of topsoil, clearing limited to the active area, emergency access, limited signage, a maintenance plan and an environmental impact statement.

Joanna Achille added that the suggestion to attach a lien on the property (for decommissioning) because if the owners change and the bond goes with them, or lapses, it would protect the town.

Anthony Renzi, Planning Board Chair, stated that after 6 months of the decommissioning, if there is no use for the land, a native seedling will be required to be placed in each hole.

Michael Antonellis read an email from Joe Carey requesting that the setbacks be increased to 200 feet and to consider reducing the area to 40 acres. Mr. Carey said he had requested an overlay of potential solar farm areas but heard no response.

Denise L. DiFranco asked Anthony Renzi about the overlay. Mr. Renzi felt it was not necessary as Foster's infrastructure would not support the kind of increase in solar farms that people expect. The biggest need was restrictions on the view of the structures.

Paul Allen sent an email asking to reject the solar ordinance due to new information on the reduction of property values and the damage they pose to the environment. He would like a permanent ban.

Lynne Rider commented on terrain-masking, and noted that the tool used on the Rt. 101 project was the most effective, and if that cannot be used, then a greater setback of 150-200 feet would be better.

Gordon Rogers felt that this ordinance is an improvement but noted that roof mounting for businesses should have the allowable square footage increased as well as the percentage of coverage.

Lynne Rider mentioned lead leaching into the soil.

Anthony Renzi said these types of issues had been corrected over time, but that is why they included a decommissioning bond.

No one spoke in favor.

Joanna Achille reviewed the Zoning Districts.

Denise L. DiFranco closed the public hearing. Heidi Rogers asked about rooftop solar. Michael Antonellis read the ordinance, which indicated that it would be by right under 1750 sq. ft. and by Special Use Permit over 1,750.

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Denise L. DiFranco asked about tangible tax revenue. Patti Moreau said we get \$5 per kilowatt, which was set by the state. Denise L. DiFranco noted that for all the land damage, we are not receiving very much.

Joanna Achille explained that we cannot ban solar farms.

Denise L. DiFranco stated that we have to make the best ordinance we can.

Anthony Renzi stated that the lack of 3-phase electrical infrastructure will limit construction. Lynne Rider stated that the governor may encourage more 3-phase or even new transfer stations so that the lack of infrastructure is not going to save us.

Heidi Rogers moved to approve the Solar Ordinance as present with the additions that Jennifer Siciliano presented, which was the brownfields provision and the forty percent provision. Chris Stone seconded.

Discussion: Denise L. DiFranco asked about setbacks.

Cheryl Hawes said she thought a compromise of 150 feet would be good. Chris Stone suggested a graduated scale.

Joanna Achille suggested imposing a setback but you could allow the planning board to deviate from that if the terrain masking was adequate.

Amita Rodman requested bigger numbers, allowing for variance and asked if it was the Planning Board that could do that, or would the applicants have to go through ZBR.

Joanna Achille said the final would be a Special Use permit through the Zoning Board of Review.

Ron Cervasio said they will continue to come to us as long as we have land.

Cheryl Hawes amended the motion to add a setback of 150 feet. Denise L. DiFranco seconded.

Discussion: Cheryl Hawes hoped that would be more acceptable to people. Chris Stone confirmed that we can go down but we can't go up, if we put in 150 feet, you can't go to 200 feet.

Cheryl Hawes withdrew her motion. Denise L. DiFranco withdrew her second.

Cheryl Hawes moved to make the setback no less than 100, no more than 200. Bob Moreau seconded. Mr. Moreau pointed out that it was a minimum of 100 feet. Chris Stone said there may be situations where you want to go less than 100.

Cheryl Hawes added to her amendment that we give the planner and solicitor the leeway to add the additional language as necessary.

Amendment passed 5 – 0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye;

Cheryl Hawes, aye; Denise L. DiFranco, aye.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye;

Cheryl Hawes, aye; Denise L. DiFranco, aye.

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2. Off Street Parking

Michael Antonellis read the changes to the off-street parking ordinance (see Exhibit B). Denise L. DiFranco clarified that trucks under 26,000 lbs. capacity would be considered a pickup truck to a small dump truck.

Denise L. DiFranco opened the public hearing and asked for those opposed to speak.

Chris Stone said someone called in named George who was opposed to the ordinance because there are too many rules.

Lynne Rider asked about parking on the side of the road.

Joanna Achille says it specified in the driveway. Denise L.

DiFranco said the driveway has to be permitted by the DPW director. Gordon Rogers says the DOT approves the driveways on the state roads. Guenter Bay was against the change because of noise.

Denise L. DiFranco asked if anyone was for the proposed change.

Gordon Rogers asked about acreage limitations.

Anthony Renzi spoke in favor, referring to owner-operators who own a dump truck that is their personal business.

Finding parking is inconvenient if they can't take that truck home. Gordon Rogers verified that you could have trailer trucks, 2 or more, with permission next to your house. If so, he was against it.

Joanna Achille said anything under 26,000 lbs. is permitted but you can only have two unless you have a legal pre-existing accessory use. Anything over 26,000 lbs. capacity, you have to apply for a special off-street parking facility and you have to get a special use permit. Heidi Rogers said most people in town have pick-up trucks. There are a lot of questions.

Bob Moreau questioned if there was a limit on the number of trucks and whether or not the owners had to be town residents. If not we could have trucks from all over the state on a large piece of land.

Denise L. DiFranco suggested meeting again on the 22nd and making a list to bring to Michael Antonellis. We aren't voting tonight.

Heidi Rogers moved to continue the public hearing on off-street parking to October 22nd. Bob Moreau seconded.

Motion passed 5 - 0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

3. Proposed Mobile Food
Ordinance

Denise L. DiFranco opened the public hearing for Mobile Food Establishments (see Exhibit C). She mentioned that Town Clerk Susan Dillon and Assistant Solicitor Julia Chretien worked together on this ordinance. Julia Chretien explained that this gives the town council the power to grant permits to have mobile food establishments in town. There are two types: Type A, food is prepared or reheated,

and Type B, prepacked for sale (for example, ice cream and Del's). No changes were made to Hawkers, Peddlars, and Door-to-Door.

Ms. Chretien explained that it is up to the organizers to obtain permits. Anytime the town is listed as an interested party on the insurance, the applicant must present the declaration page 14 days prior to the event or lose their permit.

Definitions were discussed. Susan Dillon questioned whether Foster Old Home Days would need permits. Julia Chretien said that food trucks would have to get permits, but the council can wave the fees or set requirements.

Cheryl Hawes asked if the permit requirement applied to any home stand.

Denise L. DiFranco asked if anyone was opposed.

Lynne Rider asked if the hearing was just for mobile food trucks and was told yes. She said that if it was about the whole ordinance, she thought door-to-door should be taken out.

Gordon Rogers asked if anyone selling eggs has to have a hawkers permit. Julia Chretien said she could not speak to enforcement.

Tammy Steinkamp, Recreation Director, asked if an event would be charged permit fees and event fees? Julia Chretien said yes and that it is regulated by the Dept. of Business Regulation at the state level as a maximum of \$75 individual fee and \$300 municipal event fee.

Denise L. DiFranco asked if anyone would like to speak in favor.

There were none.

Denise L. DiFranco closed the Public Hearing.

Heidi Rogers suggested getting rid of the Hawkers license.

Julia Chretien said the council may want to redefine. Ms.

Rogers said they could add no fees. Denise L. DiFranco suggested that the ordinance be reviewed.

Heidi Rogers moved, Chris Stone seconded, to continue the Public Hearing regarding Mobile Food Establishments to the October 22 council meeting.

Motion passed 5 – 0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

V. MONTHLY REPORT PRESENTATIONS

1. Finance

Kelli Russ presented the monthly report from the Finance Department.

2. Planning

Michael Antonellis present the monthly report from the Planning Department.

VI. OLD BUSINESS

1. Recreation Field Updates
 - a. Phase I Completion

Denise L. DiFranco said the issues were ADA parking and benches. These were not part of the initial RSPs. Michael

Antonellis will contact Jay Desilva about finishing the project by end of the month at price.
Gordon Rogers suggested having the DPW do the parking lot.
Bob Moreau moved, Chris Stone seconded, to have Jay Desilva finish the ball field.
Discussion: Michael Antonellis and Kelli Russ will work on the wording for the change order.
Motion passed 5 - 0.
Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

b. Engineer for Phase II

Denise L. DiFranco moved on to Phase II.
Chris Stone moved, Bob Moreau seconded, to go with Crossman Engineering for Phase II plans.
Motion passed 5 - 0.
Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

c. Responsibility for
Scheduling and Equipment
Storage

Denise L. DiFranco discussed storage of the pitcher's mound. It is currently in the Supper Shed but needs to be stored on the site. Suggestions were discussed.
Denise L. DiFranco suggested that the mound stay in the Supper Shed till Spring and then be discussed.

Denise L. DiFranco discussed the arrangements for the responsibility for scheduling activities at the field. Susan Dillon said she had discussed it with Tammy Steinkamp. They will coordinate.

VII. NEW BUSINESS

1. Appointment to Board of
Canvassers

Denise L. DiFranco said a recent resignation of a Board of Canvassers member opened a vacancy. Mary Jo Chretien was an alternate and said she would be willing to fill the position which would require a Democrat. Jon Restivo was contacted and gave his consent.
Heidi Rogers moved, Chris Stone seconded, to appoint Mary Jo Chretien as a full member of the Board of Canvassers.
Motion passed 5 - 0.
Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

2. Appointment of Alternate to
Board of Canvassers

Denise L. DiFranco said that an alternate member was needed to replace Mary Jo. Christina DiChiera was put forth as a replacement. Jon Restivo consented.
Heidi Rogers moved, Chris Stone seconded, to appoint Christina DiChiera to the Board of Canvassers as an alternate member.
Motion passed 5 - 0.
Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

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**VIII. EXECUTIVE CLOSED
SESSION**

Heidi Rogers moved, Chris Stone seconded, to go into Executive Session pursuant to RIGL 42-46-5 for a work session regarding Litigation according to RIGL 42-46-5-a (2) and to reconvene into open session and to further keep the minutes of said meeting closed and the minutes of all executive sessions held previous to this meeting remain closed in accordance with provisions in RIGL 42-46-4 & 5. No discussion.

Motion passed 5-0.

Heidi Rogers, aye; Chris Stone, aye; Bob Moreau, aye; Cheryl Hawes, aye; Denise L. DiFranco, aye.

The council reconvened in to Open Session at 10:45 p.m. Denise L. DiFranco announced that two votes were taken.

1st To allow Bob Moreau to contact Abbott Reality on the property located at South Killingly Road, Plat 20 Lot 0009 to negotiate a potential purchase price up to the full asking price.

Motion passed 5-0

2nd To allow the Town Clerk to post a Special Financial Town Meeting for the purchase of Plat 20, Lot 0009.

Motion passed 5-0

IX. ADJOURNMENT

Meeting adjourned at 10:45.

Submitted by,

Susan M. Dillon, Town Clerk



Town of Foster

Est. 1781

PLANNING DEPARTMENT

Jennifer Siciliano
Town Planner
181 Howard Hill Road
Foster, RI 02825

March 9, 2020

Denise DiFranco, President
Foster Town Council
181 Howard Hill Road
Foster, Rhode Island 02825

To Honorable Town Council President and Town Council:

The Planning Board and Department modified the drafted revised Foster Solar Installation Ordinance from their submittal on December 9, 2019. The Planning Board discussed these modifications at their February 19, 2020 meetings. The Planning Board voted to recommend the approval of the attached draft Solar Ordinance.

Additionally, as the Town Planner, I recommend the following to be added to the solar ordinance to further regulate major solar development in a beneficial manner:

Add (b) Definitions.

Brownfield means a property where a known or suspected release of petroleum and/or hazardous material presents a barrier to the sale, reuse or redevelopment of the site, or where uncertainty on the costs of remediation adversely impacts the value of the property.

Solar land coverage means the total footprint of land occupied by all components of a solar installation but not limited to solar panels, mounting equipment, ancillary components of the installation, inter-row and panel/collector spacing, access, and all other area within the required perimeter security fencing.

Add to section (e) *Solar land coverage*.

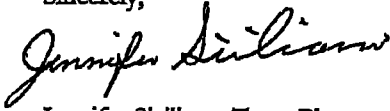
a. In the AR, NC, GBM and MI districts, the solar land coverage plus any additional or existing structures on the lot shall not exceed 40% of the land suitable for development of the lot unless the solar installation is being installed on a brownfield, in which instances there shall be no restrictions on solar land coverage.

Planning Department, Foster Town Hall, 181 Howard Hill Road, Foster, RI 02825
(Tel) 401-702-5012 (Fax) 401-702-5010

b. There are no restrictions on solar land coverage in the M district and the Planning Board shall have the authority, require mitigations to maintain aesthetic appeal.

If you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in cursive script, reading "Jennifer Siciliano".

Jennifer Siciliano, Town Planner

Attachment: Draft Solar Installation Ordinance

Date: March 9, 2020

DRAFT Sec. 38-292. Solar installations.

(a) *Purpose.*

Regulate the development of solar energy systems by providing standards for placement, design, construction, and removal of such systems that address public safety, minimize impacts on scenic, natural and historic resources, and are compatible in the areas in which they are located and are consistent with the Foster Comprehensive Plan.

(b) *Definitions.*

Ground-mounted solar installation means a solar installation that is structurally appended to the ground and is not supported to a structure or building.

Major solar installation means a solar installation designed primarily to sell electricity to a utility supplier, or a solar installation exceeding 1,750 square feet or greater. Solar installations larger than 40 acres are strictly prohibited.

Medium solar installation means a solar installation designed to only service the property which the solar installation is located and is larger than 1,750 square feet and under 40,000 square feet. If the solar installation is 40,000 square feet, it shall be considered a *major solar installation*.

Minor solar installation means a solar installation designed to primarily service the property on which the solar installation is located with a 1,750 square foot area or less.

Roof-mounted solar installation means a solar installation that is structurally appended to the roof of a building or structure.

Solar installation means a power system used to supply power by converting sunlight into electricity by means of photovoltaics, the harnessing of solar energy to generate thermal energy, or the use of concentrated sunlight to drive a traditional steam turbine.

Terrain masking means using the physical features of land such as hills and/or berms to obscure year-round line-of-sight of the entire solar installation.

(c) *Minor solar installation.* A minor solar installation is permitted in all zones, provided such solar installation:

- (1) Shall meet all applicable zone requirements including but not limited to lighting, setbacks, signage, and height;
- (2) Ground-mounted shall not exceed 12 feet in height; Roof-mounted solar installations shall not exceed the maximum height for the applicable zoning district, shall not conflict in shape and proportion with the existing roof, nor extend the footprint of the structure;
- (3) Shall require a building permit after submission and approval of layout and design by the Town Planner; and
- (4) Shall be in compliance with RI State Building and RI State Electrical Codes.

(d) *Medium solar installation.* A medium solar installation requires, in all zones, a site plan approval from the planning board and a special use permit from the zoning board of review, pursuant to G.L. 1956, §45-23-61. The accompanying site plan review shall adhere to the development standards set forth in this section and the requirements of Sec.38-394 shall not be applicable. A medium solar installation shall require a building permit prior to construction and adhere to the following:

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- (1) **Setbacks.**
 - a. Solar installation setbacks shall be situated in a way that will completely obscure the development in all seasons from the road and all abutting properties using either terrain masking, undisturbed vegetation, and/or landscaped vegetation.
 - b. Medium solar installations shall at the minimum maintain a 100-foot setback from all adjacent property-lines and roadways. Landscaping in the Landscaping Plan may include this 100-foot setback.
 - (2) **Height.**
 - a. Ground-mounted solar installations shall not exceed 12 feet in height.
 - b. Roof-mounted solar installations shall not exceed the maximum height for the applicable zoning district.
 - (3) All installations shall be in compliance with the RI State Building Code and the RI State Electrical Code, and shall be subject to periodic inspections by the Foster Building Official. All relevant installation components must have an UL listing or equivalent.
 - (4) **Security fencing.**
 - a. Any fencing around the installation shall be black, green, brown, or another natural color that blends into the vegetative surroundings.
 - b. Barbed wire is prohibited.
 - (5) **Lighting.** All lighting shall be directed downward, and incorporate full cutoff fixtures to reduce light pollution, utilizing fixtures meeting the criteria of the ISA International Dark Sky Association, and shielded from directing light on abutting properties.
- (e) **Major solar installation.** A major solar installation requires, in all zones, major land development approval from the planning board and a special use permit from the zoning board of review, pursuant to G.L. 1956, §45-23-61. The accompanying site plan review shall adhere to the development standards set forth in this section and the requirements of Sec.38-394 shall not be applicable. A major solar installation shall require a building permit prior to construction and adhere to the following:
- (1) **Design standards.**
 - a. Solar installation applications shall include: the proposed site layout and any landscape changes, a diagram of electrical components, a description of the major system components to be used, an operation and maintenance plan, an emergency response and training plan, a decommission plan, utility approval, proof of liability insurance, and the contact information for the project owner, the project operator and contractors.
 - b. Additional documents may be required by the Planning Board and/or by the Zoning Board of Review.
 - c. The planning board may waive requirements of the land development review process upon written request of the applicant at a pre-application meeting.
 - d. All solar panels and any casings or wiring shall not produce glare.
 - (2) **Land evidence records/Recording requirements.**
 - a. Any memorandum of lease, easement, or utility/distribution agreements and any amendments, modifications, and/or extensions to the same shall be submitted with the installation application and shall be recorded in the land evidence records in the Town of Foster after planning board and zoning board of review approvals.
 - b. A lien for the cost of decommissioning the solar installation in an amount equal to the surety decommission bond posted pursuant to Section (13) herein, Abandonment or Decommissioning shall be recorded in the Land Evidence Records against the parcel until such time at the solar installation is

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decommissioned.

(3) *Setbacks.*

- a. Solar installation setbacks shall be situated in a way that will completely obscure the development in all seasons from the road and all abutting properties using either terrain masking, undisturbed vegetation, and/or landscaped vegetation. The landscaped plan shall be approved by the Planning Board as referred to in subsection (5) herein, Landscaping Plan.
- b. Major solar installations shall at the minimum maintain a 100-foot setback from all adjacent property-lines and roadways. Landscaping in the Landscaping Plan may include this 100-foot setback.

(4) *Height.*

- a. Ground-mounted solar installations shall not exceed 12 feet in height.
- b. Roof-mounted solar installations shall not exceed the maximum height for the applicable zoning district.

(5) *Landscaping Plan.*

- a. Any landscaped vegetated buffer shall have staggered row plantings for viewshed masking from all adjacent properties and roadways, using a mix of at least 8 foot evergreens with complete understory vegetation coverage such as rhododendrons and other deer-resistant native plants.
- b. As part of the major land development process, a landscaping plan shall be prepared by a Rhode Island licensed landscape architect and approved by the Planning Board. Native pollinator-friendly seed mixes and native plants shall be used to the maximum extent possible. Said plan shall also specify the management of understory and naturally occurring vegetation, including a method that will not use chemicals or herbicides or harm water quality on- or off-site.
- c. A performance bond to cover the installation cost and maintenance expenses of the approved landscaping plan shall be required for a period of at least five (5) years after installation. The posting of said performance bond shall be required for the issuance of any building permit.
- d. Independent third-party cost estimates by a Rhode Island licensed landscape architect shall be submitted as part of the major land development process and the landscaping plan at the expense of applicant.
- e. The landscaping plan should show minimal re-grading, and limit removal of existing materials including topsoil.
- f. The removal of existing topsoil offsite is strictly prohibited.

(6) *Minimize clearing.*

Clearing shall be limited to only those area(s) that are necessary for the construction, operation and maintenance of the facility. Vegetative cover shall be maintained to prevent soil erosion.

(7) All installations shall be in compliance with the RI State Building Code and the RI State Electrical Code, and shall be subject to periodic inspections by the Foster Building Official. All relevant installation components must have an UL listing or equivalent.

(8) All electrical connection and distribution lines within the installation shall be underground or located entirely within a structure. Electrical equipment between the installation and the utility connection may be above-ground if required by the utility with approval by the Planning Board and Zoning Board.

(9) *Security fencing.*

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- a. A fence shall surround the perimeter of the installation of no less than eight feet in height and shall be black, green, brown, or another natural color that blends into the vegetative surroundings.
 - b. Barbed wire is prohibited.
 - c. The fence shall be at least four inches off the ground to allow small animals to pass underneath and be low enough to prohibit children from being stuck or going underneath the fence.
 - d. New fences shall be flagged to protect both the fencing and wildlife for at least six months.
- (10) *Emergency access.* Reasonable accessibility for emergency service vehicles shall be required along with a training plan for emergency responders.
- (11) *Signage.* No signs are allowed on the security perimeter fencing except to display the installation name, address and emergency contact information, and trespassing/warning/danger signs to ensure the safety of individuals who may come in contact with the installation. No sign shall exceed four square feet in area.
- (12) *Lighting.* All lighting shall be directed downward, and incorporate full cutoff fixtures to reduce light pollution, utilizing fixtures meeting the criteria of the ISA International Dark Sky Association, and shielded from directing light on abutting properties.
- (13) *Abandonment, or Decommissioning.*
- a. It is the responsibility of the parcel owner to remove all obsolete or unused systems within six months of cessation of operations. Reusable components are to be recycled whenever feasible.
 - b. Within six month after the removal of the solar installation system, the owner shall either plant a native species tree seedling for each solar panel removed or have a Planning Board approved development plan.
 - c. A surety bond to cover the cost of removal shall be required and shall be posted prior to the issuance of any building permits. The decommissioning bond shall not include offsets for recycling and/or sale of decommissioned parts. The decommissioning bond shall include the cost of purchase and planting tree seedlings for each solar panel in the installation. An Independent third-party cost estimate shall be submitted as part of the major land development process at the expense of applicant. A revaluation of decommissioning costs shall take place after ten (10) years with approval of the Planning Board. If an increase is needed, additional cash or surety will be required at that time.
 - d. As the decommission bond is posted via a surety bond, in the event ownership of the parcel and/or the solar installation is transferred or sold, it shall be the responsibility of the parcel owner to ensure that the posted decommissioning surety bond remains in full force and effect or that a new surety bond is issued in its place. In order to guarantee the continued viability of the surety bond, the parcel owner shall consent to the Town's recording of a lien against the parcel for the total decommissioning cost.
- (14) *Operation and maintenance plan.* Solar installations shall submit an operation and maintenance plan that details how the installation will be operated and maintained in good condition, at a minimum, shall address:
- a. Site access maintenance.
 - b. Vegetation management to maintain the required vegetated buffer and appropriate pollinator-friendly vegetative ground cover.
 - c. Equipment and fence maintenance.
 - d. Any other maintenance that may be needed to address Town requirements imposed due to unique site conditions.
 - e. Stormwater Management and Maintenance Plan will be required.
 - f. Use of dust suppressants on solar panels is strictly prohibited.

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(15) *Environmental Concerns.*

- a. Any applicant proposing a solar energy system that includes clearing more than 40,000 square feet of forested area shall assess the impacts of the forest loss and how the impacts can be mitigated. At a minimum, the following issues must be addressed: water quality, habitat, carbon sequestration and storage and adjacent properties.
- b. Any clearing or site work on a property occurring within two (2) years prior to the date of an application for a major solar installation shall be considered part of the major solar installation for the purposes of the foregoing analysis and findings.

(f) *Incentives.*

Pursuant to G.L. 1956, § 44-3-21, a property meeting the following criteria shall be exempt from tangible taxation, and such exemption shall be applied for, verified by, and filed with the town's tax assessor:

- (1) The additional cost or value of any solar installation which is being utilized as a primary or auxiliary power system for the sole purpose of supplying the energy needs of the property on which it is located.

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Town of Foster

Est. 1781

FOSTER PLANNING BOARD

Ronald Cervasio, Chairman
Foster Planning Board
181 Howard Hill Road
Foster, RI 02825

September 4, 2019

Denise DiFranco, President
Foster Town Council
181 Howard Hill Road
Foster, Rhode Island 02825

To Honorable Town Council President and Town Council:

The Planning Board has reviewed the Foster Zoning Ordinance 38-286 and determined an update was needed in the AR district to properly reflect decades of change in vehicle capacities and home based service business that constitute the primary source of income for so many of our Foster residents. Reference documents included Federal Highway Administration vehicle weight class and category, our own Zoning Ordinance 38-191 Table of Uses, and the existing Section 38-286 Off street parking requirements.

Therefore our Solicitor has prepared the following changes for your consideration.

Sec. 38-19. Table of uses

Transportation and Parking

2. Commercial off street parking facility: in AR would be changed from O to S*

*In an AR district, a commercial off street parking facility must be located on property which is in excess of ten (10) acres, and in no event shall be permitted on vacant land.

Sec. 38-286 Amended as follows:

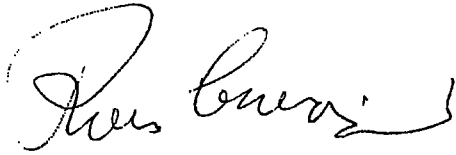
(d) in any AR district, the parking storage of commercial vehicles over 26,000 pound capacity and of commercial or house trailers (not including camping trailers) shall not be permitted except where such parking or storage is directly related to and is accessory to a permitted use or legal pre existing use.

(e) Effective (fill in date) in any AR district, the parking or storage of commercial vehicles under 26,000 pound capacity shall be permitted pursuant to the following conditions:

Foster Planning Board, Foster Town Hall, 181 Howard Hill Road, Foster, RI 02825
(Tel) 401-702-5012 (Fax) 401-702-5010

- 1) Only up to two such vehicle per property may be parked or stored;
- 2) The commercial vehicle must be duly registered, at all times bearing a valid license plate and visible registration sticker; and
- 3) The vehicle must be parked within the driveway, stored in a garage, or otherwise designated parking area as required by the off street parking requirements set forth in subsection(c) of this section, and at no time shall said commercial vehicle be parked or stored upon the roadway.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Carpenter". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Michael Carpenter, Planning Board Member
Ron Cervasio, Planning Board Chairman
Jennifer Siciliano, Town Planner

**ARTICLE IV. HAWKERS, PEDDLERS, MOBILE FOOD ESTABLISHMENTS AND
DOOR-TO-DOOR SALESPERSONS**

DIVISION I. GENERALLY

Sec. 12-136. Authority of article.

This article is enacted pursuant to the provisions of G.L. 1956, § 5-11-1.1 et seq. and § 5-11.1-1 et seq.

Sec. 12-137. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Door-to-door salespersons means persons who deliver goods, wares or merchandise to customers for which payment has already been made or is to be made at the time of delivery. Persons selling farm or garden produce, including flowers, and milkmen and persons selling works of art or crafts of their own making at any at or crafts show or exhibition are not deemed to be hawkers, peddlers, mobile food establishments or door-to-door salespersons.

Hawker means any person selling, or offering for sale, any goods, wares or merchandise whatsoever, including any food or beverage, on any public street, highway or public right-of-way in this town from a stationary location. Nonprofit farm cooperatives are subject to this definition and all related requirements under this article. A hawker's license(s) may be issued to the premises of a nonprofit cooperative agency, jointly with an applicant for the sale of vegetables, fruits and flowers. For any hawker license issued to a nonprofit farm cooperative, jointly with an applicant, the following shall apply:

- a. The applicant must be a Town resident;
- b. All items to be sold must be grown on the applicant's premises; and
- c. There shall be a maximum of two (2) licenses granted per nonprofit farm cooperative agency, per granted date(s).

Peddler means any person selling, or offering for sale, any goods, wares or merchandise whatsoever, from a vehicle, cart or any other conveyance which is not stationary.

Mobile food establishments (also referred to as "MFEs") means a food service operation that is operated from a movable motor-driven or propelled vehicle, portable structure, or water craft that can change location. "Mobile food establishments" specifically includes, but is not limited to, food trucks, food carts, ice cream trucks, ice cream carts, lemonade trucks, and lemonade carts. For the purposes of this ordinance, and as allowed by Chapter 11.1 of Title 5 of the Rhode Island General Laws, the following definitions shall apply:

- a. Mobile food establishment *Type A* means a mobile food establishment where food is prepared or reheated and sold from the movable motor-driven or propelled vehicle, portable structure, or water craft. Type A mobile food establishments are prohibited in areas zoned residential unless catering a private event. Type A mobile food establishments operating in all other areas are subject to all other subsections in this article.

- b. Mobile food establishment *Type B* means a mobile food establishment that sells prepackaged ice cream, ice cream products, and/or frozen lemonade from the movable motor-driven or propelled vehicle, portable structure, or water craft that can change location. Type B mobile food establishments are permitted in areas zoned residential for the duration of time necessary to complete the sale of said product. Type B mobile food establishments operating in all other areas are subject to all other subsections in this article.
- c. *Event permit* means a permit that the Town issues to the organizer of a public mobile food establishment event located on public property.
- d. *Mobile food establishment event* means an event where an individual has ordered or commissioned the operation of one or more mobile food establishments at a private or public gathering.
- e. *Mobile food establishment operator* or *operator* means a person or corporate entity that owns, manages, or controls, or has the duty to manage or control, the operation of a mobile food establishment.
- f. *Municipal mobile food establishment permit* means a permit issued by the Town to a mobile food establishment operator that possesses a current state mobile food establishment registration.

Sec. 12-138. Exemptions.

Persons selling religious books and publications on behalf of the Bible, tract or other religious or moral societies for the purpose of promoting religious or moral improvement, and which are sold for that purpose and not for pecuniary profit, are not deemed to be hawkers, peddlers or door-to-door salespersons. Persons peddling or selling any articles of wearing apparel manufactured with his own hands are not deemed to be hawkers, peddlers or door-to-door salespersons.

DIVISION 2. LICENSE*

Sec. 12-161. License required; application; duration; expiration date.

- A. Any person or entity desiring to sell or offer for sale any food, nonalcoholic beverages, goods, wares, merchandise, fruits, vegetables or other articles or substances on any street in the Town shall make an application to the Town Clerk for a license.
- B. Upon proper application, the Town Clerk may issue a license under this Article. The required application shall include:
 - (1) For Hawkers, Peddlers and/or Door-to-door salespersons:
 - a. The name of the business and its owner or owners, and mailing address of the business;
 - b. The goods and articles proposed to be sold;
 - c. The year, make, model, registration number, and proof of insurance for any vehicle to be used;
 - d. The days and hours during which the applicant wishes to operate;
 - e. Two (2) so-called "passport-size photographs" of the individual authorized to act under such license, one to be used on ID badge and one to remain with application; and
 - f. A valid Permit to Make Sales at Retail from the State Division of Taxation.
 - (2) For Mobile food establishments:
 - a. The name of the business and its owner or owners, and mailing address of the business; and

- b. A current State Mobile Food Establishment Certificate.
- C. Licenses issued shall state the period for which the license will be valid. The license shall include a start date and an end date, or if the application is for specific dates, the license shall state the specific dates. If an event permit is required, the event permit shall state each specific date the event permit is valid.

Sec. 12-162. License issuance; fees; limitations.

- A. No license shall be issued under this article until such time that the Town Clerk receives all necessary approvals.
- B. Licenses shall be issued by the Town Clerk under this article once Town Council approval has been obtained after a hearing and public notice given by publication of the application at least one (1) week prior to the date of the hearing. Any preconditions determined by the Town Council for a license application under this article must be satisfied prior to the license becoming active, and proof of completion of said preconditions must be furnished to the Town no later than fourteen (14) days prior to the start date listed on the license, unless otherwise stated in the Town Council's decision. Failure to provide proof of completion of preconditions in the aforementioned timeframe may be cause for the revocation or forfeiture of said license and fees.
- C. No license issued pursuant to this article shall be transferable to any person other than the individual to whom it was issued and named therein to act thereunder; provided, however a licensee may hire a driver and such driver may operate on the license so long as the driver is registered with the Town Clerk as the driver pertaining to said license.
- D. A separate license shall be required for each vehicle, cart or pushcart. Every licensee shall carry said license while engaged in sales and produce the same upon request by an official of the town or any other person making said request. Failure to do so may be cause for the revocation of such license.
- E. For Hawker, Peddler and door-to-door salesperson applicants, the Town Clerk shall, in addition to the license specified above, issue an identification badge containing one of the photographs of the authorized individual along with the effective dates on the license and other such information as the Town Clerk shall deem appropriate. Every licensee shall wear the identification badge issued by the Town Clerk while engaged in any activity related to this article. Such identification badge shall be worn so that it is clearly visible. Violation of this subsection shall be cause for the revocation of the license issued under this article.
- F. For Mobile food establishment applicants and/or organizers of an event and/or temporary mass gathering with one (1) or more mobile food establishments, the Town Clerk shall issue an event permit and/or a temporary mass gathering permit, as required by the Town Council.
 - (1) For any event where an event organizer has arranged for the operation of one (1) or more mobile food establishments at a gathering to be located on public property, the organizer shall obtain an event permit prior to the event.
 - i. A fee for this event permit shall be charged in accordance with subsection G of this Section.
 - ii. Application for events and event permits must be received no later than fourteen (14) days prior to the proposed event. If the event organizer has reason to believe the proposed event may fall within the provisions of a Temporary Mass Gathering, it shall be the sole responsibility of the event organizer to submit this application within the required time period outlined in subsection F(2) of this Section.

- iii. If the Town Council, during a hearing on one (1) or more mobile food establishment license related to the event, did not make a determination as to whether the permitted event is subject to a temporary mass gathering permit in addition to an event permit, the Town Clerk shall have the authority to require the event organizer to obtain a temporary mass gathering permit in addition to an event permit.
 - iv. All events shall be in accordance with all stipulations of this ordinance and any other land use or zoning ordinances of the Town.
 - v. Mobile Food Establishment Certificates for all mobile food establishments stated to be present at the event, must be submitted to the Town prior to the Town Clerk issuing an event permit. It is the responsibility of the event organizer to ensure that said certificates have been provided to the Town in accordance with this subsection.
- (2) For any event where an event organizer reasonable anticipates an assembly of 500 or more people at an event that is expected to continue for two (2) or more hours per day, or an event that requires a more extensive review to protect the public health and safety because the event's nature or conditions have the potential of generating environmental or health risks, the event organizer shall obtain a temporary mass gathering permit, in addition to an event permit, prior to the event.
- i. This includes, but is not limited to, "special events" as defined in the Food Code Regulations promulgated by the Rhode Island Department of Health, as well as festivals and concerts.
 - ii. This shall not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless said event is open to the public.
 - iii. A fee for this temporary mass gathering permit shall be charged in accordance with subsection G of this Section.
 - iv. Applications for temporary mass gathering permits must be received a minimum of thirty (30) days prior to the proposed event.
 - v. All events shall be in accordance with all stipulations of this ordinance and any other land use or zoning ordinances of the Town.
 - vi. If the Town Council, during a hearing on one (1) or more mobile food establishment license related to the event, did not make a determination as to whether the permitted event is subject to a temporary mass gathering permit in addition to an event permit, the Town Clerk shall have the authority to require the event organizer to obtain a temporary mass gathering permit in addition to an event permit.
 - vii. Mobile Food Establishment Certificates for all mobile food establishments stated to be present at the event, must be submitted to the Town prior to the Town Clerk issuing a temporary mass gathering permit. It is the responsibility of the event organizer to ensure that said certificates have been provided to the Town in accordance with this subsection.

G. The fees under this article shall be as follows:

- (1) Hawker, Peddler and Door-to-door salesperson applicants under this article shall pay a fee in the amount of \$50.00 at the time of application and said fee shall be retained by the Town whether such license is granted or denied. This fee applies to nonprofit farm cooperative agencies seeking hawkers' licenses.

- (2) Mobile food establishment applicants licensed under this article shall pay a fee for a Municipal Mobile Food Establishment Permit in an amount not to exceed \$75.00 at the time of application and said fee shall be retained by the Town whether such license is granted or denied.
 - (3) Mobile food establishment applicants required by the Town Council to obtain an event permit or an event permit and a temporary mass gathering permit shall pay an additional fee in an amount not to exceed \$300.00 and furnish proof thereof to the Town Council, a minimum of fourteen (14) days prior to the start date of the event as stated on the Municipal Mobile Food Establishment Permit. Failure to comply with the aforementioned timeframe may be cause for the revocation or forfeiture of said Municipal Mobile Food Establishment Permit and fees.
- H. There shall be limitations on the number of licenses the Town may grant under this article.
- (1) Those limitations shall be as follows:
 - i. There shall be a maximum of five (5) annual mobile food establishment licenses granted by the Town;
 - ii. There shall be a maximum of three (3) annual hawker licenses granted by the Town, however this limitation does not apply to hawker licenses granted to nonprofit farm cooperative agencies;
 - iii. There shall be a maximum of three (3) annual peddler licenses granted by the Town; and
 - iv. There shall be a maximum of three (3) annual door-to-door salesperson licenses granted by the Town.
 - (2) These limitations, and any reduction in the number of authorized licenses thereof, shall not be deemed to affect the right of any current license holder to continue to renew the license annually. All licensees who have obtained a license prior to the effective date of this section, shall be entitled to annually renew the license, notwithstanding the limitations set forth in this subsection, so long as the licensee complies with all other provisions of this article and any applicable regulations. Any licensee who fails to renew the license prior to its expiration date shall not be entitled to renew the license unless a license becomes available.
 - (3) The Town Clerk shall maintain a list of persons interested in obtaining annual licenses under this article, and upon the occurrence of a vacancy, shall notify the first name on the waiting list for the particular license that is available. If the individual notified fails to make an application, in accordance with this article, within fourteen (14) days of notification, the Town Clerk shall remove that name from the list and notify the next name on said list until an application is received.

Sec. 12-163. Rules and regulations; prohibitions.

- A. Mobile food establishments, Type A and Type B, shall be allowed to stop, with property owner permission and in consideration of all sections of this ordinance, for periods not to exceed four (4) hours, in all areas except residential neighborhoods.
- B. There shall be no solicitation of motor vehicles while a motor vehicle is stopped in traffic or stopped at a traffic light or intersection. All hawkers, peddlers, door-to-door salespersons, or mobile food establishments shall be prohibited from blocking any sidewalk, impeding the flow of traffic, and/or blocking traffic so as to create a traffic hazard.

- C. The Town Council shall have the right to deny, suspend and/or revoke any license issued pursuant to this ordinance, if the licensee violates the Town's land use regulations, zoning ordinances, or any other ordinances specific to said license.
- D. No licensee shall offer for sale at any Town-owned park or recreational area any food, goods and/or services without obtaining prior written approval from the Recreation Director, or any other Town-owned property without Town Council approval.
- E. No hawker, peddler, door-to-door salesperson or mobile food establishment shall stop and/or service customers within 100 feet of any establishment offer for sale similar goods or services.
- F. No hawker, peddler, door-to-door salesperson or mobile food establishment operator shall wear clothing that a reasonable person would consider to be suggestive and/or offensive to the community.
- G. No mobile food establishment operator licensed under this article, shall provide or allow the setup of any dining area, including, but not limited to tables, chairs, booths, benches, and/or standup counters, unless a proposal for such seating arrangement is submitted with the license application and approved by the Town Council.
- H. Mobile food establishment operators shall provide their consumers with single-use articles, such as plastic forks and/or paper plates, as well as provide a waste container for single-use article disposal.
- I. Mobile food establishment operators shall be responsible for the clean-up of all areas surrounding their authorized location; the authorized location shall be left in an equal or better condition than the mobile food establishment operator found it. Violation of this subsection may be cause for revocation of the operator's license.
- J. All hawkers, peddlers, door-to-door salespersons and mobile food establishment operators shall offer a waste container for customer use that shall be emptied and/or disposed of at the operator's expense.
- K. The Chief of Police may, from time to time, submit to the Town Council locations, public streets, highways or rights-of-way throughout the Town, which in the Chief's opinion, are rendered unsafe for the public welfare to allow the operation if hawkers, peddlers, or mobile food establishments because of traffic and congestion.
- L. In the interest of public welfare, all hawkers, peddlers, door-to-door salespersons and mobile food establishments are prohibited from operating and selling or displaying goods at the following locations:
 - (1) At the intersection of Route 6 and Route 94;
 - (2) In front of the Captain Isaac Paine School; and
 - (3) In front of the Phillips Recreational Field.
- M. Restrictions of licensees to conduct sales:
 - (1) No hawker, peddler, door-to-door salesperson or mobile food establishment activity, pursuant to this article, shall be permitted anywhere in the Town, except between the hours of 9:00 A.M. and 8:00 P.M. in residential districts and between the hours of 9:00 A.M. and 9:00 P.M. in business, industrial and/or commercial districts, however, food, beverages and/or other products for immediate human consumption may be sold between the hours of 7:00 A.M. and 9:00 P.M. Exceptions to this subsection may only be granted by the Recreation Director or the Town Council.
 - (2) No hawker, peddler, door-to-door salesperson or mobile food establishment operator shall attempt to conduct sales by means of loudspeaker, voice amplification system and/or electronic noise making device, intended to attract public attention.

- (3) No hawker, peddler, door-to-door salesperson or mobile food establishment operator may create or maintain activities which would be considered a nuisance pursuant to Section 18-1 *et seq.* of the Foster Town Ordinances.
- N. No mobile food establishment shall be parked on a public street overnight, or on a private street without permission, or left unattended and unsecured on a public street at any time, or on a private street without permission. Any mobile food establishment which is found to be unattended on a public street, or on a private street without permission, shall be considered a public safety hazard and may be ticketed or impounded.

Sec. 12-164. License expiration; revocation and suspension; violations; penalties.

- A. Expiration of licenses:
 - (1) All licenses granted to hawkers, peddlers and door-to-door salespersons shall expire on the date stated on the license issued by the Town Clerk.
 - (2) All municipal mobile food establishment licenses shall expire on the same date as the mobile food establishment's state registration.
 - (3) Nothing in this subsection prevents any license from being revoked, suspended and/or forfeited for violation of the provisions of this article or for other good cause, as determined by the Town Council.
- B. The Town Council has the authority to revoke and/or suspend licenses granted under this article:
 - (1) Licenses issued under this article may be revoked or suspended for good and just cause;
 - (2) The Town council shall give at least one (1) week notice to the licensee of a hearing on the revocation or suspension of said licensee's license;
 - (3) Notice shall be given to licensee *via* certified mail to the address provided on the licensee's application;
 - (4) The notice shall include a short and concise statement of the alleged good and just case for the suspension and/or revocation; and
 - (5) After the hearing, the Town Council may revoke the license upon finding of good and just cause for the revocation.
 - (6) Nothing in this subsection shall limit and or prohibit a licensee whose license has been revoked or suspended from properly appealing the Town Council's decision in accordance with the General Laws of Rhode Island 1956, as amended.
- C. Violations
 - (1) Any hawker, peddler or door-to-door salespersons, licensed under this article, who neglects or refuses to wear the identification badge as specified in Section 12-162E, while engaged in an activity regulated by this article, may have said license revoked or suspended.
 - (2) This subsection does not negate, limit and/or otherwise affect any violations and/or penalties, listed in other sections and/or subsections of this article.

Sec. 12-164. Unlicensed sales.

- A. Any individual selling any goods, services, food, beverages, and/or merchandise in the Town of Foster in violation of this article, upon conviction, shall be fined and/or imprisoned in accordance with Section 1-7 of the General Provisions of the Foster Town Code, provided, however, that no person shall be fined in excess of \$200 or imprisoned more than ten (10) days for said violation.