

E. New Business

ORDINANCE NO. _____
AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VIII – LAND DEVELOPMENT PROJECTS

Sec 38-239: Adaptive Reuse – Nonconformance shall be added to come into compliance with RIGL:

a. For adaptive reuse projects, existing building setbacks shall remain and shall be considered legal nonconforming, but no additional encroachments shall be permitted into any nonconforming setback, unless relief is granted by the planning board. Encroachments may be permitted into a setback by relief granted by the planning board in projects where the footprint is expanded to accommodate upgrades related to the building and fire codes and utilities. See Sec. 38-239.

b. For adaptive reuse projects, notwithstanding any other provisions of this chapter, the height of the existing structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legal nonconforming, and any rooftop construction shall be included within the height exemption. See Sec. 38-239.

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AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VI – SUPPLEMENTARY REGULATIONS

- Sec 38-282: Development standards for accessory family dwelling units shall be amended to come into compliance with RIGL:

Sec. 38-282. - Development standards for accessory family dwelling units.

Attached a Accessory apartments dwelling units (ADU) will be are allowed permitted for parents and in-law parents or grandparents of the occupant or occupants of the principal residence as a means of increasing affordable housing. The units may take various forms including but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling. These units may be no more than 6900 square feet. As a site plan for an accessory dwelling unit shall be submitted according to the standards required for a residential building

permit. OWTS systems shall be upgraded to meet the requirements for bedrooms if necessary based on a system suitability determination (SSD), ~~condition for obtaining a A~~ zoning certificate shall be issued and building permit for a structure with a one bedroom, family apartment in accordance with section 38-192 under residential uses, the applicant for the permit shall be issued upon approval of the site plan by the town's building official ~~sign a statement agreeing to this restriction, for use by family members only, which agreement shall be recorded in the land evidence records of the town at the expense of the applicant, and which agreement shall run with the land so as to be applicable to and binding upon subsequent owners and shall be enforceable against the applicant, his heirs, devisees, successors and assigns.~~ Accessory dwelling units shall be permitted in all districts permitting residential uses. One parking space shall be required in addition to the parking requirements existing for the single or multi family residence on which the lot is shared with the accessory dwelling unit.

Residential Uses	AR	NC	GBM	MH	R-SC	M	HC2
2. <u>Accessory family dwelling unit (ADU) for the sole use of one or more members of the family of the occupant or occupants of to the principal residence, but not needing to have a separate means of ingress or egress. Forms include but are not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary</u>	X	Ø	<u>SX</u>	Ø	Ø	O	<u>X</u>

dwelling. (See section 38-282 for further requirements)								
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ORDINANCE NO. _____
 AN ORDINANCE IN AMENDMENT TO
 THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VII – SPECIAL USE PERMITS AND VARIANCES

Sec 38-321: Procedure generally shall be amended to come into compliance with RIGL. Article VII – Special Use Permits and Variances shall be amended to come into compliance with RIGL:

ARTICLE VII. – SPECIAL USE PERMITS, MODIFICATIONS AND VARIANCES

Sec. 38-321. - Procedure generally and issuance of modifications.

(a) An application for a variance for relief from the literal requirements of a zoning ordinance because of hardship, ~~or~~ an application for a special-use permit, or an application for a modification, may be made by any person, group or agency by filing with the ~~zoning official~~ Administrative officer an application describing the request and supported by such data and evidence as may be required by the zoning board of review, planning board or by the terms of this chapter. In filing for an appeal, variance, ~~or~~ special-use permit, or modification, the applicant, in addition to filing plans and specifications, shall accompany the request with ~~a list of property owners within 200 feet of the property in question and with~~ a filing fee of \$100.00, payable to the town. A list of property owners within 200 feet of the subject property shall accompany the filing fee on all applications under this section. The ~~zoning official~~ administrative officer shall immediately transmit each application received to the zoning board of review and shall transmit a copy of each application to the planning board.

(b) The zoning board of review ~~shall request on applications for special-use permits and~~ may request on applications for relief from the literal requirements of this chapter an advisory opinion and recommendations from the planning board or technical review committee. ~~If requested,~~ the planning board or technical review committee shall report its findings and recommendations, including a statement on the general consistency with the ~~goals and purposes of the comprehensive plan~~ general purpose and intent of this chapter to the zoning board of review within 30 days of the receipt of the application from that board. The planning board shall request on applications for special-use permits an advisory opinion and recommendations from the technical review committee. The technical review committee shall report its findings and recommendations, including a statement on the general consistency with the general purpose

and intent of this chapter to the planning board within 30 days of the receipt of the application from that board.

(c) The zoning board or planning board on applications filed under Sec. 38-325 and 32-46 shall hold a public hearing on any application for variance or special-use permit in an expeditious manner, after receipt, in proper form of an application, and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general local circulation. Notice of hearing shall be sent by certified first-class mail to the applicant, and to at least the abutting owners within 200 feet of the property in question and other interested parties. This notification shall include the road address of the subject property. All notification costs are to be borne by the applicant. Any party may appear at the hearing in person, by agent or by attorney.

(d) Modifications.

(1) Modifications defined. A modification is permission granted and administered by the zoning-enforcement officer, pursuant to the provisions of this chapter to grant a dimensional variance other than lot area requirements. Modifications shall not exceed twenty-five percent (25%) of each of the applicable dimensional requirements listed in Sec 38-192.

(2) Amount of relief qualifying as a modification. Modifications from the literal dimensional requirements of the zoning ordinance in the instance of construction, alteration, or structural modification of a structure or lot of record. The zoning-enforcement officer is authorized to grant modification permits. Modifications up to 25% of the dimensional requirements specified in Sec. 38-192 are authorized to be granted by the zoning-enforcement officer. A modification does not permit moving of lot lines.

(3) Decision. Within ten (10) days of the receipt of a request for a modification, the zoning-enforcement officer shall make a decision as to the suitability of the requested modification based on the following determinations:

- a. The modification requested is reasonably necessary for the full enjoyment of the permitted use;
- b. If the modification is granted, neighboring property will neither be substantially injured nor its appropriate use substantially impaired;
- c. The modification requested does not require a variance of a flood hazard requirement, unless the building is built in accordance with applicable regulations; and
- d. The modification requested does not violate any rules or regulations with respect to freshwater or coastal wetlands.

(4) Modifications of five percent (5%) or less. Upon an affirmative determination, in the case of a modification of five percent (5%) or less, the zoning enforcement officer shall have the authority to issue a permit approving the modification, without any public notice requirements.

(5) Modifications greater than five percent (5%). In the case of a modification of greater than five percent (5%), the zoning enforcement officer shall notify, by first class mail, all property owners abutting the property which is the subject of the modification request, and shall indicate the street address of the subject property in the notice, and shall publish in a newspaper of local circulation within the city or town that the modification will be granted unless written objection is received

within fourteen (14) days of the public notice. If written objection is received within fourteen (14) days, the request for a modification shall be scheduled for the next available hearing before the zoning board of review on application for a dimensional variance following the standard procedures for such variances, including notice requirements provided for under this section. If no written objections are received within fourteen (14) days, the zoning-enforcement officer shall grant the modification. The zoning-enforcement officer may apply any special conditions to the permit as may, in the opinion of the officer, be required to conform to the intent and purposes of the zoning ordinance. The zoning enforcement officer shall keep public records of all requests for modifications, and of findings, determinations, special conditions, and any objections received. Costs of any notice required under this subsection shall be borne by the applicant requesting the modification.

(e) Applications requesting Land Development or Subdivision approval. Applications for variance(s) and special-use permit(s) requesting Land Development or subdivision approval shall be heard by the Planning Board pursuant to 38-325 and 32-46.

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THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VII – SPECIAL USE PERMITS AND VARIANCES

Sec 38-322: Applicability of article shall be amended to come into compliance with RIGL:

The zoning board of review or the planning board may grant a special-use permit or variance for relief from the literal requirements of this chapter, following site-in conjunction with formal development plan review by the planning board or administrative development plan review by the administrative officer, in accordance with the procedures and standards set forth in article IX of this chapter, for any use or structure designated as a special-use permit or designated as permitted, requiring development plan review in article IV of this chapter or elsewhere in this chapter. The planning board is authorized to grant applications for relief from the literal requirements of this chapter where that application requires approval as a land development or subdivision under chapter 32. Nothing in this section shall be construed to limit the zoning board of review's ability to grant variances or special-use permits not requiring subdivision, development plan review or land development review.

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IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VII – SPECIAL USE PERMITS AND VARIANCES

Sec 38-324: Issuance of variances and special use permits shall be amended to come into compliance with RIGL:

Sec. 38-324. - Issuance of variances and special-use permits.

(a) *Application.* An application for relief from the literal requirements of this chapter because of hardship or an application for a special-use permit may be made by any person, group or agency by filing with the ~~zoning official~~ administrative officer an application describing the request and supported by such data and evidence as may be required by the zoning board of review or by the terms of this chapter. In filing for an appeal, variance, ~~or~~ special-use permit, or modification, the applicant, in addition to filing plans and specifications, shall accompany the request with ~~a list of property owners within 200 feet of the property in question and with~~ a filing fee of \$100.00, payable to the town. A list of property owners within 200 feet of the subject property shall accompany the filing fee on all applications under this section. The ~~zoning official~~ administrative officer shall immediately transmit each application received to the zoning board of review and shall transmit a copy of each application to the planning board.

(b) *Procedure.* The zoning board of review shall request on applications for special use permits, and may request on applications for relief from the literal requirements of this chapter, an advisory opinion and recommendations from the planning board or technical review committee. ~~If requested,~~ ~~the~~ planning board or technical review committee shall report its findings and recommendations, including a statement on the general consistency with the goals and purposes of the comprehensive plan to the zoning board of review within 30 days of the receipt of the application from that board.

(c) *Public hearing and notice.* The zoning board or the planning board on applications filed under 38-325 and 32-46 shall hold a public hearing on any application for variance in an expeditious manner, after receipt, in proper form of an application, and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation. Notice of hearing shall be sent by first class mail to the applicant, and to at least the abutting owners within 200 feet of the property in question and other interested parties. This notification shall include the road address of the subject property. All notification costs are to be borne by the applicant. Any party may appear at the hearing in person, by agent or by attorney.

(d) *Standards for relief.* Standards for relief are as follows:

(1) *Variance.* In granting a variance, the board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

a. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in 45-24-30(a)(16).

b. The hardship is not the result of any prior action of the applicant ~~and does not result primarily from the desire of the applicant to realize greater financial gain.~~

c. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.

~~d. The relief to be granted is the least relief necessary.~~

ed. The zoning board of review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

1. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

2. In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, ~~which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property meaning that the relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted.~~ The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. The zoning board of review, or the planning board under 38-325 and 32-46 has the power to grant dimensional variances where the use is permitted by development plan review.

(2) Special use permit. In granting a special use permit, the ~~zoning board of review~~ planning board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. The special use is specifically authorized by this chapter.
- b. The special use meets all of the criteria set forth in the sections of this chapter authorizing such special use.
- c. The granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter ~~or the comprehensive plan of the town.~~

(e) *Special conditions.* In granting a variance or special-use permit, or in making any determination upon which it is required to pass after public hearing under this chapter, the board may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of ~~the comprehensive plan of the town and~~ this chapter. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, shall be incorporated into the decision, and may include, but are not limited to, provisions for:

- (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;
- (2) Controlling the sequence of development, including when it must be commenced and completed;
- (3) Controlling the duration of use or development and the time within which any temporary structure must be removed;
- (4) Ensuring satisfactory installation and maintenance of required public improvements;
- (5) Designating the exact location and nature of development; and
- (6) Establishing detailed records by submission of drawings, maps, plats or specifications.

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THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VII – SPECIAL USE PERMITS AND VARIANCES

Secs. 38-325—38-355. – Reserved. shall be amended to come into compliance with RIGL:

Sec. 38-325. – Unified Development Review

(a) Unified development review established. Review and decision on variances and special use permits for properties undergoing land development or subdivision review, which qualifies for unified development review by the planning board, be conducted and decided by the planning board. This process is to be known as unified development review.

(b) Application and review process. The application and review process for applications qualifying for unified development review shall be conducted as follows pursuant to Sec. 32-46:

1. Generally. Review of projects submitted under unified development review shall adhere to the procedures, timeframes and standards of the underlying category of the project as listed in § 45-23-36, but shall also include the following procedures:

2. Minor subdivisions and land-development projects. Except for dimensional relief granted by modification as set forth in Sec. 38-321, requests for variances and special use permits related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special use requests that meet the requirements of subsection (7) of this section shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.

3. Development plan review. Except for dimensional relief granted by modification as set forth in Sec. 38-321, requests for variances and/or special-use permits related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review. A public hearing on the application, including any variance and special use-permit requests that meets the requirements of subsection (7) of this section shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve or deny the request(s) for the variance(s) and or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.

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4. Major subdivisions and land-development projects – Master plan. Except for dimensional relief granted by modification as set forth Sec. 38-321, requests for variances and/or special-use permit(s) related to major subdivisions and land-development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (7) of this section, shall be held prior to consideration of the master plan by the planning board. The planning board shall conditionally approve or deny the requests for the variance(s) and/or special use permit(s) before considering the master plan application for the major subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project.

5. Major subdivision and land-development projects – Preliminary plan. During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special-use permit(s) granted by the planning board during the master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage a public hearing on the application, that meets the requirements of subsection (7) of this section, shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve, amend, or deny the requests for alteration(s) and/or new variance(s) and/or new special-use permit(s), before considering the preliminary plan application for the major subdivision or land-development project. Approval of the alteration(s) and/or new variances, and/or new special-use permits shall be conditioned on approval of the final plan of the major subdivision or land-development project. If the planning board denies the request for alteration(s), variance(s), and/or new special-use permit(s), the planning board shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the planning board denies the request for alteration(s), new variance(s) and/or new special-use permit(s), the applicant may consent to an extension of the decision period mandated by 45-23-41(f) so that additional information can be provided and reviewed by the board or commission.

6. Decision. The time periods by which the planning board must approve or deny applications for variances and special-use permits under the unified development review provisions shall be the same as the time periods by which the board must make a decision on the applicable review stage of the category of project under review. In granting requests for dimensional and use variances, the planning board shall be bound to the requirements of § 45-24-41 relative to entering evidence into the record in satisfaction of the applicable standards. In reviewing requests for special-use permits, the planning board shall be bound to the conditions and procedures under which a special-use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance pursuant to RIGL 45-24-42, and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to RIGL 45-24-42.

7. Public hearing. Unless otherwise provided in this chapter or in chapter 32, all applications under this section or Sec. 32-46 shall require a single public hearing, held pursuant (b) of this section. The public hearing must meet the following requirements:

- a. Public hearing notice shall adhere to the requirements found in § 45-23-42(b).

b. The notice area for notice of the public hearing shall, at a minimum, include all property located in or within not less than two hundred feet (200') of the perimeter of the area included in the subdivision and/or land-development project. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if: (1) The notice area extends into the adjacent municipality; or (2) The development site extends into the adjacent municipality; or (3) There is a potential for significant negative impact on the adjacent municipality. Additional notice within watersheds shall also be sent as required in § 45-23-53(b) and (c).

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c. Public notice shall indicate that dimensional variance(s), use variance(s) and/or special-use permit(s) are to be considered for the subdivision and/or land-development project.

d. The cost of all public notice is to be borne by the applicant.

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8. Time periods. The time periods by which the planning board must approve, approve with conditions or deny the requests for variances and special-use permit(s) under the unified development review provisions of chapter 38 shall be the same as the time periods by which the board must make a decision on the applicable review stage of the underlying type of project under review as found in chapter 32.

9. Expiration of approval. The expirations period of an approval of a variance or special-use permit granted under this section shall be the same as those set forth in the statute for the underlying type of project under review.

10. Appeal. Decisions under this section, including requests for the variance(s) and/or special-use permit(s) that are denied by the planning board may be appealed pursuant to 45-24-69.

Sec. 38-359 Land Development Projects

(a) All applications under the provisions of article V or article VI of chapter 32 shall be reviewed in accordance with the procedures established by chapter 23 of this title, including those for appeal and judicial review, and with any ordinances or regulations adopted pursuant to the procedures, whether or not the land development project constitutes a "subdivision", as defined in chapter 23 of title 45.

(b) No land development project shall be initiated until a plan of the project has been submitted and approval has been granted by the planning board or administrative officer. In reviewing, hearing, and deciding upon a land development project, the planning board or administrative officer is empowered to allow zoning incentives within the project as are described in this section and is empowered to apply any special conditions and stipulations to the approval that may, in the opinion of the planning board or administrative officer, be required to maintain harmony with neighboring uses and promote the objectives and purposes of the zoning ordinance.

(c) Additionally, all developments of residential structures having more than one (1) dwelling unit and subdivisions involving creation or road extension shall be regulated by the regulations found in subsection (d) of this section.

(d) Regulations:

1. Permitted uses within a land development. Permitted uses within a planned minor or major land development for LMI housing or age restricted housing

a. Multifamily structure(s) and several accessory uses will be permitted. "Accessory uses" may include indoor and outdoor parking facilities and most ordinary residential uses, office uses, restaurant and entertainment uses, commercial uses, wholesale business and storage, industrial uses, home occupations and, professional offices.

2. Number of commercial uses – Planned developments. There shall not be more than 5 commercial uses in any planned development.

3. Roads. After January 1, 2024 all roads created or extended by subdivision shall be privately created, owned and maintained unless a fee is paid annually to the Department of Public Works.

4. Parking – Residential. One (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. A dwelling unit with more than two bedrooms shall have more than one (1) off-street parking space

(e) Density Bonuses:

1. For senior citizen group dwellings, the maximum building height shall be 3 stories or 30 feet with one story (or the equivalent number of units of one story) being LMI units.

2. For senior citizen group dwellings, located on properties which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the maximum building coverage shall be increased to 25 percent of the lot size in any district where the use is permitted if any unit in the development is an LMI unit, or the maximum building coverage shall be afforded the density bonus per acre listed in Sec. 32-316 (2)(3)(4), whichever is greater.

3. Multi-unit structures shall be allowed a density bonus of up to a maximum of eight (8) bedrooms per acre for LMI housing as approved by RI DEM based on the soils. See Sec. 32-316.

4. For residential compounds, a compound shall include not more than three single-family dwelling units having frontage in common on a public or private road or roads and sharing a driveway held in common. Two additional units that meet the definition of LMI may be added for a total of five units within the compound.

(f) Standards for granting. The planning board or administrative officer must find the following:

(1) The uses will comply with all applicable requirements and development and performance standards set forth in articles VI and IX of this chapter.

(2) The uses will be in harmony with the general purpose and intent of this chapter and the comprehensive plan of the town.

(3) The granting of the land development project will substantially serve the public convenience and welfare.

(4) The use or uses within a planned development or land development project will not result in or create conditions inimical to the public health, safety, morals and general welfare.

(5) The use or uses within a planned development or land development project will not substantially or permanently injure the appropriate use of surrounding property.

(6) In addition to the above, the planning board or administrative officer shall consider:

a. Access to air, light, views and solar access;

b. Public access to waterbodies, rivers and streams; and

c. The conservation of energy and energy efficiency.

(g) Land development project standards. In granting a land development project, the planning board or administrative officer shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

a. The land development is specifically authorized by this chapter and chapter 32.

b. The special use meets all of the criteria set forth in the sections of this chapter and chapter 32 authorizing land development.

c. The granting of the land development will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan of the town.

(h) Special conditions. The planning board or administrative officer shall be empowered to apply any special conditions and stipulations to the approval that may, in the opinion of the planning board or administrative officer, be required to maintain harmony with neighboring uses and promote the objectives and purposes of this chapter or chapter 32. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, shall be incorporated into the decision, and may include, but are not limited to, provisions for:

(1) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;

(2) Controlling the sequence of development, including when it must be commenced and completed;

(3) Controlling the duration of use or development and the time within which any temporary structure must be removed;

(4) Ensuring satisfactory installation and maintenance of required public improvements;

(5) Designating the exact location and nature of development; and

(6) Establishing detailed records by submission of drawings, maps, plats or specifications.

(i) Extension or enlargement. The planning board may not extend or enlarge a land development project approval except by granting a new land development project approval.

(j) Dedication of open space for public or common use. The land need as defined in 32-110 shall be reduced to half of the Town's 1994 land need where open space is to be permanently set aside for public or common use. In major and minor land developments, one additional (1) dwelling unit shall be permitted within the development as would be otherwise required based on the minimum lot sizes found in Sec. 38-281. If the development contains 25% or more LMI units, it shall adhere to the density bonuses set forth in Sec. 32-316. In major and minor subdivisions, the minimum lot frontage shall be reduced to 200 feet where open space is to be permanently set aside for public or common use.

(k) Options for open space for public or common use. Open space within a land development project for public or common use shall:

1. Be conveyed to the city or town and accepted by it for park, open space, agricultural, or other specified use or uses, or
2. Be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection, or
3. Be conveyed to a corporation or trust owned or to be owned by the owners of lots or units within the development, or owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with conveyances of the lots or units, or

(l) Land dedicated for public or common use not dedicated to the Town. In any case where the land is not conveyed to the city or town:

1. A restriction, in perpetuity, enforceable by the town or by any owner of property in the land development project in which the land is located shall be recorded providing that the land is kept in the authorized condition(s) and not built upon or developed for accessory uses such as parking or roadway; and
2. The developmental rights and other conservation easements on the land may be held, in perpetuity, by a nonprofit organization, the principal purpose of which is the conservation of open space or resource protection.
3. All open space land provided by a land development project shall be subject to a community approved management plan that will specify the permitted uses for the open space.

(m) Applications requesting relief from the zoning ordinance. Applications requesting relief from the zoning ordinance in the form of a special-use permit or a variance shall be reviewed by the planning board, pursuant to Sec. 32-46 and Sec. 38-325.

(n) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

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IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VIII – LAND DEVELOPMENT PROJECTS

Sec 38-360: Adaptive Reuse shall be added to come into compliance with RIGL:

38-360 - Adaptive Reuse.

Pursuant to RIGL 45-24-37(h), notwithstanding any other provisions of this chapter, adaptive reuse for the conversion of any commercial building, including offices, schools, religious facilities, medical buildings, and malls into residential units or mixed use developments which include the development of at least fifty percent (50%) of the existing gross floor area into residential units, shall be a permitted use, except where such reuse is prohibited by environmental land use restrictions recorded on the property by the state of Rhode Island department of environmental management or the United States Environmental Protection Agency preventing the conversion to residential use.

1. *Parking.* Adaptive reuse developments shall require one parking space per dwelling unit.

2. *Density.* For projects that meet the following criteria, high density development is permitted. Fifteen (15) dwelling units per acre shall be permitted:

a. Where the project is limited to the existing footprint, except that the footprint is allowed to be expanded to accommodate upgrades related to the building and fire codes and utilities; and

b. The development includes at least twenty percent (20%) low- and moderate-income housing; and

c. The development has access to adequate private water, such as a well and/or wastewater treatment system(s) approved by the relevant state agency for the entire development as applicable.

3. *Density for developments not meeting the above criteria.* For all other adaptive reuse projects, the residential density permitted in the converted structure shall meet the density requirements set forth in Sec. 38-281, or the dimensional requirements set forth for a single family residence in the district in which the property is located, whichever is applicable. The converted structure shall have access to adequate private water, such as a well, and wastewater treatment system(s) approved by the relevant state agency for the entire development, as applicable. The density proposed shall be determined to meet all public health and safety standards.

4. Nonconforming provisions.

a. Notwithstanding any other provisions of this chapter, for adaptive reuse projects, existing building setbacks shall remain and shall be considered legal nonconforming, but no additional encroachments shall be permitted into any nonconforming setback, unless relief is granted by the planning board. Encroachments may be permitted into a setback by relief granted by the planning board in projects where the footprint is expanded to accommodate upgrades related to the building and fire codes and utilities. See Sec. 38-239.

b. For adaptive reuse projects, notwithstanding any other provisions of this chapter, the height of the existing structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legal nonconforming, and any rooftop construction shall be included within the height exemption. See Sec. 38-239.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE IX – SITE PLAN REVIEW

Sec 38-395: Administrative development plan review for commercial and industrial development shall be added to come into compliance with RIGL:

ARTICLE IX. – SITE PLAN REVIEW

Sec. 38-395. Administrative Development Plan Review for commercial and industrial development

(a) Purpose. The purpose of this section is to ensure the orderly development and integration of commercial, industrial and institutional projects into the community; provide for erosion control and stormwater management; prevent surface water and groundwater pollution; minimize traffic hazards; mitigate nuisances caused by noise, dust or lights; and protect and enhance the ecology and physical appearance of the community.

(b) Review of plan required. Administrative Development Plan Review applications shall be reviewed by the administrative officer. Except for commercial expansion and/or construction which is reviewed under the provisions of Sec. 32-161(b) and except for any enlargement in size of any

building or change in use or actual use of any building including accessory structures which is reviewed by the planning board under Sec. 38-394, no zoning certificate or building permit shall be issued for any enlargement in size of any building or change in use or actual use of any building including accessory structures until a site plan review of the proposed enlargement or change of use has been conducted by the administrative officer. Development plan review is not required for repairs or alterations to existing buildings or structures, provided that such work does not increase the floor area of any building or structure and does not change the actual use thereof. As part of the Administrative Development Plan Review process, the design of proposed buildings may be reviewed to determine compatibility with the site and with the Town's comprehensive plan.

(c) Meeting with town planner. Prior to submission of the formal plan, an applicant for Administrative Development Plan review shall make an appointment to meet with the town planner to confirm the need for such review, and for informal discussion of the project and site review application requirements and procedure.

(d) Site plan requirements. All site plans shall be prepared by a registered architect or engineer. Six copies of the site plan, drawn at a scale no smaller than one inch equals 40 feet, shall be submitted showing the following information unless waived by the administrative officer.

(1) Name of the proposed development and names and addresses of the developer and property owners, name of the registered architect or engineer designing the plan and his stamp of registration.

(2) Locus map at a scale of one inch equals 1,000 feet.

(3) Date, north arrow, graphic scale, contours at two-foot intervals and where slopes are three percent or less at one-foot contour intervals.

(4) Boundary line, dimensions, zoning classification and area of lot or tract; abutting property owners within 400 feet; and lot and plat numbers.

(5) Location and general exterior dimensions of existing structures and signs.

(6) Existing and proposed sewers, water mains, culverts and other underground appurtenances within and adjacent to the lot or tract, pipe sizes, grades, manholes and locations.

(7) Distance on all sides between buildings and property lines as measured on the site.

(8) Building use including number of employees and/or number of units; e.g., beds, offices and/or employees.

(9) Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays and angle of parking.

(10) Location, arrangement and dimensions of off-street loading spaces.

(11) Location and dimensions of vehicular drives; entrances and exits; acceleration and deceleration lanes; and location and dimension of pedestrian entrances, exits, walks and walkways.

(12) Location, widths and names of all existing or prior platted roads, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements, and section and municipal boundary lines, within 400 feet of the development.

(13) Method of solid waste disposal and screening of refuse areas.

(14) Location, type, intensity of illumination and height of all outdoor lighting fixtures.

(15) Location and exterior dimensions of proposed principal and accessory buildings and signs.

(16) Finished grades, slopes, banks and ditches.

(17) Landscaping retained and created showing botanical name, location and approximate size of plantings and screen plantings.

(18) Location, height and materials of walls and fences.

(19) An architectural rendering of plans or building elevations indicating exterior building design.

(20) Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure.

(21) The stages, if any, to be followed in the construction of the development, if it is to be developed in sections.

(22) Accompanying information shall include:

a. Soil erosion and stormwater runoff control plans in accordance with the erosion and sediment control regulations of chapter 26.

b. A report by the state department of environmental management as to the suitability of the soil and design of individual sewage disposal.

c. Location and extent of any wetlands and approval of state agencies for alteration of, or construction within, wetland areas, determination of special flood hazard requirements.

d. Summary of existing and proposed easements, restrictions and covenants placed on the property.

(e) Applications requesting relief from the zoning ordinance.

(i) Applications under this chapter which require relief which qualifies only as a modification under Sec. 38-321 shall proceed by filing an application under this section and a request for a modification to the zoning-enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received as set forth in Sec. 38-321, such application shall proceed under

unified development plan review pursuant to Sec. 38-325 and Sec. 32-46 and shall be elevated to Formal Development Plan Review.

(ii) Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special-use permit, shall be reviewed by the planning board under unified development plan review pursuant to Sec. 38-325 and Sec. 32-46, and shall be considered Formal Development Plan Review applications, not to be reviewed under this section.

(f) Certification. The application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days or within fifteen (15) days if no street creation or extension is required, and/or unified development review is not required, according to the provisions of § 45-23-36(b). The running of the time period set forth in this section will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(g) Review stages – Administrative Development Plan review. Administrative development plan review consists of one stage of review. The review shall be limited to the site plan requirements listed in subsection (d) of this section and the performance standards listed in subsection (i) of this section. The administrative officer shall only be authorized to grant waivers from these two subsections if the requirements listed in either of these subsections are deemed by the Technical Review Committee to not be relevant to the application.

(h) Timeframes for decision. An application shall be approved, denied, or approved with conditions within twenty-five (25) days of the certificate of completeness or within any further time that is agreed to in writing by the applicant and administrative officer.

(i) Failure to act. Failure of the administrative officer to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the application.

(j) Vested rights. Approval of development plan review shall expire two (2) years from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording as specified in Sec. 32-48. Validity may be extended for an additional period upon application to the administrative officer, upon a showing of good cause. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

(k) Modifications and changes to plans.

(1) Minor changes, which shall be limited to changes made in correction of error on the Administrative development plan or changes requested by the administrative officer or, if referred to by the administrative officer, the technical review committee or planning board on the Administrative Development plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without a planning board meeting, at the discretion of the administrative

officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the technical review committee or planning board. Denial of the proposed change(s) shall be referred to the planning board for review as a major change. A major change may only be approved by the planning board.

(2) Major changes shall include any change exceeding a minor change to an Administrative Development Plan. Major changes may be approved only by the Planning Board and must follow the same review and hearing process required for approval of preliminary plans, which shall include a public hearing. A major change does not elevate an Administrative Development Plan Application to Formal Development Plan status.

(3) The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer determines that there has been a major change to the approved plans.

(1) Performance standards. The following criteria are to be used by the planning board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless, in the judgment of the planning board, the applicant is not able to meet one or more of the following standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application. These standards shall apply to both the preliminary and final plan.

(1) Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of the soil and retaining existing vegetation during and after construction. After construction is completed, landscaping shall be installed according to the landscaping design shown on the site plan that will define, soften or screen the appearance of the off-road parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the design or buildings or site, and to minimize the encroachment of the proposed use on neighboring land uses.

(2) Visual relationship of buildings. Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of buildings and such natural features such as slope, soil type and drainageways.

(3) Vehicular access. The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points, including site distances, turning lanes and traffic signalization when required by existing and projected flow on the municipal road systems. Provisions shall be made providing and maintaining safe and convenient emergency vehicle access to all buildings and structures on the site at all times. The development shall not impose unreasonable burdens on the circulation system of the town. Town roads inadequate to handle the volume of traffic generated by the development shall be improved by the applicant to provide safe passage. The developer may be required to provide a traffic impact report prepared by a certified traffic engineer if there are unusual safety concerns such as inadequate sight distance or a history of traffic accidents in the area proposed for development.

(4) Parking and circulation. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas, shall provide for safe

general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas and arrangement and use of parking areas.

(5) Stormwater runoff and erosion control. Adequate provisions shall be made for stormwater runoff so that removal of surface water shall not adversely affect neighboring properties, downstream water quality, soil erosion or the storm drainage system. Whenever possible, onsite absorption of runoff waters shall be utilized to minimize discharges from the site. Provisions will be made to control erosion during and after construction. Reference is made to the state erosion and sediment control handbook.

(6) Existing utilities. The development shall not impose unreasonable burdens on sewers, sanitary and storm drains, water lines or other public utilities.

(7) Advertising features. The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures shall be compatible with the design of the proposed buildings and structures and surrounding properties and conform with article VI of this chapter.

(8) Special features of the development. Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utilities, buildings and similar structures shall have sufficient setbacks and screening to provide an audiovisual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

(9) Exterior lighting. All exterior lighting shall be designed to minimize impact on neighboring properties. All exterior 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.

(10) Municipal services. The development will not have an unreasonable impact on the municipal road system, fire department, police department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

(11) Water pollution. In making this determination, it shall at least include the elevation of the land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal and other DEM approved discharge; the slope of the land and its effect on effluents; the aquifer and aquifer recharge areas; the availability of streams for surface runoff; and the applicable federal, state and local laws, ordinances, codes and regulations.

(12) Air pollution. The use of the site shall not reduce the ambient air quality. In making this determination, the applicant shall consult federal and state authorities to determine air quality laws and regulations.

(13) Water supply. Sufficient water must be available for reasonably foreseeable needs of the development and not cause any unreasonable burden on the existing water supply if this supply is utilized.

(14) Sewage disposal. Adequate sewage waste disposal must be provided.

(15) Unique areas. There must not be any undue adverse affect on the scenic or natural beauty of the areas, aesthetics, historic sites, or rare and irreplaceable natural areas.

(16) Capacity. The applicant has adequate financial and technical capacity to meet the above standards.

(17) Waterbodies. Whenever the proposed development is situated, in whole or in part, within 300 feet of any pond, lake, river or other freshwater wetland, it will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water. There will be no disturbance of soil within 100 feet of the outer edge of a wetland.

(m) General provisions. General provisions concerning site plans for commercial and industrial development are as follows:

(1) The board may waive, by majority vote, site plan approval requirements or any specific provisions thereof for any change in use, and construction of an addition or accessory building to any other principal building, provided that the use is subordinate and customarily incidental to the principal use and provided that:

a. Such building area does not exceed 25 percent of the existing buildings or 1,500 square feet, whichever is less.

b. Such building does not exceed one story.

c. Such building conforms to all requirements of the district in which it is located or any other requirements in this chapter.

d. No site improvements are intended, required or will result from such building including, but not limited to, the development of additional parking spaces.

e. The change of actual use does not affect existing circulation, drainage, landscaping, buffering, lighting or other considerations of site plan review.

(2) The planning board may require the filing of a performance bond or the execution of a conditional agreement with the municipality by the applicant.

(3) All construction performed under the authorization of a building permit issued for development within the scope of this chapter shall be in conformance with the approved site plan.

(4) Change of approved site plan. If the applicant wants to make an amendment to an approved site plan, a written request shall be submitted to the planning board. If, in the opinion of the planning board, a requested change is sufficiently substantial, the planning board shall require the submission of any amended site plan. The procedure for the consideration of such written request or of such amended site plan shall be the same as that for consideration of a site plan under subsections (c), (d) and (e) of this section.

(5) Site plan procedure. Each applicant for site plan approval shall file with the town clerk six copies of the proposed site plan, 24 inches by 36 inches in size at a scale no smaller than one inch equals 40 feet; the required application form; and a \$

(n) (n) Appeal. A decision under this section shall be considered an appealable decision pursuant to § 45-23-71.

(o) Standards for granting. The administrative officer may not grant an Administrative Development Plan approval unless it finds the following:

- (1) The use will comply with all applicable requirements and development and performance standards set forth in articles VI and IX of this chapter.
- (2) The use will be in harmony with the general purpose and intent of this chapter.
- (3) The granting of the development plan will substantially serve the public convenience and welfare.
- (4) The use will not result in or create conditions inimical to the public health, safety, morals and general welfare.
- (5) It will not substantially or permanently injure the appropriate use of surrounding property.
- (6) In addition to the above, the zoning board of review shall consider:
 - a. Access to air, light, views and solar access;
 - b. Public access to waterbodies, rivers and streams; and
 - c. The conservation of energy and energy efficiency.

(p) Extension or enlargement. The administrative officer may not extend or enlarge an Administrative Development Plan approval except by granting a new Administrative development plan approval.

(q) Standards of evidence entered into the record. In approving an Administrative Development Plan, the administrative officer shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. The use is specifically authorized for Administrative Development Plan Review by this chapter.
- b. The use meets all of the criteria set forth in the sections of this chapter authorizing such Administrative Development plan.
- c. The approval of the Administrative Development plan will not alter the general character of the surrounding area or impair the intent or purpose of this chapter.

(r) Special conditions. In granting an administrative development plan, the administrative officer may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of this chapter. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, shall be incorporated into the decision, and may include, but are not limited to, provisions for:

(1) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;

(2) Controlling the sequence of development, including when it must be commenced and completed;

(3) Controlling the duration of use or development and the time within which any temporary structure must be removed;

(4) Ensuring satisfactory installation and maintenance of required public improvements;

(5) Designating the exact location and nature of development; and

(6) Establishing detailed records by submission of drawings, maps, plats or specifications.

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F. Old Business:

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 12 – BUSINESSES

ARTICLE II – LICENSES

- Sec 12-31 – Renewal or transfer shall be amended as follows:

Sec. 12-31. - ~~Application~~ Renewal or transfer.

It shall be a condition for the application, renewal or transfer of any license (except individual trailer licenses) issued by the town that the holder of the license show that all taxes due to the town by the license holder and by the owner of the premises that are licensed be paid in full. Further, the holder of the license shall present to the town council, prior to the date for renewal or transfer, a statement from the police department approving of the renewal or transfer, a statement from the building and zoning inspector approving of the renewal or transfer and a statement from the appropriate fire company approving of the renewal of transfer. In exercising judgment as to whether to approve or disapprove, the police department, building and zoning inspector and fire company should take into consideration the following:

- (1) *Police department.* A background report shall be required.
- (2) *Fire department.* The applicant must be in compliance with state fire codes. A signed statement shall be filed by the fire company.
- (3) *Building and zoning inspector.* The applicant must comply with G.L. 1956, § 23-27.3-124.0 et seq. (unsafe conditions). The applicant must correct any outstanding zoning violations.

(4) *Tax collector*: The applicant must comply with the town's ordinance regarding payment of taxes for the application, renewal or transfer of licenses.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 12 – BUSINESSES

ARTICLE II – LICENSES

- Sec 12-34 – 12-65 - Reserved shall be amended to reserve sections 12-52 – 12-65. Business licenses shall be regulated as follows:

Chapter 12 – BUSINESSES

ARTICLE II. – LICENSES

~~**Secs. 12-34 – 12-65. – Reserved.**~~

Sec. 12-34 – License for sale of alcohol.

License for sale of alcohol shall be \$400.00 and shall be renewed annually. The renewal fee shall be \$100.00

Sec. 12-35 – License for entertainment.

License for entertainment shall be \$200.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-36 – License for campground.

License for campground shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-37 – License for hotel/motel.

License for hotel/motel shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-38 – License for kennel/boarding.

License for kennel/boarding shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-39 – License for mobile food truck.

License for mobile food truck shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-40 – License for pawn shop.

License for pawn shop shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-41 – License for sale of secondhand articles.

License for sale of secondhand articles shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-42 – License for private detective.

License for private detective shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-43 – License for theater.

License for theater shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-44 – License for firearms shop.

License for gun shop shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-45 – License for auto repair.

License for auto repair shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-46 – License for preparing food (Victualling).

License for preparing food (victualling) shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-47 – License for automobile junkyard.

License for automobile junkyard shall be renewed annually. The renewal fee shall be \$100.00. New junkyards are prohibited.

Sec. 12-48 – License for hawker/peddler.

License for hawker/peddler shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-49 – License for flea market.

License for flea market shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00

Sec. 12-50 – License for retail/holiday sales.

License for retail/holiday sales shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

Sec. 12-51 – RI mobile food establishment certificate.

RI mobile food establishment certificate shall be \$100.00 and shall be renewed annually. The renewal fee shall be \$100.00.

ORDINANCE NO. _____
AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE I. – IN GENERAL

Sec. 38-2. - Definitions.

- Sec. 38-2 – Definitions shall be amended as follows to meet RIGL:

The following ~~Where~~ words, or terms and phrases, ~~when~~ used in this chapter are defined in § 45-22.2-4 or 45-23-32, ~~shall~~ they have the meanings stated in that section. In addition, the following words ~~shall~~ have the following meanings. Additional words and phrases may be used in developing local ordinances under this chapter; however, the words and phrases defined in this section are controlling in all local ordinances

~~created under this chapter; ascribed to them in this section, except where the context clearly indicates a different meaning;~~

~~(#) *Abutter*. means ~~o~~One whose property abuts, that is, adjoins at a border, boundary or point with no intervening land.~~

~~(#) *Accessory dwelling unit (ADU)*. A residential living unit on the same parcel where the primary use is a legally established single-unit or multi-unit dwelling. An ADU provides complete independent living facilities for one or more persons. It may take various forms including, but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled primary dwelling.~~

~~(#) *Accessory family dwelling unit*. means ~~a~~An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress or egress.~~

~~(#) *Accessory structure*. A detached structure which is not used or not intended to be used for living or sleeping by human occupants, and which is located on the same premises with a dwelling. (As defined in RIGL 45-24.3-5.)~~

~~(#) *Accessory use*. means ~~a~~A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related. Examples: a garage accessory to a house on the residential lot, a repair shop in an auto sales agency and a parking lot serving a drugstore, and a barn accessory to a house.~~

~~(#) *Adaptive reuse*. "adaptive reuse," as defined in § 42-64.22-2.~~

~~(#) *Aggrieved party*. means ~~An aggrieved party, for purposes of this chapter, shall be:~~~~

~~(1i) Any person, or persons, or entities, who or that can demonstrate that ~~their~~ his, her, or its property will be injured by a decision of any officer or agency responsible for administering this chapter; or~~

~~(2ii) Anyone requiring notice pursuant to this chapter.~~

~~(#) *Agricultural land*. means "Agricultural land," as defined in ~~G.L. 1956,~~ § 45-22.2-4.~~

~~(#) *Airport hazard area*. means "Airport hazard area," as defined in ~~G.L. 1956,~~ § 1-3-2.~~

~~(#) *Applicant*. means ~~a~~An owner, or authorized agent of the owner, submitting an application or appealing an action of any official, board or agency.~~

~~(#) *Billboard*. means ~~a~~Any sign or advertising device, freestanding or located on a building or wall, which is not related to a use on the premises.~~

~~(#) *Buffer*. means ~~H~~and which that is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.~~

~~(#) *Building*. means ~~a~~Any structure used or intended for supporting or sheltering any use or occupancy.~~

~~(#) *Building envelope*, means the three-dimensional space within which a structure is permitted to be built on a lot and *which that* is defined by regulations governing building setbacks, maximum height and bulk; by other regulations; ~~and~~ or by any combination thereof.~~

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

~~(i) The base flood elevation on the FEMA FIRM plus up to five feet (5') of any utilized or proposed freeboard, less the average existing grade elevation; or~~

~~(ii) The suggested design elevation as depicted on the CRMC SDE 3 SLR map during a one-hundred-year (100) storm, less the average existing grade elevation. CRMC shall reevaluate the appropriate suggested design elevation map for the exclusion every ten (10) years, or as otherwise necessary.~~

(#) *Cannabis Cultivator or marijuana cultivator* means an entity licensed to cultivate, process and package cannabis, to deliver cannabis to cannabis establishments and to transfer cannabis to other cannabis establishments, but not to consumers. (Pursuant to RIGL Sec. 21-28.11-3, as amended).

(#) *Cannabis establishment or marijuana establishment* means a cannabis cultivator, independent testing laboratory, cannabis product manufacturer, cannabis retailer or any other type of licensed cannabis-related business. (Pursuant to RIGL Sec. 21-28.11-3, as amended).

(#) *Cannabis product manufacturer or marijuana product manufacturer*, means an entity licensed to obtain, manufacture, process and package cannabis and cannabis products, to deliver cannabis and cannabis products to cannabis establishments and to transfer cannabis and cannabis products to other cannabis establishments, but not to consumers (Pursuant to RIGL Sec. 21-28.11-3, as amended).

(#) *Cannabis retailer or marijuana retailer*, means an entity licensed pursuant to § 21-28.11-10.2 to purchase and deliver cannabis and cannabis products from cannabis establishments and to deliver, sell or otherwise transfer cannabis and cannabis products to cannabis establishments and to consumers. (Pursuant to RIGL Sec. 21-28.11-3, as amended).

~~(#) *Cluster*, means a site-planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and/or preservation of environmentally, historically, culturally or other sensitive features and/or structures. The techniques used to concentrate buildings shall be specified in this chapter and may include, but are not limited to, reduction in lot areas, setback requirements and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one or more uses. Under cluster development, there is no increase in the number of lots that would be permitted under conventional development except where chapter provisions include incentive bonuses for certain types or conditions of development. (Reserved for future development)~~

~~(#) Collocation, means -~~The use of a common tower by two or more license holders or by one license holder for more than one type of communications technology.

~~(#) Common ownership, means -~~Either:

(1) Ownership by one or more individuals or entities in any form of ownership of two (2) or more contiguous lots; or

(2) Ownership by an association (such ownership may also include a municipality) of one or more lots under specific development techniques.

~~(#) Communications tower, means -~~A freestanding structure used for the location of one or more communications antenna arrays. It may also include an equipment shelter as an accessory use.

~~(#) Community residence.~~ A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This does not include halfway houses or substance-use-disorder-treatment facilities. This does include, but is not limited to, the following:

(i) Whenever six (6) or fewer children or adults with intellectual and/or developmental disability reside in any type of residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1. All requirements pertaining to local zoning are waived for these community residences;

(ii) A group home providing care or supervision, or both, to not more than eight (8) persons with disabilities, and licensed by the state pursuant to chapter 24 of title 40.1;

(iii) A residence for children providing care or supervision, or both, to not more than eight (8) children, including those of the caregiver, and licensed by the state pursuant to chapter 72.1 of title 42;

(iv) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) years. Residents will have access to, and use of, all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

~~(#) Compassion center, -~~As defined in ~~G.L. § 21-28.6-3~~, is a not-for-profit entity registered under ~~G.L. § 21-28.6-12~~ that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder or authorized purchaser.

~~(#) Comprehensive plan, means -~~The comprehensive plan adopted and approved pursuant to ~~G.L. 1956, § 45-22.2-1~~ et seq. and to which any zoning adopted pursuant to this chapter shall be in compliance.

~~(#) Customary home occupation, means -~~Any occupation which may normally be carried on in a residence by the occupant without the provision of normal business or industrial equipment and displays except for simple tools and machinery designed for home use. Such a use requires no structural alteration to the residence and does not create a nuisance to neighboring dwellings. Such home occupations may include, but are not limited to, knitting, sewing, cooking, handcrafts, artist, dressmaker, teacher, author, lawyer, architect, accountant, or consultant.

(#) ~~Day care,--d~~Day-care center, means a~~A~~Any other day care center which is not a family day-care home.

(#) ~~Day care,-family day-care home.~~ Day care,-family day care home. Any home, other than the individual's home, in which day care in lieu of parental care or supervision is offered at the same time to six (6) or less individuals who are not relatives of the care-giver, but may not contain more than a total of eight (8) individuals receiving day care.

(#) ~~Density, residential,-~~ means ~~t~~The number of dwelling units per unit of land.

(#) ~~Development,~~ means ~~t~~The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; any change in use or alteration or extension of the use, of land.

(#) ~~Development plan review,~~ means ~~t~~The process whereby authorized, local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of this chapter.

(#) ~~Distillery.~~ means a commercial establishment wherein potable alcoholic liquors obtained by the process of distillation are made and sold. The distillation process shall take place wholly inside a building and shall result in products for sale that may include but not be limited to whiskey, vodka, rum and gin. Distilleries shall produce greater than 20,000 but less than 50,000 gallons of liquor per year. Distilleries producing greater than 50,000 gallons of liquor per year are not permitted.

(#) ~~District.~~ See "~~Z~~oning--use district."

(#) ~~Drainage system,~~ means a~~A~~ system for the removal of water from land by drains, grading, or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development; the means for preserving surface water and groundwaters; and the prevention and/or alleviation of flooding.

(#) ~~Dump,~~ means a~~A~~ place or facility for disposing discarded materials, such as trash, garbage or junk, as generated by residential, institutional, commercial, industrial and agricultural sources.

(#) ~~Dwelling unit,~~ means a~~A~~ structure, or portion thereof of a structure, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and containing a separate means of ingress and egress.

(#) ~~Equipment shelter,~~ means a~~A~~An enclosed structure, cabinet, shed or box used in as an accessory to a communications antenna array to house electrical equipment, batteries and emergency electrical generators, directly related to such antenna array. No other uses, including storage, shall be permitted in any equipment shelter.

(#) ~~Extractive industry,~~ means ~~t~~The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

(#) ~~FAA,~~ means ~~t~~The Federal Aviation Administration.

(#) ~~Farm Brewery.~~ means a brewery that is located on a farm of no less than five acres and that produces beer or cider which is manufactured with at least one primary ingredient (hops, grain or fruit) grown on the

farm and whose annual production does not exceed 150,000 gallons of beer or cider, and where customers would have the opportunity to tour the farm and try small samples (3 ounces or less), and purchase bottles (of up to 64 ounces each) to take home and consume off site. A farm brewery may also sell beer or cider at wholesale to retailers with the appropriate State license. A farm brewery must have the appropriate State license to operate a brewery. Subject to the provisions of Section 38-394.

(#) *Farm Distiller*. means A facility located on a farm of no less than five acres that produces distilled spirits which are manufactured with at least one primary ingredient grown on the farm into alcoholic beverages and where customers would have the opportunity to tour the farm, try small samples, and purchase bottles to take home and consume off site. A Farm Distiller shall produce no greater than 20,000 gallons of product per year. Subject to the provisions of Section 38-394.

(#) *Family member*. means a person, or persons, related by blood, marriage, or other legal means, including, but not limited to, a child, parent, spouse, mother-in-law, father-in-law, grandparents, grandchildren, domestic partner, sibling, care recipient, or member of the household. See also *Household*.

(#) *FCC*. means The Federal Communications Commission.

(#) *Floating zone*. means an unmapped zoning district adopted within this chapter which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.

(#) *Floodplains, or Flood hazard area*. Means as defined in G.L. 1956, § 45-22.2-4.

(#) *Freeboard*. A factor of safety expressed in feet above the base flood elevation of a flood hazard area for purposes of floodplain management. Freeboard compensates for the many unknown factors that could contribute to flood heights, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

(#) *Front yard*. means The area between a road line and a line parallel thereto drawn through the nearest point of a structure, extending between side lot lines.

(#) *Garbage*. means any animal or vegetable waste.

(#) *General business—Mixed use development*. is a planned, coordinated development of a single tract or tracts of land with one or more buildings for a variety of uses. These may include retail, service, office and related activities, and residential and municipal uses. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with particular attention given to on-site vehicular circulation, parking, utility needs, building design and location, and open space. The project is developed or controlled by a single proprietary entity and has an enforceable master plan and/or covenants, conditions and restrictions. The development may consist of one or more parcels, condominium various forms of residential ownership, or a combination thereof and may contain public or private roads, or a combination thereof.

(#) *Groundwater*. "Groundwater" and associated terms, shall mean as defined in G.L. 1956, § 46-13.1-3.

(#) *Halfway house*. means a residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

(#) *Hardship*. See G.L. 1956, § 45-24-41.

~~(45) Height, when referring to a tower or other structure, means the distance measured from the ground level to the highest point on the tower or other structure, even if the said highest point is an antenna.~~

~~(#) Historic district or historic site, means a~~As defined in G.L., 1956, § 45-22.2-4.

~~(#) Home occupation, means a~~Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit. ~~Examples include, but are not limited to, small engine repair shop, weaving, book binding and chair caning.~~

~~(#) Household, means o~~One or more persons living together in a single-dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

(i) A family, which may also include servants and employees living with the family; or

(ii) a person or group of unrelated persons living together, not to exceed five.

~~(#) Incentive zoning, means t~~The process whereby the local authority may grant additional development capacity in exchange for developer's provision of a public benefit or amenity as specified in local ordinances.

~~(#) Infrastructure, means f~~Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

~~(#) Land-development project, means a~~A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of one or more uses, units, or structures, including, but not limited to, planned development and/or cluster development for residential, commercial, institutional, recreational, open space, and/or mixed uses as may be provided for in this chapter.

~~(#) Licensed cultivator, means a~~A person as identified in G.L. § 43-3-6, who has been licensed by the department of business regulation to cultivate marijuana pursuant to G.L. § 21-28.6-16.

~~(#) Licensed nonresidential cooperative cultivation, means t~~Two or more cardholders who cooperatively cultivate marijuana in nonresidential locations subject to the requirements set forth in G.L. § 21-28.6-14.

~~(#) Licensed residential cooperative cultivation, means t~~Two or more cardholders who cooperatively cultivate marijuana in residential locations subject to the requirements set forth in G.L. § 21-28.6-14. This excludes, per department of business regulation, the situations of two or more qualifying patient or primary caregiver cardholder(s) who are primary residents of the same dwelling.

~~(#) Lodging or guest home~~Short term rental structure, means a structure devoted to the leasing of three or more rooms or suites, such suites usually consisting of a single room with common sanitary and dining facilities.

~~(#) Lot, means e~~Either:

(1) The basic development unit for determination of lot area, depth, and other dimensional regulations; or

(2ii) A parcel of land ~~the whose~~ boundaries ~~of which~~ have been established by some legal instrument, such as a recorded deed or recorded map, and ~~which that~~ is recognized as a separate legal entity for purposes of transfer of title.

(#) *Lot area*. ~~means~~ ~~†~~ The total area within the boundaries of a lot, excluding any road right-of-way, usually reported in acres or square feet.

(#) *Lot area, minimum*. The smallest land area established by this chapter upon which a use, building, or structure may be located in a particular zoning district.

(#) *Lot building coverage*. ~~means~~ ~~†~~ That portion of the lot that is, or may be, covered by buildings and accessory buildings.

(#) *Lot depth*. ~~means~~ ~~†~~ The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

(#) *Lot frontage*. ~~means~~ ~~†~~ That ~~contiguous~~ portion of a lot abutting a road street. Noncontiguous frontage shall not be included when considering whether a lot meets the dimensional requirements of section 38-192.

(#) *Lot line*. ~~means~~ ~~a~~ line of record, bounding a lot, ~~which that~~ divides one lot from another lot or from a public or private road street or any other public or private space and shall include:

(4i) *Front*: ~~means~~ the lot line separating a lot from a road street right-of-way. The front lot line on lots fronting on more than one road shall conform to section 38-273.

(2ii) *Rear*: ~~means~~ the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten feet (10) in length entirely within the lot, parallel to and at a maximum distance from the front lot line; ~~and~~.

(3iii) *Side*: ~~means~~ any lot line other than a front or rear lot line. On a corner lot, a side lot line is a road lot line.

(#) *Lot of record*. ~~means~~ ~~a~~ parcel of land recorded by deed or recorded plat in the office of the town clerk.

(#) *Lot size, minimum*. Shall have the same meaning as "minimum lot area" defined herein.

(#) *Lot, corner*. A lot which fronts upon two (2) roads, those roads intersecting, and not being parallel.

(#) *Lot, through*. ~~means~~ ~~a~~ lot which fronts upon two (2) parallel roads streets, or ~~which that~~ fronts upon two (2) roads which streets that do not intersect at the boundaries of the lot. ~~At least one lot frontage shall meet minimum zoning requirements for the district.~~

(#) *Lot width*. ~~means~~ ~~†~~ The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

(#) *Low- or moderate-income (LMI) housing*. ~~means~~ ~~a~~ Any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of housing affordable to low- or moderate income households, as defined in the applicable federal or state statute, or local ordinance and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the

applicant and town or prescribed by the federal, state, or municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

(#) Medical cannabis treatment center or Medical marijuana treatment center. Includes a compassion center, a medical marijuana emporium, or marijuana establishment licensee who operates a treatment center, all as defined in § 21-28.6-3 (Pursuant to RIGL Sec. 21-28.11-3, as amended).

(#) Medical marijuana emporium. ~~means a~~Any establishment, or club, whether for-profit or nonprofit, or any commercial unit or other premises at which the distribution, transfer or use of medical marijuana or medical marijuana products is proposed and/or occurs to, by or among registered patients, registered caregivers, authorized purchaser cardholders. This shall not include a compassion center or licensed cultivator regulated and licensed by the department of business regulation.

(#) Mere inconvenience. See ~~G.L. 1956,~~ § 45-24-41.

(#) Micro-Brewery. means a commercial establishment wherein beer, cider, or other malt-beverages are manufactured and prepared for wholesale distribution, retail sales, and onsite tastings. A brewery may not produce more than 15,000 barrels per year.

(#) Mixed use. ~~means a~~ land use where more than one classification mixture of land uses ~~(residential, commercial, recreational) is permitted within a zoning district and is combined on within~~ a single development, building, or tract, ~~or tracts of land, or within a single structure.~~

(#) Modification. Permission granted and administered by the zoning enforcement officer of the city or town, and pursuant to the provisions of this chapter to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree as determined by the zoning ordinance of the city or town, but not to exceed twenty-five percent (25%) of each of the applicable dimensional requirements.

(#) Multi-family dwelling for LMI housing. ~~means a~~ structure containing up to four units with a maximum of eight bedrooms total for the structure for housing subject to a comprehensive permit pursuant to section 38-281.

(#) Nonconformance. ~~means a~~ building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of ~~such that~~ ordinance or amendment. Nonconformance ~~shall be is of~~ only two (2) types:

(i) Nonconforming by use: a lawfully established use of land, building or structure ~~which that~~ is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance ~~shall be is~~ nonconforming~~ty~~ by use; or

(ii) Nonconforming by dimension: a building, structure, or parcel of land not in compliance with the dimensional regulations of this chapter. Dimensional regulations include all regulations of this chapter, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of this chapter ~~shall be is~~ nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of this chapter, but not meeting the lot area per dwelling unit regulations, ~~shall be is~~ nonconforming by dimension.

(#) Overlay district. means a district established in this chapter that is superimposed on one or more districts or parts of districts. The standards and requirements associated with an overlay district may be more or less restrictive than those in the underlying districts consistent with other applicable state and federal laws, and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

(#) Performance standards. means a set of criteria or limits relating to elements ~~which that~~ a particular use or process ~~either~~ must either meet or may not exceed.

(#) Permitted use. means a use by right ~~which that~~ is specifically authorized in a particular zoning district.

(#) Piggery. means a any lot, structure or farm where garbage collected from off the premises is fed to pigs.

(#) Planned development. means a "land-development project" as defined in subsection (38), and developed according to plan as a single entity and containing one or more structures ~~and~~ or uses with appurtenant common areas.

(#) Plant agriculture. The growing of plants for food or fiber, to sell or consume.

(#) Preapplication conference. means a review meeting of a proposed development held between applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.

(#) Preexisting towers and antennas. means t Towers and antennas built and/or mounted before March 5, 1998.

(#) Professional office. means a An office used primarily for conduct of ~~the following~~ occupations including, but, not limited to; licensed medical practitioner, attorney, accountant, architect, surveyor or engineer.

(#) Rear yard. means t The area between a rear lot line and a line parallel thereto drawn through the nearest point of a structure, extending between side lot lines.

(#) Recreational events and amusements (open). means o Outdoor recreational uses that are temporary and characteristic of the town and cause minimal noise, traffic and inconvenience to neighboring properties. Examples are; horse shows and art shows. Any event following within the scope of ~~G.L. 1956,~~ § 5-22-1 et. seq. shall also receive approval from the town council, subject to any terms and conditions imposed by the council pursuant thereto.

(#) Rest home or convalescent home. A skilled nursing facility or long-term care facility. Shall be reviewed according to Sec. 38-284.

(#) Residential caregiver cultivation. is a primary caregiver as defined in ~~G.L.~~ § 21-28.6-3 who elects to grow marijuana at their residence in accordance with the regulations as set forth in ~~G.L.~~ § 21-28.6-4.

(#) Residential personal cultivation. means m Marijuana cultivation by a single registered cardholder, as defined in ~~G.L.~~ § 21-28.6-3, within his or her residential dwelling for medical use only, in accordance with the regulations set forth in ~~G.L.~~ § 21-28.6-4.

(#) Road. means a public highway of the town or the state, or a road within a subdivision approved by the planning board in accordance with [chapter 32](#), the town subdivision regulations.

~~(#) Road line, means a~~ lot line separating a lot from an adjacent road.

~~(#) Senior citizen group dwelling. An age-restricted community (individuals 55 years old and greater) that is not a rest home or convalescent home.~~

~~(#) Setback line or lines, means a~~ line, ~~or lines,~~ parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

~~(#) Side yard, means t~~The area between a side lot line and a line parallel thereto drawn through the nearest point of a structure, extending from the front yard to the rear yard, or if there is no rear yard, to the rear lot line.

~~(#) Site plan, means t~~The development plan for one or more lots on which is shown the existing and/or ~~the~~ proposed conditions of the lot.

~~(#) Special use, means a~~ regulated use which is permitted pursuant to the special-~~use~~ permit issued by the authorized governmental entity, pursuant to ~~G.L.~~1956, § 45-24-42; formerly referred to as a special exception.

~~(#) Structure, means a~~Anything constructed which requires location on or attachment to the ground; and includes buildings, but does not include paving and planting combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

~~(#) Substandard lot of record, means a~~Any lot lawfully existing at the time of adoption or amendment of this chapter and not in conformance with the dimensional ~~and/or~~ area provisions of this chapter.

~~(#) Use, means t~~The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

~~(#) Variance, means p~~Permission to depart from the literal requirements of this chapter. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, ~~which that~~ is prohibited by this chapter. There shall be only two ~~(2)~~ categories of variance, a use variance or a dimensional variance.

~~(1i) Use variance, means p~~Permission to depart from the use requirements of this chapter where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this chapter.

~~(2ii) Dimensional variance, means p~~Permission to depart from the dimensional requirements of this chapter, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. ~~However, t~~he fact that a use may be more profitable or that a structure may be more valuable after the relief is granted ~~shall not be~~ ~~are not~~ grounds for relief.

~~(#) Waters, means a~~As defined in ~~G.L.~~1956, § 46-12-1(23).

~~(#) Wetland, coastal, means a~~As defined in ~~G.L.~~1956, § 45-22.2-4.

~~(#) Wetland, freshwater, means a~~As defined in ~~G.L.~~1956, § 45-22.2-42-1-20.

(#) Winery means an agricultural processing facility comprising the building or buildings used to convert fruit juices to wine, and to age, bottle, store, distribute and sell said wine. A winery can include, but is not limited to, crushing, fermenting and re-fermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions. Winery shall also include “Farmer-winery” as specified by RIGL 3-1-1 and RIGL 3-6-1.1. Subject to the provisions of Section 38-394.

(#) Zoning certificate, ~~means a~~ document signed by the zoning ~~enforcement~~ ~~official~~, as required in this chapter, ~~which that~~ acknowledges that a use, structure, building, or lot either complies with, or is legally nonconforming to, the provisions of; the municipal zoning ordinance; or is an authorized variance or modification therefrom.

(#) Zoning map, ~~means~~ the map, ~~or maps~~, ~~which that~~ are a part of this chapter and ~~which that~~ delineate the boundaries of all mapped zoning districts within the physical boundary of the town.

(#) Zoning official. ~~The town planner.~~

(#) Zoning-enforcement officer. ~~The town’s building official.~~

(#) Zoning ordinance, ~~means a~~ An ordinance enacted by the legislative body of the town pursuant to ~~G.L. 1956,~~ § 45-24-1 et seq. and in the manner providing for the adoption of ordinances in the town's ~~legislative or Home Rule Charter~~, if any, ~~which sets forth that establish~~ regulations and standards relating to the nature and extent of uses of land and structures; ~~which that~~ is consistent with the comprehensive plan of the town as defined in ~~G.L. 1956,~~ § 45-22.2-1 et seq.; ~~which that~~ includes a zoning map; and ~~which that~~ complies with the provisions of this chapter.

(#) Zoning-use districts, ~~means~~ The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations is for a specified use. ~~The Zoning-use~~ districts include, but are not limited to: agricultural, commercial, industrial, institutional, open space and residential. Each district may include sub-districts. Districts may be combined.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE V. – NONCONFORMING USE

Sec. 38-226 – Substandard lot of record.

- Sec. 38-226 – Substandard lot of record shall be amended to meet requirements set forth in RIGL.

(a) No lot area shall be so reduced that yards, total area and lot width shall be less than prescribed for the district in which the lot is located. No yard or open space provided around any building for the purpose of complying with the provision of this chapter shall again be used as a yard or open space for any other building.

(b) Where no adjacent land is in the same ownership so as to form a larger land parcel, a lot smaller than the minimum dimensions and area required by this chapter which was a lot of record on the effective date of the ordinance from which this chapter derives may be used for a permitted use,

provided that such lot shall have a minimum area of 10,000 square feet and a minimum width of 100 feet. ~~A lot having 0 feet of frontage may be used for a permitted use. All dimensional requirements of the district shall be complied with except that sSide, and front and rear depth~~ requirements shall be reduced by the associated percentage that the lot is less than 150 feet wide or less than 200 feet deep. ~~The maximum building coverage requirements shall be increased by the same proportion as the lot area of the substandard lot is to the minimum lot area requirement of the zoning district in which the lot is located. All proposals exceeding the reduced requirements of this section shall proceed with a modification request under 38-321 or a dimensional variance request under 38-321 and 38-324, whichever is applicable.~~

(c) ~~Where a lot has no road frontage, access shall be regulated by easement or shared driveway which shall be recorded in land evidence. Nothing stated herein shall be construed to reduce the authority of the zoning-enforcement officer in issuing conditions on a recorded easement.~~

(d) ~~No building permit shall be issued on such a lot without certification in writing from the town's building official that said lot is a substandard lot of record. In the event that a variance or special-use permit is necessary, the official shall certify that the lot is a substandard lot of record and needs the relief relating to "side and rear requirements," as prescribed in the previous paragraph, as part of application to the zoning board of review.~~

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE V. – NONCONFORMING USE

Sec. 38-231 – Nonconforming by dimension.

- ~~Sec. 38-231 – Nonconforming by dimension shall be amended to meet requirements set forth in RIGL.~~

A ~~lawfully established~~ building, structure or parcel of land not in compliance with the dimensional regulations of this chapter is nonconforming by dimension. Dimensional regulations include all regulations of this chapter, other than those pertaining to the permitted uses. A ~~lawfully established~~ building, structure, parcel of land, or use thereof, not in compliance with the parking regulations of this chapter is also nonconforming by dimension. ~~A lawfully existing or lawfully established lot that is not in compliance with the dimensional regulations of this chapter including, but not limited to, those regulations for minimum lot size, lot width and lot frontage (also known as a substandard lot of record), is also nonconforming by dimension. A building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, is nonconforming by dimension.~~

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE VI. – SUPPLEMENTARY REGULATIONS

Sec. 38-273 – Corner lots.

- Sec. 38-273 – Corner and through lots shall be amended to clarify/meet requirements set forth in RIGL.

• **Sec. 38-273. - Corner and through lots.**

(a) Corner lots. For the purpose of complying with section 38-192, the minimum lot frontage on both roads shall comply with the minimum lot width for the district of location. All other dimensional regulations of article IV shall apply, ~~except that, if~~ in the case of a corner lot with two yards not fronting on a road but adjacent to ~~the front yards fronting on a road, these two yards having the most frontage~~ shall be the front side-yards. The yard having less frontage than the front yard shall and comply with be the one side yard. The rear yard shall be the yard opposite the front yard. The other side yard shall be the yard opposite the yard having less frontage than the front yard. depths for the district of location. On any corner lot, no driveway or access way shall be constructed within seventy-five feet of the intersection of two road lines.

(b) Through lots. For the purpose of complying with section 38-192, on a through lot, at least one lot frontage shall meet minimum zoning requirements for the district. The street address as listed in the tax collector's database specifies the location of the front lot line. The location of the rear lot line is that which separates the lot from the road not listed as the address of the lot in the tax collector's database.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE VI. – SUPPLEMENTARY REGULATIONS

Sec. 38-281 – Development standards for multifamily dwellings and comprehensive permit applications for affordable housing.

- Sec. 38-281 – Development standards for multifamily dwellings and comprehensive permit applications for affordable housing shall be amended as follows:

Multifamily dwellings are permitted by obtaining a special-use permit or a comprehensive permit pursuant to ~~G.L. 1956, ch. §45-53~~ in the AR, ~~NC HC2~~ and GBM districts. All such multifamily uses must meet the requirements as set forth in this section.

(1) The minimum lot area for each multifamily use dwelling structure shall be ~~3~~200,000 square feet and shall be increased in proportion to the total number of bedrooms per structure; refer to subsection (8)c(1) of this section, except in cases where LMI housing is proposed and a density bonus pursuant to subsection (8)~~d~~(4) is applied.

(2) Dwelling unit is a structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation and containing a separate means of ingress and egress.

(3) Each multifamily structure shall be provided with the necessary water supply and separate sewerage for sanitary and laundry facilities, all contained on the lot. All such systems shall be in conformance with the RI Department of Environmental Management Regulations currently in effect and all town regulations and standards. Where town, state and/or other standards are in conflict, the higher standards shall prevail.

(4) The development shall constitute an environment of sustained desirability in conformance with the policies and goals of the comprehensive community plan.

(5) Before a special-use permit for a multifamily structure or multifamily development shall be granted, the site plan, together with supporting documents, shall be reviewed by the Foster Planning Board, after which review, the planning board shall publish a report of its findings and recommendations pertaining to the conformity of the proposed development with the comprehensive plan and the requirements of this section. Copies of this report shall be sent to the zoning board of review and to the office of the town clerk, who shall maintain copies for public inspection upon request. The zoning board of review shall grant no special-use permit for multifamily developments without first receiving the aforementioned opinion of the town planning board. The building official shall grant no building permit or certificate of occupancy except for construction and occupancy in strict compliance with conditions set by the zoning board of review. Such building permits must be requested within six months of the date of approval.

(6) In cases where a comprehensive permit is requested by an applicant for LMI housing, the planning board shall serve as the "local board of review" pursuant to ~~G.L. 1956, ch. §~~ 45-53 and shall follow procedures provided thereto and in the land development and subdivision review regulations.

(7) *Procedures for applicant.*

a. ~~*Special use permit not requiring subdivision of Minor land development project.*~~ The applicant shall ~~apply to the Foster Zoning Board of Review for a special use permit~~ submit at least the preliminary plan and if desired, the preliminary and final plans for combine review. The ~~secretary of the zoning board of review~~ administrative officer shall forward the applicant's plans to the ~~Foster Planning Board for review~~ and decision pursuant to Sec. 32-161 ~~and opinion prior to the conclusion of the public hearing for the special use permit.~~

b. ~~*Major Land development project.*~~ The applicant shall submit at least the master plan and if desired, the master and preliminary plan for combined review. The administrative officer shall forward the applicant's plans to the Planning Board for review and decision on the master or the master and preliminary plans pursuant to Article VI of this chapter.

1. Final plan. The applicant shall submit the final plan. The administrative officer shall forward the applicant's plans to the Planning Board for review and decision on the review and decision on the final plan pursuant to Article VI of this chapter.

2. All multifamily and comprehensive permit applications shall adhere to the requirements of a land development project as specified in Sec. 38-359.

b. ~~*Special use permit requiring Major subdivision of land.*~~ ~~A request for a special use permit requiring subdivision approval shall first be~~ The applicant shall submitted ~~The applicant shall submit at least the master plan and if desired, the master and preliminary plan for combined review. The administrative officer shall forward the applicant's plans to the Planning Board for review and decision on the master or the master and preliminary~~

plans pursuant to Article VI of this chapter, to the Foster Planning Board under the Foster Subdivision Regulations. Upon receipt of "preliminary approval" by the planning board for the subdivision, the applicant shall then apply to the zoning board of review for a special use permit.

1. Final plan. The applicant shall submit the final plan. The administrative officer shall forward the applicant's plans to the Planning Board for review and decision on the review and decision on the final plan pursuant to Article VI of this chapter.

2. All multifamily and comprehensive permit applications shall adhere to the requirements of a land development project as specified in Sec. 38-359.

c. *Comprehensive permit.* Any applicant proposing to build LMI housing may submit to the planning board a single application for a comprehensive permit to build that housing ~~in lieu of separate applications to the zoning board.~~ This procedure is only available for proposals in which at least 25 percent of the housing is LMI housing. The application and review process for a comprehensive permit are contained in Article X of the land development and subdivision review regulations. The planning board and/or administrative officer has the authority to decide on adjustments and requests for relief from the literal requirements of the zoning ordinance on comprehensive permit applications.

(8) *Standards for development.*

a. *Permitted uses.* ~~Only m~~Multifamily structure(s) and ~~their several~~ accessory uses will be permitted. "Accessory uses" may include indoor and outdoor parking facilities and most ordinary residential uses, ~~but shall not include,~~ office uses, restaurant and entertainment uses, commercial uses, wholesale business and storage, industrial uses, home occupations and, professional offices, ~~and neither storage or overnight parking of commercial vehicles which have a capacity of over one and one-half tons.~~

b. *Maximum lot coverage.* The total ground area, occupied by the buildings, together with all accessory building(s), shall not exceed 20 percent of the total area of the lot except where provided by density bonus for LMI housing.

c. *Dimensional regulations.* Each lot shall meet the following lot area and front, side and rear yard dimensions:

1.

1.	Maximum n Number of bedrooms per structure	Minimum lot area per structure (in square feet)	Minimum lot frontage (in feet)
--	2 to 4	3 200,000	300
--	5	3 225,000	300
--	6	3 250,000	300

--	7	3275,000	325300
--	8	4300,000	350300
--	9	4325,000	375300
--	10	4350,000	400300

2. Minimum front yard depth~~10035~~ feet

3. Minimum rear yard depth~~10050~~ feet

4. Minimum side yard depth..... 50 feet

45. Density bonus - Multi-unit structures may be allowed a density bonus of up to a maximum of eight bedrooms per acre for LMI housing as approved by RI DEM based on the soils. See Sec. 32-316.

d. *Additional requirements.* Additional requirements are as follows:

~~1. The specified lot area excludes ponds, streams and other freshwater wetland areas.~~

21. Lot frontage as defined in article I of this chapter.

32. The total number of bedrooms per structure is related to the design daily sewage flow (~~two person occupancy per bedroom~~) in accordance with state DEM regulations currently in effect.

43. A buffer strip is a strip 50 feet in width or depth alongside and rear lot lines that shall be maintained as a landscape buffer strip.

54. No principal building shall exceed 35 feet in height or two stories. No accessory building or other permitted structure shall exceed 20 feet in height.

65. Each building shall be provided with an enclosed fireproof waste pen of sufficient size to accommodate all trash and waste stored on the premises. The waste pen and utility area shall be properly screened and buffered from all buildings and property lines. No trash shall be disposed of on the premises.

76. Minimum off-street parking shall be provided and maintained as follows:

i. Two car spaces per dwelling unit (300 square feet per space including access, egress and general circulation).

ii. No parking shall be permitted within 75 feet of any boundary line or within the required minimum front yard.

iii. Off-street parking spaces and service drives shall be located within the boundaries of the lot being developed as a multifamily development, and provided in accordance with section 38-286.

(9) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

ARTICLE VI. – SUPPLEMENTARY REGULATIONS

Sec. 38-284 – Development standards for senior citizens group housing.

- Sec. 38-284 – Development standards for senior citizens group housing shall be amended to account for the amendments to the zoning map and to correct citations referring to Sec. 38-281.

(a) *Purpose.* The purpose of this section is to promote the establishment of new housing developments, particularly suited for senior citizens, within an ~~designated R-SC~~ **AR or HCM** district; to promote the use of land to facilitate a more economic arrangement of buildings, common facilities, vehicular circulation and utilities; to preserve to the greatest extent possible the existing natural landscape features and to utilize such features in a harmonious fashion; to allow for some flexibility in design and location of multiple structures on the same lot and to ensure a quality of construction and maintenance of the development commensurate with existing single-family dwellings within the community.

(b) *Variances.* In accordance with the purpose stated in subsection (a) of this section, the town recognizes that senior citizens, as a special class of residents, have particular needs and different life styles such that a housing development proposed exclusively for this purpose may be entitled to stronger consideration regarding several variations from the multifamily dwelling requirements.

(c) *Senior citizen or elderly person defined.* Senior citizen or elderly person shall mean herein a person 62 years of age or older, or a handicapped person.

(d) *Review of site plan.* The planning board shall review the site plan of the proposed development to determine its conformance with the requirements of this section. Within 45 days of receipt of the applicant's final site plan and supporting documents, the planning board shall submit a written report to the zoning official stating its findings and any special requirements for approval, with a copy to the town council. No zoning certificate shall be issued without written recommendation by the planning board.

(e) *Additional ~~R-SC~~ regulations and standards.* Additional ~~R-SC~~ district regulations, standards for development and special provisions are as follows:

- (1) Each living unit shall be designed for occupancy by no more than two persons and shall be considered a single bedroom unit. Up to ten percent of the living units may be planned for occupancy by handicapped persons.
- (2) No fewer than three, nor more than ten, living units shall be planned within a single structure.
- (3) The maximum number of living units within any single development shall be 30.
- (4) A private nonpublic road for the main circulation within the development shall be permitted provided it is designed and constructed in accordance with current subdivision regulation requirements governing reserved right-of-way width, width of improved roadway, storm drainage and other features.
- (5) The entire development including the structures and land shall remain solely owned, meaning one person, firm, corporation or partnership.
- (6) Permitted uses for senior citizens group housing may include such accessory use, attached or detached, structures directly in support of the community living concept such as a community hall, but limited to use by the residents of the development and occasional guests.
- (7) Water supply and sewerage requirements for each structure shall be planned in accordance with section 38-277.
- (8) The requirements for off-street parking, cited in section 38-286, may be reduced to require one car space per dwelling unit, provided additional infrequent and temporary parking can be accommodated by the roadway.
- (9) Site plan/building design. A site plan for a proposed senior citizens group housing development shall be prepared in accordance with section 38-393. The applicant shall submit a preliminary and final site plan to the planning board as part of the review process required in section 38-393.
- (10) A buffer strip will be maintained in accordance with section 38-281~~(78)~~d(3).
- (11) Provisions for rubbish disposal will be provided for in accordance with section 38 281~~(78)~~d.4(3).
- (12) Density bonuses for senior citizen dwelling facilities including LMI housing are permitted for height and for maximum building coverage. See Sec. 32-316 and Sec. 38-359.
- (13) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

ORDINANCE NO. _____
AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE IX – SITE PLAN REVIEW

Sec 38-394: Site plan for commercial and industrial development shall be amended to come into compliance with RIGL:

ARTICLE IX. – SITE PLAN REVIEW

Sec. 38-394 – **Formal Site Development Plan Review** for commercial and industrial development.

(a) *Purpose.* The purpose of this section is to ensure the orderly development and integration of commercial, industrial and institutional projects into the community; provide for erosion control and stormwater management; prevent surface water and groundwater pollution; minimize traffic hazards; mitigate nuisances caused by noise, dust or lights; and protect and enhance the ecology and physical appearance of the community.

(b) *Review of plan required.* Formal Development Plan Review applications shall be reviewed by the planning board. Except for commercial expansion and/or construction which is reviewed under the provisions of Sec. 32-161(b) and except for any enlargement in size of any building or change in use or actual use of any building including accessory structures which is reviewed by the administrative officer under Sec. 38-395, No zoning certificate or building permit shall be issued for any new commercial building or other new commercial construction in any zone of the town, or for any institutional use in an GBM or NC HC2 zone, until a site plan review of the proposed new construction has been conducted by the planning board. In addition, any use in the GBM, NC or MI zone which requires a special use permit shall be subject to a site review by the planning board before a public hearing is held by the zoning board of review. It shall also be required for any enlargement in size of any building or change in use or actual use of any building including accessory structures. Site Development plan review is not required for repairs or alterations to existing buildings or structures, provided that such work does not increase the floor area of any building or structure and does not change the actual use thereof. As part of the site Formal Development plan review process, the design of proposed buildings may be reviewed to determine compatibility with the site and with section 5.1 of the town's comprehensive plan.

(c) *Meeting with town planner.* Prior to submission of the formal plan, an applicant for a ~~commercial~~ **Formal site Development Plan** review shall make an appointment to meet with the town planner to confirm the need for such review, and for informal discussion of the project and site review application requirements and procedure.

(d) *Site plan requirements.* All site plans shall be prepared by a registered architect or engineer. Six copies of the site plan, drawn at a scale no smaller than one inch equals 40 feet, shall be submitted showing the following information unless waived by the planning board. These requirements are the same for both the preliminary and final plan:

- (1) Name of the proposed development and names and addresses of the developer and property owners, name of the registered architect or engineer designing the plan and his stamp of registration.
- (2) Locus map at a scale of one inch equals 1,000 feet.
- (3) Date, north arrow, graphic scale, contours at two-foot intervals and where slopes are three percent or less at one-foot contour intervals.

- (4) Boundary line, dimensions, zoning classification and area of lot or tract; abutting property owners within 400 feet; and lot and plat numbers.
- (5) Location and general exterior dimensions of existing structures and signs.
- (6) Existing and proposed sewers, water mains, culverts and other underground appurtenances within and adjacent to the lot or tract, pipe sizes, grades, manholes and locations.
- (7) Distance on all sides between buildings and property lines as measured on the site.
- (8) Building use including number of employees and/or number of units; e.g., beds, offices and/or employees.
- (9) Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays and angle of parking.
- (10) Location, arrangement and dimensions of off-street loading spaces.
- (11) Location and dimensions of vehicular drives; entrances and exits; acceleration and deceleration lanes; and location and dimension of pedestrian entrances, exits, walks and walkways.
- (12) Location, widths and names of all existing or prior platted roads, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements, and section and municipal boundary lines, within 400 feet of the development.
- (13) Method of solid waste disposal and screening of refuse areas.
- (14) Location, type, intensity of illumination and height of all outdoor lighting fixtures.
- (15) Location and exterior dimensions of proposed principal and accessory buildings and signs.
- (16) Finished grades, slopes, banks and ditches.
- (17) Landscaping retained and created showing botanical name, location and approximate size of plantings and screen plantings.
- (18) Location, height and materials of walls and fences.
- (19) An architectural rendering of plans or building elevations indicating exterior building design.
- (20) Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure.
- (21) The stages, if any, to be followed in the construction of the development, if it is to be developed in sections.

(22) Accompanying information shall include:

- a. Soil erosion and stormwater runoff control plans in accordance with the erosion and sediment control regulations of [chapter 26](#).
- b. A report by the state department of environmental management as to the suitability of the soil and design of individual sewage disposal.
- c. Location and extent of any wetlands and approval of state agencies for alteration of, or construction within, wetland areas, determination of special flood hazard requirements.
- d. Summary of existing and proposed easements, restrictions and covenants placed on the property.

(c) Applications requesting relief from the zoning ordinance.

(i) Applications under this chapter which require relief which qualifies only as a modification under Sec. 38-321 shall proceed by filing an application under this section and a request for a modification to the zoning-enforcement officer. If such modification is granted the application shall then proceed to be reviewed by the administrative officer pursuant to the applicable requirements of Sec. 38-395. If the modification is denied or an objection is received as set forth in Sec. 38-321, such application shall proceed under unified development plan review pursuant to Sec. 38-325 and Sec. 32-46.

(ii) Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special-use permit, shall be reviewed by the planning board under unified development plan review pursuant to Sec. 38-325 and Sec. 32-46, and a request for review shall accompany the preliminary plan application.

(f) Certification. The application shall be certified, in writing, complete or incomplete by the administrative officer within twenty-five (25) days or within fifteen (15) days if no street creation or extension is required, and/or unified development review is not required, according to the provisions of § 45-23-36(b). The running of the time period set forth in this section will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

(eg) Action Review Stages, on Formal commercial and industrial site-Development plans-Review – not requiring zoning board action. Action on commercial and industrial site-Formal DPR plans not requiring zoning board of review action shall be reviewed as follows:

(1) Within 45 days of the receipt of a complete site plan for a commercial or industrial use, the planning board will schedule a public hearing. At least seven days prior to the hearing, the planning board shall give written notice of the time and place of such hearing, by certified mail, to the applicant and to persons owning land abutting the site. The board shall also publish, in a newspaper of general circulation in the town, a notice of such hearing.

(2) The planning board shall review the site plan for compliance with all articles of this chapter. The applicant shall be advised of any required changes and/or additions to comply with the requirements of this section. The planning board will approve, subject to modifications, or disapprove the site plan. Within 30 days after the date of the close of the public hearing, including the adjourned date thereof, the board shall notify the applicant in writing of its decision stating its reasons if the plan is disapproved. Formal development plan review consists of two (2) stages of review, preliminary and final. The administrative officer may combine the approval stages, providing requirements for both stages are met by the applicant to the satisfaction of the administrative officer.

(h) Timeframes for decision.

(i) Preliminary plan. Unless the application is reviewed under unified development review, the permitting authority will approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the permitting authority.

(ii) Final Plan. For formal development plan approval, the permitting authority shall delegate final plan review and approval to the administrative officer. The officer will report its actions in writing to the permitting authority at its next regular meeting, to be made part of the record. Final plan shall be approved or denied within forty-five (45) days after the certification of completeness, or within a further amount of time that may be consented to by the applicant, in writing.

(i) Failure to act. Failure of the planning board to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the application.

(j) Vested rights. Approval of development plan review shall expire two (2) years from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording as specified in Sec. 32-48. Validity may be extended for an additional period upon application to the planning board, upon a showing of good cause. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

(k) Modifications and changes to plans.

(1) Minor changes, which shall be limited to changes made in correction of error on the preliminary plan or changes requested by the Planning Board at the stage of preliminary plan review may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without an additional planning board meeting, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting recommendation from either the

technical review committee or planning board. Denial of the proposed change(s) shall be referred to the planning board for review as a major change.

(2) Major changes shall include any change exceeding a minor change or any change to the final plan not recommended by the planning board at the preliminary plan stage. Major changes apply to plans approved at any stage. Major changes may be approved only by the Planning Board and must follow the same review and hearing process required for approval of preliminary plans, which shall include a public hearing.

(3) The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer determines that there has been a major change to the approved plans.

(4) *Performance standards.* The following criteria are to be used by the planning board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless, in the judgment of the planning board, the applicant is not able to meet one or more of the following standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application. These standards shall apply to both the preliminary and final plan.

(1) *Landscape.* The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of the soil and retaining existing vegetation during and after construction. After construction is completed, landscaping shall be installed according to the landscaping design shown on the site plan that will define, soften or screen the appearance of the off-road parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the design or buildings or site, and to minimize the encroachment of the proposed use on neighboring land uses.

(2) *Visual relationship of buildings.* Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of buildings and such natural features such as slope, soil type and drainageways.

(3) *Vehicular access.* The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points, including site distances, turning lanes and traffic signalization when required by existing and projected flow on the municipal road systems. Provisions shall be made providing and maintaining safe and convenient emergency vehicle access to all buildings and structures on the site at all times. The development shall not impose unreasonable burdens on the circulation system of the town. Town roads inadequate to handle the volume of traffic generated by the development shall be improved by the applicant to provide safe passage. The developer may be required to provide a traffic impact report prepared by a certified traffic engineer if there are unusual safety concerns such as inadequate sight distance or a history of traffic accidents in the area proposed for development.

(4) *Parking and circulation.* The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas, shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas and arrangement and use of parking areas.

(5) *Stormwater runoff and erosion control.* Adequate provisions shall be made for stormwater runoff so that removal of surface water shall not adversely affect neighboring

properties, downstream water quality, soil erosion or the storm drainage system. Whenever possible, onsite absorption of runoff waters shall be utilized to minimize discharges from the site. Provisions will be made to control erosion during and after construction. Reference is made to the state erosion and sediment control handbook.

(6) *Existing utilities.* The development shall not impose unreasonable burdens on sewers, sanitary and storm drains, water lines or other public utilities.

(7) *Advertising features.* The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures shall be compatible with the design of the proposed buildings and structures and surrounding properties and conform with article VI of this chapter.

(8) *Special features of the development.* Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utilities, buildings and similar structures shall have sufficient setbacks and screening to provide an audiovisual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

(9) *Exterior lighting.* All exterior lighting shall be designed to minimize impact on neighboring properties. All exterior 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.

(10) *Municipal services.* The development will not have an unreasonable impact on the municipal road system, fire department, police department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

(11) *Water pollution.* In making this determination, it shall at least include the elevation of the land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal and other DEM approved discharge; the slope of the land and its effect on effluents; the aquifer and aquifer recharge areas; the availability of streams for surface runoff; and the applicable federal, state and local laws, ordinances, codes and regulations.

(12) *Air pollution.* The use of the site shall not reduce the ambient air quality. In making this determination, the applicant shall consult federal and state authorities to determine air quality laws and regulations.

(13) *Water supply.* Sufficient water must be available for reasonably foreseeable needs of the development and not cause any unreasonable burden on the existing water supply if this supply is utilized.

(14) *Sewage disposal.* Adequate sewage waste disposal must be provided.

(15) *Unique areas.* There must not be any undue adverse affect on the scenic or natural beauty of the areas, aesthetics, historic sites, or rare and irreplaceable natural areas.

(16) *Capacity*. The applicant has adequate financial and technical capacity to meet the above standards.

(17) *Waterbodies*. Whenever the proposed development is situated, in whole or in part, within 300 feet of any pond, lake, river or other freshwater wetland, it will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water. There will be no disturbance of soil within 100 feet of the outer edge of a wetland.

(~~em~~) *General provisions*. General provisions concerning site plans for commercial and industrial development are as follows:

(1) The board may waive, by majority vote, site plan approval requirements or any specific provisions thereof for any change in use, and construction of an addition or accessory building to any other principal building, provided that the use is subordinate and customarily incidental to the principal use and provided that:

a. Such building area does not exceed 25 percent of the existing buildings or 1,500 square feet, whichever is less.

b. Such building does not exceed one story.

c. Such building conforms to all requirements of the district in which it is located or any other requirements in this chapter.

d. No site improvements are intended, required or will result from such building including, but not limited to, the development of additional parking spaces.

e. The change of actual use does not affect existing circulation, drainage, landscaping, buffering, lighting or other considerations of site plan review.

(2) The planning board may require the filing of a performance bond or the execution of a conditional agreement with the municipality by the applicant.

(3) All construction performed under the authorization of a building permit issued for development within the scope of this chapter shall be in conformance with the approved site plan.

(4) Change of approved site plan. If the applicant wants to make an amendment to an approved site plan, a written request shall be submitted to the planning board. If, in the opinion of the planning board, a requested change is sufficiently substantial, the planning board shall require the submission of any amended site plan. The procedure for the consideration of such written request or of such amended site plan shall be the same as that for consideration of a site plan under subsections (c), (d) and (e) of this section.

(5) Site plan procedure. Each applicant for site plan approval shall file with the town clerk six copies of the proposed site plan, 24 inches by 36 inches in size at a scale no smaller than one inch equals 40 feet; the required application form; and a ~~\$75~~100.00 application fee.

(n) Appeal. A decision under this section shall be considered an appealable decision pursuant to § 45-23-71.

(o) Standards for granting. The planning board may not grant a Formal Development Plan approval unless it finds the following:

- (1) The use will comply with all applicable requirements and development and performance standards set forth in articles VI and IX of this chapter.
- (2) The use will be in harmony with the general purpose and intent of this chapter.
- (3) The granting of the development plan will substantially serve the public convenience and welfare.
- (4) The use will not result in or create conditions inimical to the public health, safety, morals and general welfare.
- (5) It will not substantially or permanently injure the appropriate use of surrounding property.
- (6) In addition to the above, the zoning board of review shall consider:
 - a. Access to air, light, views and solar access;
 - b. Public access to waterbodies, rivers and streams; and
 - c. The conservation of energy and energy efficiency.

(p) Extension or enlargement. The planning board may not extend or enlarge a Formal Development Plan approval except by granting a new Formal development plan approval.

(q) Standards of evidence entered into the record. In approving a Formal Development Plan, the planning board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. The use is specifically authorized for formal development plan Review by this chapter.
- b. The use meets all of the criteria set forth in the sections of this chapter authorizing such formal development plan.
- c. The approval of the formal development plan will not alter the general character of the surrounding area or impair the intent or purpose of this chapter.

(r) Special conditions. In granting a formal development plan, or in making any determination upon which it is required to pass after public hearing under this chapter, the board may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of this chapter. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Such special conditions shall be based on competent credible evidence on the record, shall be incorporated into the decision, and may include, but are not limited to, provisions for:

- (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;

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(2) Controlling the sequence of development, including when it must be commenced and completed;

(3) Controlling the duration of use or development and the time within which any temporary structure must be removed;

(4) Ensuring satisfactory installation and maintenance of required public improvements;

(5) Designating the exact location and nature of development; and

(6) Establishing detailed records by submission of drawings, maps, plats or specifications.

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G. New business Subdivision Regulations

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE II – ADMINISTRATION

Sec 32-46: Procedure for approvals between planning board and other local permitting authorities shall be amended to come into compliance with RIGL:

Sec. 32-46. –~~Procedure for approvals between planning board and other local permitting authorities~~Unified Development Review.

(a) Unified development review established. Review and decision on variances and special-use permits for properties undergoing land development or subdivision review, which qualifies for unified development review by the planning board, be conducted and decided by the planning board.

(b) Application and review process. The application and review process for applications qualifying for unified development review shall be conducted as follows pursuant to Sec. 32-46:

1. Generally. Review of projects submitted under unified development review shall adhere to the procedures, timeframes and standards of the underlying category of the project as listed in § 45-23-36, but shall also include the following procedures:

2. Minor subdivisions and land-development projects. Except for dimensional relief granted by modification as set forth in Sec. 38-321, requests for variances and/or special-use permit(s) related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review or if combined, for the first stage of reviews. A public hearing on the application, including any variance and special-use permit requests that meet the requirements of subsection (7) of this section shall be held prior to consideration of the

preliminary plan by the planning board. The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.

3. Development plan review. Except for dimensional relief granted by modification as set forth in Sec. 38-321, requests for variances and/or special-use permit(s) related to minor subdivisions and land-development projects shall be submitted as part of the application materials for the preliminary plan stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (7) of this section shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve or deny the request(s) for the variance(s) and/or special-use permit(s) before considering the preliminary plan application for the minor subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the minor subdivision or land-development project.

4. Major subdivisions and land-development projects – Master plan. Except for dimensional relief granted by modification as set forth Sec. 38-321, requests for variances and/or special-use permit(s) related to major subdivisions and land-development projects shall be submitted as part of the application materials for the master plan stage of review, or if combined, the first stage of review. A public hearing on the application, including any variance and special-use permit requests that meets the requirements of subsection (7) of this section, shall be held prior to consideration of the master plan by the planning board. The planning board shall conditionally approve or deny the requests for the variance(s) and/or special-use permit(s) before considering the master plan application for the major subdivision or land-development project. Approval of the variance(s) and/or special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project.

5. Major subdivision and land-development projects – Preliminary plan. During the preliminary plan stage of review, applicants shall have the ability to request alteration of any variance(s) and/or special-use permit(s) granted by the planning board during the master plan stage of review, and/or to request new variance(s) and/or special-use permit(s), based on the outcomes of the more detailed planning and design necessary for the preliminary plan. If necessary, the applicant shall submit such requests and all supporting documentation along with the preliminary plan application materials. If the applicant requests new or additional zoning relief at this stage a public hearing on the application, that meets the requirements of subsection (7) of this section, shall be held prior to consideration of the preliminary plan by the planning board. The planning board shall conditionally approve, amend, or deny the requests for alteration(s), new variance(s) and/or new special-use permit(s), before considering the preliminary plan application for the major subdivision or land-development project. Approval of the alteration(s) and/or new variances and/or new special-use permit(s) shall be conditioned on approval of the final plan of the major subdivision or land-development project. If the planning board denies the request for alteration(s), new variance(s) and/or new special-use permit(s), the planning board shall have the option of remanding the application back to the master plan stage of review. Alternatively, if the planning board denies the request for alteration(s), new variance(s), and or new special-use permit(s), the applicant may consent to an extension of the decision period mandated by 45-23-41(f) so that additional information can be provided and reviewed by the board or commission.

6. Decision. The time periods by which the planning board must approve or deny applications for variances and special-use permits under the unified development review provisions shall be the same as the time periods by which the board must make a decision on the applicable review stage of the category of project under review. In granting requests for dimensional and use variances, the planning board shall be bound to the requirements of § 45-24-41 relative to entering evidence into the record in satisfaction of the applicable standards. In reviewing requests for special-use permits, the planning board shall be bound to the conditions and procedures under which a special-use permit may be issued and the criteria for the issuance of such permits, as found within the zoning ordinance pursuant to RIGL 45-24-42, and shall be required to provide for the recording of findings of fact and written decisions as described in the zoning ordinance pursuant to RIGL 45-24-42.

7. Public hearing. Unless otherwise provided in this chapter or in chapter 32, all applications under this section or Sec. 38-325 shall require a single public hearing, held pursuant (b) of this section. The public hearing must meet the following requirements:

a. Public hearing notice shall adhere to the requirements found in § 45-23-42(b).

b. The notice area for notice of the public hearing shall, at a minimum, include all property located in or within not less than two hundred feet (200') of the perimeter of the area included in the subdivision and/or land-development project. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if: (1) The notice area extends into the adjacent municipality; or (2) The development site extends into the adjacent municipality; or (3) There is a potential for significant negative impact on the adjacent municipality. Additional notice within watersheds shall also be sent as required in § 45-23-53(b) and (c).

c. Public notice shall indicate that dimensional variance(s), use variance(s) and/or special-use permit(s) are to be considered for the subdivision and/or land-development project.

d. The cost of all public notice is to be borne by the applicant.

8. Time periods. The time periods by which the planning board must approve, approve with conditions or deny the requests for variances and special-use permits under the unified development review provisions of chapter 38 shall be the same as the time periods by which the board must make a decision on the applicable review stage of the underlying type of project under review as found in chapter 32.

9. Expiration of approval. The expirations period of an approval of a variance or special-use permit granted under this section shall be the same as those set forth in the statute for the underlying type of project under review.

10. Appeal. Decisions under this section, including requests for the variance(s) and/or special-use permit(s) that are denied by the planning board may be appealed pursuant to 45-23-71.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE II – ADMINISTRATION

Sec 32-49: Technical review committee shall be added to assist the appropriate review agency:

Sec. 32-49 – Technical Review Committee

There is hereby established a technical review committee (TRC) in accordance with RIGL 45-23-56, the members of which are appointed by the Town Council. The TRC is responsible for conducting technical reviews of all applications subject to the jurisdiction delegated under this section.

a. TRC established; TRC membership. The TRC shall consist of five (5) members including members of the public, members of the planning board, and members of the zoning board of review.

b. Responsibilities of the TRC. The planning board shall adopt written procedures establishing the committee's responsibilities. The responsibilities of the TRC are listed in subsection (e) of this section.

c. TRC Chairperson The administrative officer shall serve as the chair of the TRC.

d. Recommendations of the TRC. Recommendations of the TRC to the permitting authority shall be in writing and kept as part of the permanent record of the development application. In no case shall the recommendations of the technical review committee be binding on the planning board in its activities or decisions. The recommendation of the TRC shall be made available to the applicant prior to a decision by the permitting authority.

e. Review of applications in an advisory capacity. The committee's responsibilities shall be to review the following applications if requested by the planning board, zoning board of review or the administrative officer:

1. Minor land development projects and subdivisions;

2. Major land development projects and subdivisions, provided that the TRC reviews the application prior to the planning board's first meeting on the application;

3. Administrative subdivisions at the request of the administrative officer; advisory to the administrative officer;

4. Comprehensive permit applications in an advisory capacity to the planning board;

5. Minor modifications or changes as defined in Sec. 38-394, 38-395 and in Sec. 32-161(j)(1)(i);

6. Administrative development plan review applications; advisory to the administrative officer;

7. Formal development plan review applications; advisory to the planning board;

8. Other matters referred to the TRC by the planning board, zoning board of review, or the administrative officer

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE VII – PHYSICAL DESIGN STANDARDS

- Sec 32-222: Road; road design standards shall be amended to promote the creation of private roads:

Sec. 32-222. - Road; road design standards.

The arrangement, character, extent, width, grade and location of all roads shall conform to the circulation plan of the town and to the typical roadway sections in this chapter, and shall be considered in their relation to existing and planned roads, to topographical conditions and public convenience and safety, to road classifications for use and to the proposed uses of the land to be served by such roads.

(1) *Frontage.* Each lot in the subdivision shall abut on a public or private road having access to an existing town or state road. Where a subdivision abuts ~~an existing or proposed~~ state or federal highway, the planning board may require access roads parallel or perpendicular to the state or federal highway, or such other treatment as may be necessary for adequate protection of properties and for separation of through and local traffic.

(2) *Intersections and centerlines.* Road intersection centerlines shall coincide precisely or be offset by at least 150 feet. Road centerlines shall intersect as nearly at right angles as practicable. No intersection shall contain an angle of less than 60 degrees. Where a deflection angle occurs along the centerline of a road, a centerline curve having a radius of not less than 300 feet shall be introduced. Corners at intersections shall be rounded to provide right-of-way radius of not less than 20 feet.

(3) *Road classification.* Road design within a proposed subdivision shall conform to a street hierarchy system as established in this article. Requirements for right-of-way and pavement width, on-street parking, drainage and other utilities, sidewalks, bicycle path and other design standards shall be tailored to road function. Road classification shall be determined by the planning board. The following references are used in making the determinations:

- a. Technical Paper Number 130 Highway Functional Classification System For the State of Rhode Island 1995-2005 (Adopted May 1988), October 1988, Division of Planning, Rhode Island Department of Administration, 265 Melrose Street, Providence, RI 02907.
- b. A Policy on Geometric Design of Highways and Streets 1990. American Association of State Highway and Transportation Officials.
- c. Recommended Guidelines for Subdivision Streets. Institute of Transportation Engineers, Washington, D.C.: ITE, 1984.
- d. Trip Generation, 1987 edition, Washington, D.C.: Institute of Transportation Engineers.

(4) *Major categories of road classification.* The following major categories of road classification are established:

- a. *Arterial.* A major public road that serves as an avenue for the circulation of traffic into, out of or around the town and carries high volumes of traffic and provides for high levels of mobility.
- b. *Collector.* A public road the principal function of which is to carry traffic between local roads and arterial roads but that may also provide direct access to abutting properties. These roads provide a balance between land access and mobility.
- c. *Local access.* Public roads the primary function of which is to provide access to abutting properties.
- d. ~~Minor subdivision~~ *Local access, private: Private, unimproved R* roads the primary function of which is to provide access to abutting properties. Roads ~~within created or extended as part of a minor residential or major subdivisions serving up to five~~ residential dwellings on a private road also fall within this classification.

(5) *Roadway typical sections and design criteria.* Roadway typical sections and design criteria are as follows:

- a. Specific design criteria will be determined by the board on a case-by-case basis, in consultation with the director of public works. Refer to [section 32-223\(5\)](#) entitled "Surface and Subsurface Drainage" for more specific design guidelines.

b. Right-of-way width, pavement width, and pavement type vary depending upon the number of lots served, the potential for future access and slope.

Table 1

	Figure No.
Collector	1
Local Access	2
Minor Subdivision Local access, private	3

(6)

Geometric data. Tables 2 and 3 shall be used as a guide in designing roads within a subdivision as follows:

Table 2

	Collector Public	Local Access Roads	Minor Subdivision Local Access, private
R.O.W. width	50 feet	50 feet	40 feet
Pavement width (includes berms)	Varies, see table no. 3 below		
Maximum grades			
Centerline	9 percent	10 percent	10 percent
Within 150 feet of centerline intersections	2.5 percent	N/A	N/A
Minimum grades			
Centerline	1 percent	0.5 percent	0.5 percent
Minimum length for vertical curves	100 feet*	As determined by DPW	
Minimum radius of	150 feet and a minimum of 100 foot tangent between curves	100 feet	100 feet
Centerline curve minimum sight distance	200 feet	100 feet	100 feet
Cul-de-sac turnaround			
R.O.W. diameter	N/A	100 feet	100 feet
Pavement diameter**	N/A	80 feet	80 feet
Maximum grade	N/A	4.5 percent	4.5 percent
Minimum grade	N/A	2.0 percent	2.0 percent
Intersection fillet curve			
R.O.W. minimum radius	15 feet	15 feet	10—15 feet
Pavement minimum radius	25 feet	25 feet	25 feet
Pavement crown	5 inches	3 inches	3 inches

*Less than 30 feet for each one percent algebraic difference in grade

**Where approved by the planning board, cul-de-sacs may be designed with a circle with a 40-foot unpaved center. The board will determine landscape requirements for the unpaved center.

Table 3

	# of Units Served			
	<5	5—15	15—50	>50
Pavement width	18 feet	20 feet	22 feet	24 feet

(7) *Road layout and arrangement.* The arrangement of roads shall be considered in relation to the existing road system, and to existing topographic and natural conditions. The road system shall be designed to permit the safe, efficient and orderly movement of traffic; to meet, but not exceed the needs of the present and future population served; to have a simple and logical circulation pattern; to respect natural features and topography; and to create an attractive streetscape. Wherever possible in residential subdivisions, the road system shall be designed to serve the needs of the neighborhood. However, in major subdivisions, access shall be designed to avoid road systems which have only one principal means of egress. In order to provide for alternative access, at least two vehicular access roads may be required by the planning board, in major subdivisions when determined by the board to be feasible. Proposed roads within a major subdivision shall provide for their continuation or projection to intersect with principal roads on the perimeter of the subdivision or with adjacent vacant property in order that the roads may be extended at a future time.

(8) *Private roads.* Private roads shall ~~not~~ be permitted pursuant to 32-297(c), 32-299, and 38-359. After January 1, 2024 all roads created or extended by subdivision shall be privately created, owned and maintained unless a fee is paid annually to the Town. See Sec. 32-297(c), 32-299 and 38-359.

(9) *Dead-end roads (cul-de-sacs).* All dead-end roads shall end in a cul-de-sac, modified cul-de-sac, hammerhead or turnaround constructed according to the table of geometric data in table 4, and shall be clearly marked at their entrances. The planning board may limit the length of the dead-end road (cul-de-sac), where necessary, to ensure the adequate and safe circulation of vehicular traffic. Dead-end roads shall not be more than 1,200 feet in length. Where a dead-end road is to provide access to adjacent property, the planning board may require provision for a temporary turnaround or tee until such time as the adjacent tract is developed and the road is extended. Reservation of strips of land, or any physical barrier controlling access to a road, will not be permitted.

(10) *Road names.* An extension of an existing road shall have the same name as the existing road. Names of other proposed roads shall be substantially different from any existing road name in the town.

(11) *Access to adjoining property.* When considered desirable by the planning board to provide access to adjoining property, proposed roads shall be continued and improved to the property line. The reservation of

strips of land preventing such access shall not be permitted. The planning board may require provision of a temporary turnaround until such time as the adjacent tract is developed. An improvement guarantee may be required to ensure completion of the road or construction of a permanent cul-de-sac within a reasonable period of time. Access to adjoining property for pedestrian and/or bicycle circulation shall be required wherever the planning board determines that such connection will increase accessibility between adjoining subdivisions, to existing or proposed sidewalks or bicycle paths, from subdivisions to major public or private schools, recreation areas or other facilities or where the public safety will be significantly enhanced by such pedestrian and/or bicycle connections.

(12) *Road grades.* Grades of minor roads shall not be less than 0.5 percent. Arterial roads shall not exceed five percent in grade nor be less than 0.5 percent in grade.

(13) *Pedestrian rights-of-way.* Where it is deemed appropriate to the design, the planning board may require provisions for pedestrian rights-of-way. All such rights-of-way shall be ten feet in width and shall be conveyed to the town.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE VII – PHYSICAL DESIGN STANDARDS

- Sec 32-224: Lots shall be amended to allow through lots within subdivisions.:

Sec. 32-224. - Lots.

(a) *Boundaries.* All lots shall conform to the provisions of the zoning regulations of [chapter 38](#) adopted by the town, and:

~~(1) Lots will not extend through to another existing or proposed road.~~

~~(2)~~ Except on those sides bordering a road, new lot boundaries shall have no interior angles greater than 200 degrees.

~~(3)~~ All side lot lines shall be as near right angles as practicable to road right-of-way lines or radial in arrangement when the right-of-way is a curve.

(b) *Area.* The minimum lot area established by this chapter or by any zoning ordinance adopted by the town may be increased by the planning board if the report from the state department of environmental management that greater lot areas are warranted for provisions of individual sewage disposal systems and/or water supply.

(c) *Easements.* Easements may be required by the planning board where necessary for the proper location and placement of improvements on private land as described in this subsection (c). The board may, at its discretion, require the dedication of land to the town in lieu of easements if such dedication would provide greater control over and access to the intended use.

(1) *Drainage easements.* Easements to install and maintain underground drainage facilities on private land shall be dedicated to the town where required. The nominal width for such a drainage easement shall be 20 feet. Where aboveground drainage flows are directed over private property which does not contain natural watercourses or wetlands, or where publicly owned and maintained drainage systems outfall on private land, a drainage easement shall be dedicated to the town over the area and at a location adequate for the intended purpose. Easements into and upon aboveground drainage facilities such as stormwater detention or retention basins shall be granted to the town wherever stormwater from town-owned roads or other improvements is intended to be directed to such basins.

(2) *Grading easements.* The planning board may require the dedication of an easement to the town in order to grade or maintain grading on private property where such grading is necessary to establish or maintain adequate drainage, sight distances or topographic features required as a condition of subdivision approval.

(3) *Sight distance easements.* Where deemed necessary by the planning board to establish or maintain adequate sight distances for vehicular traffic, the dedication of an easement to the town may be required which would prohibit the erection or maintenance of any visual obstruction such as a structure, tree, shrub, wall, earthen embankment, hill or any other obstruction.

(4) *Bicycle or pedestrian access easements.* Bicycle and pedestrian access shall be provided where necessary on a separate strip of land dedicated to the town or on an easement having a width of 15 feet.

(5) *Other easements.* All other required easements shall be of sufficient width and area for the intended purpose. All utility easements shall be a minimum width of 20 feet and contain at least one concrete bound.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE IX – SPECIAL PROVISIONS

Sec 32-296: Minor subdivision involving no road creation or extension shall be amended to come into compliance with RIGL and to clarify opportunities for land dedication to the public opposed to paying a fee-in-lieu;

Sec. 32-296. - Minor subdivision involving no road creation or extension.

(a) *Applicability of section.* Any subdivision of a parcel of land ~~into at least two but no more than five creating nine (9) or fewer lots for the purpose of development~~, all of which have~~ing~~ frontage on a public ~~or private~~ road, which meet all applicable area and dimensional requirements of the zoning ~~ordinance district in which the lots to be created are located~~, but which do not require the extension or creation of a road, shall be considered to be a minor subdivision and shall be reviewed according to the applicable provisions

of [section 32-161](#), and this article. Subdivisions in this section which create more than ~~five~~ nine (9) lots ~~for the purpose of development~~ shall be considered to be major subdivisions, and shall be reviewed according to the provisions of article VI of this chapter.

(b) *Minor subdivisions involving the creation of ~~two~~ one lots.* Minor subdivisions described above involving the creation of no more than ~~two~~ one lots (one original lot plus one new lot) shall first be reviewed by the administrative officer in accordance with the procedure established in [section 32-161](#). The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the preliminary plat checklist for minor subdivisions. Any further subdivision of either ~~of the two original or the created lots which was~~ created under this section at any time after December 20, 1995, whether immediate or future, shall be considered to be a minor subdivision ~~of three or more lots unless, the further division results in the creation of more than nine (9) lots, or in which case it shall be considered~~ a major subdivision and shall be reviewed under the applicable provisions of this chapter. The option of land dedication in lieu of fees, as provided by [section 32-110](#) shall ~~not~~ only be available to minor subdivisions involving the creation of ~~two~~ one (1) lots pursuant to this subsection if the original or created lot is larger than 22.5 acres. For original or created lots smaller than 22.5 acres, the subdivider shall be required to pay a fee in lieu of land dedication.

(1) *Criteria for review.* The following criteria shall be used by the planning board in its review of any two-lot minor subdivision:

a. *Potential for further subdivision.* The planning board shall consider whether the parcel being subdivided has the potential for further subdivision under current applicable zoning regulations. If it has such potential, the planning board shall consider the impacts from such future development in its review of the proposed subdivision and may impose any or all of the lot development standards provided in subsection (b)(2) of this section as necessary to mitigate such impacts.

b. *Adequacy of the road on which the proposed lots front.* The lots must be provided with access to a road which is adequate for access for vehicular traffic, and the frontage must provide safe and adequate access to a public or private road.

c. *Adequacy of the access from the lots onto the road.* The lots must be accessible by the fire department, police department and other agencies charged with protection of the public peace, safety and welfare, and the lots must be physically accessible from the road upon which it fronts i.e., they cannot be isolated by topographic or natural features which prevent adequate physical access from the road.

d. *Relationship to scenic highways.* Adequate provision shall be made to preserve scenic values along the road frontage of local or state-designated scenic highways in accordance with standards adopted by the state scenic highway board pursuant to G.L. 1956, § 24-15-9 et seq.

e. *Conformity to zoning.* The proposed lots must be in conformity with all applicable zoning ordinance requirements.

f. *Conformity with the comprehensive plan.* The proposed lots shall be in conformity with the town's comprehensive community plan including, but not limited to, discouraging the development of residential lots having direct frontage on major roads, encouraging residences to take access from local roads, and preserving visual quality and rural character.

g. *Relationship to adjacent or nearby uses.* The proposed lots and access thereto shall be designed so as to minimize conflict with existing adjacent uses, driveways, buildings or other structures, roads, intersections, hills, curves or other similar existing features.

(2) *Lot development standards.* Standards which may be imposed by the planning board on any ~~two~~ one-lot minor subdivision as a condition of approval may include the following:

- a. Relocating or modifying proposed access driveway along the road frontage;
- b. Modifying or limiting the proposed number of access driveways onto any road from any lot or group of lots;
- c. Combining driveways of adjacent lots, or groups of contiguous lots and the use of common driveways, where feasible;
- d. Screening, buffering or landscaping of the lot and/or driveway from adjacent public roads;
- e. Preserving existing unique natural and/or historic features such as trees or stone walls; and
- f. Ensuring adequate sight distances from the proposed access driveway along adjacent public roads in order to alleviate any potentially hazardous situation.

(c) *Minor subdivisions involving the creation of ~~three to five~~ two (2) or more lots.* Minor subdivisions described in [section 32-161](#) involving the creation of ~~three, four or five~~ two (2) or more lots for the purpose of development shall first be reviewed by the administrative officer in accordance with the procedure established in [section 32-161](#). The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the preliminary plat checklist for minor subdivisions ([see section 32-48](#)). Any further subdivision of ~~any the original or created~~ lots as part of a minor subdivision involving the creation of two (2) or more lots at any time after December 20, 1995, whether immediate or future, ~~so as to create a total of six lots or more from the original lot,~~ after December 20, 1995, shall be considered to be a ~~major~~ minor subdivision unless the further subdivision results in the creation of ten (10) or more lots, and in which case, the further subdivision shall be reviewed under the provisions of article VI of this chapter.

(1) *Criteria for review.* In their review of any ~~three lot to five lot~~ minor subdivision involving the creation of two (2) or more lots, the planning board shall use the same criteria for review of a ~~two~~ one-lot minor subdivision involving no road creation or extension as provided in subsection (b)(1) of this section. In addition, the planning board may also consider the following:

a. *Preservation of agricultural land.* The preservation of land in agricultural use (including forestry/silvicultural uses) or which contains prime farmland or farmland of statewide importance soils shall be maximized wherever possible by means of locating lots and/or buildings on portions of the parcel being subdivided which are not being used for agriculture or which are not suitable for agricultural use.

~~b. *Internal access roads on major arterial roads.* Wherever possible and practical, the lots shall be developed on remaining portions of the parcel being subdivided so as to avoid creation of individual lots having direct frontage on an existing public arterial or collector road. In such cases, the planning board may require the applicant to submit alternative plans~~

~~to demonstrate the feasibility of creating other types of subdivisions, such as a three-lot to five-lot minor subdivision with an internal road, a residential cluster development or a conventional subdivision. If the planning board determines that such development is feasible and practical, the creation of frontage lots may be rejected and the applicant shall be required to develop the property in an alternative fashion, acceptable to the planning board.~~

(2) *Lot development standards.* Standards which may be imposed by the planning board as a condition of approval of any ~~three-lot to five-lot~~ minor subdivision involving the creation of two (2) or more lots, also involving no road creation or extension may include the following: Any of the standards for the development of a ~~two~~-lot minor subdivision as provided in subsection (b)(2)a.—f. of this section, plus any of the following:

a. Improvements to the road on which the proposed lot fronts may be required in order to provide safe vehicular access; provided, however, that the standards for construction or upgrading of any such access roads shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

b. Provisions ~~shall~~ may be made for construction of an access road or shared driveway to provide vehicular access to multiple frontage lots from a common access point on to the public or private road on which the lots front. Minimum standards for the design and construction of such service roads may be imposed by the planning board in order to provide safe vehicular access; provided, however that such standards shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

c. If adequate provision is made for access from individual lots to service roads as required in subsection (c)(2)b of this section, then a restriction may be required that prohibits individual driveway access from lots onto the frontage roads.

d. Provisions may be made for incorporating proposed frontage lots into future subdivision of contiguous land, if such future subdivision is determined to be feasible by the planning board. Such provisions may include the following:

1. Preparation of a concept plan to indicate future access to and development of residual land contiguous to proposed frontage lots.
2. Reservation of land or easements to provide for future access from access roads to contiguous land; and/or
3. Temporary driveways for frontage lots with provisions made for future permanent driveways to be connected to future roads in subdivision of contiguous land.
4. The provision or submission by the applicant of such plans shall under no circumstances create vested rights to any such proposed future subdivision.

(d) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS
ARTICLE IX – SPECIAL PROVISIONS

Sec 32-297: Minor subdivision involving road creation or extension shall be amended to provide special provisions for minor subdivisions involving creation or extension of roads, to promote the creation of private roads, and to come into compliance with RIGL:

Sec. 32-297. - Minor subdivisions involving road creation or extension.

Any subdivision of a parcel of land ~~into at least two but creating~~ no more than ~~five~~ nine (9) lots ~~for the purpose of development~~ and which requires the creation or extension of a public or private road shall be considered a minor subdivision and shall be reviewed by the planning board in accordance with the procedures set forth in section 32-161. Standards for the design and required improvements of such minor subdivisions shall be as follows:

(1) *Creation or extension of a public or private road.* Creation or extension of a public or private road shall be effected as follows:

a. Any minor subdivision which proposes the creation or extension of a public road shall be required to meet the design improvement standards for public roads as provided in article VII of this chapter. After January 1, 2024 all roads created or extended by subdivision shall be privately created, owned and maintained unless a fee is paid annually to the Department of Public Works.

b. In minor subdivisions of three to five creating two (2) or more lots, the board may require a road right-of-way width of 50 feet if it is determined by the board that the potential for additional development on adjacent property exists and that access through the minor subdivision to such adjacent property is necessary or desirable.

(2) *Frontage on improved roads.* The area to be subdivided shall have frontage on an existing, improved public or private or unimproved road. If such an existing road has not been improved to the standards and specifications as required in this chapter, the board may require the subdivider to make certain improvements along the part of the road abutting the property or leading to the property being subdivided where necessary for drainage, safety, traffic or other reasons as deemed proper by the board.

For purposes of this chapter, roads platted, but not officially accepted by the town, shall ~~not~~ be considered existing, unimproved ~~public~~ private roads. Where these roads are incorporated within the subdivision, they shall ~~be require a maintenance plan submitted improved~~ by the developer to meet the ~~chapter standards~~ satisfaction of the planning board and the zoning-enforcement officer.

(3) Creation or extension of a private, unimproved road. Creation or extension of a private, unimproved road shall require a maintenance plan be submitted for approval by the planning board and the zoning-enforcement officer. Once approved, the road shall be maintained according to the approved plan. If the road is not maintained according to the approved plan, this shall constitute a violation of this chapter under Sec. 32-45. The developer shall have the option to pay the annual maintenance fee, stated in subsection (1)(a) of this section to alleviate the violation.

(4) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

Any minor subdivision involving road creation or extension shall require review as a Land Development Project pursuant to Article VIII of chapter 38.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE IX – SPECIAL PROVISIONS

Sec 32-298: Major subdivision involving no road creation or extension shall be added to provide special provisions for major subdivisions not involving creation or extension of roads and to come into compliance with RIGL:

Sec. 32-298 – Major subdivision involving no road creation or extension

(a) Applicability of section. Any subdivision of a parcel of land creating ten (10) or more lots, all having frontage on a public or private road, which meet all applicable area and dimensional requirements of the zoning district in which the lots are located, but which do not require the extension or creation of a road, shall be considered to be a major subdivision and shall be reviewed according to the applicable provisions of Article VI, and this article.

(b) Major subdivision review. Major subdivisions described above shall first be reviewed in the preapplication meeting stage by the administrative officer and/or planning board in accordance with the procedure established in section 32-181. The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the master plan checklist for major subdivisions. Any further subdivision of any of the lots created under this section at any time after December 20, 1995, whether immediate or future, shall be considered to be a minor subdivision if the further subdivision would result in the creation of nine (9) or fewer lots. If the further subdivision results in ten (10) or more lots, it shall be reviewed as a major subdivision. The option of land dedication in lieu of fees, as provided in section 32-110 shall only be available to major subdivisions pursuant to this section if any lot created, or the original lot remains larger than 22.5 acres. For original or created lots smaller than 22.5 acres, the subdivider shall be required to pay a fee in lieu of land dedication.

(1) Criteria for review. The following criteria shall be used by the planning board in its review of any major subdivision.

a. Potential for further subdivision. The planning board shall consider whether the parcel being subdivided has the potential for further subdivision under current applicable zoning regulations. If it has such potential, the planning board shall consider the impacts from such future development in its review of the proposed subdivision and may impose any or all of the lot development standards provided in subsection (b)(2) of this section as necessary to mitigate such impacts.

b. Adequacy of the road on which the proposed lots front. The lots must be provided with access to a road which is adequate for access for vehicular traffic, and the frontage must provide safe and adequate access to a public or private road.

c. Adequacy of the access from the lots onto the road. The lots must be accessible by the fire department, police department and other agencies charged with protection of the public peace, safety and welfare, and the lots must be physically accessible from the road upon which it fronts i.e., they cannot be isolated by topographic or natural features which prevent adequate physical access from the road.

d. Relationship to scenic highways. Adequate provision shall be made to preserve scenic values along the road frontage of local or state-designated scenic highways in accordance with standards adopted by the state scenic highway board pursuant to G.L. 1956, § 24-15-9 et seq.

e. Conformity to zoning. The proposed lots must be in conformity with all applicable zoning ordinance requirements.

f. Conformity with the comprehensive plan. The proposed lots shall be in conformity with the town's comprehensive community plan including, but not limited to, discouraging the development of residential lots having direct frontage on major roads, encouraging residences to take access from local roads, and preserving visual quality and rural character.

g. Relationship to adjacent or nearby uses. The proposed lots and access thereto shall be designed so as to minimize conflict with existing adjacent uses, driveways, buildings or other structures, roads, intersections, hills, curves or other similar existing features.

(2) Optional criteria for review. In addition to the criteria listed in subsection (1), the planning board may also consider the following:

a. Preservation of agricultural land. The preservation of land in agricultural use (including forestry/silvicultural uses) or which contains prime farmland or farmland of statewide importance soils shall be maximized wherever possible by means of locating lots and/or buildings on portions of the parcel being subdivided which are not being used for agriculture or which are not suitable for agricultural use.

(3) Lot development standards. Standards which may be imposed by the planning board on any major subdivision as a condition of approval may include the following:

a. Relocating or modifying proposed access driveway along the road frontage;

b. Modifying or limiting the proposed number of access driveways onto any road from any lot or group of lots;

c. Combining driveways of adjacent lots, or groups of contiguous lots and the use of common driveways, where feasible;

d. Screening, buffering or landscaping of the lot and/or driveway from adjacent public roads;

e. Preserving existing unique natural and/or historic features such as trees or stone walls; and

f. Ensuring adequate sight distances from the proposed access driveway along adjacent public roads in order to alleviate any potentially hazardous situation.

g. Improvements to the road on which the proposed lot fronts may be required in order to provide safe vehicular access; provided, however, that the standards for construction or upgrading of any such access roads shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

h. Provisions shall may be made for construction of an access road or shared driveway to provide vehicular access to multiple frontage lots from a common access point on to the public or private road on which the lots front. Minimum standards for the design and construction of such service roads may be imposed by the planning board in order to provide safe vehicular access; provided, however that such standards shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

i. If adequate provision is made for access from individual lots to service roads as required in subsection (c)(2)b of this section, then a restriction may be required that prohibits individual driveway access from lots onto the frontage roads.

j. Provisions may be made for incorporating proposed frontage lots into future subdivision of contiguous land, if such future subdivision is determined to be feasible by the planning board. Such provisions may include the following:

1. Preparation of a concept plan to indicate future access to and development of residual land contiguous to proposed frontage lots.

2. Reservation of land or easements to provide for future access from access roads to contiguous land; and/or

3. Temporary driveways for frontage lots with provisions made for future permanent driveways to be connected to future roads in subdivision of contiguous land.

4. The provision or submission by the applicant of such plans shall under no circumstances create vested rights to any such proposed future subdivision.

(4) Vested rights. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISIONS REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulation Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE IX – SPECIAL PROVISIONS

Sec 32-299: Major subdivision involving road creation or extension shall be added to provide special provisions for major subdivisions involving creation or extension of roads, to promote the creation of private roads, and to come into compliance with RIGL:

Sec. 32-299 – Major subdivision involving road creation or extension

Any subdivision of a parcel of land creating more ten (10) or more lots and which requires the creation or extension of a public or private road shall be considered a major subdivision and shall be reviewed by the planning board in accordance with the procedures set forth in Article VI and this section. Standards for the design and required improvements of such major subdivisions shall be as follows:

(1) *Creation or extension of a public or private road.* Creation or extension of a public or private road shall be effected as follows:

a. Any major subdivision which proposes the creation or extension of a public road shall be required to meet the design improvement standards for public roads as provided in article VII of this chapter. After January 1, 2024 all roads created or extended by subdivision shall be privately created, owned and maintained unless a fee is paid annually to the Department of Public Works.

b. In major subdivisions, the board may require a road right-of-way width of 50 feet if it is determined by the board that the potential for additional development on adjacent property exists and that access through the major subdivision to such adjacent property is necessary or desirable.

(2) *Frontage on roads.* The area to be subdivided shall have frontage on a public or private or unimproved road. If such a road has not been improved to the standards and specifications as required in this chapter, the board may require the subdivider to make certain improvements along the part of the road abutting the property or leading to the property being subdivided where necessary for drainage, safety, traffic or other reasons as deemed proper by the board.

For purposes of this chapter, roads platted, but not officially accepted by the town, shall be considered existing, unimproved private roads. Where these roads are incorporated within the subdivision, they shall require a maintenance plan submitted by the developer to meet the satisfaction of the planning board and the zoning-enforcement officer.

(3) Creation or extension of a private, unimproved road. Creation or extension of a private, unimproved road shall require a maintenance plan be submitted for approval by the planning board and the zoning-enforcement officer. Once approved, the road shall be maintained according to the approved plan. If the road is not maintained according to the approved plan, it shall constitute a violation of this chapter under Sec. 32-45. The developer shall have the option to pay the annual maintenance fee, stated in subsection (1)(a) of this section to alleviate the violation.

(4) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.

Any major subdivision involving road creation or extension shall require review as a Land Development Project pursuant to Article VIII of chapter 38.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-301. In general shall be amended to meet required updates to RIGL:

Sec. 32-301. - In general.

Any applicant proposing to build LMI housing may submit to the planning board a single application for a comprehensive permit to build that housing in lieu of separate applications to the zoning board. This procedure is only available for proposals in which at least 25 percent of the housing is low or moderate income housing. This article describes allowance of density bonuses including those relating to water availability and OWTS permits from DEM, parking, bedrooms, and floor area. The application and review process for a comprehensive permit shall be as follows.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-302. Submission requirements shall be amended to meet required updates to RIGL:

Sec. 32-302. - Submission requirements – Preliminary Plan review.

Applications for a ~~comprehensive permit~~ preliminary plan under this Article shall include:

(1) A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and

~~(2) A written request to the planning board to submit a single application to build or rehabilitate LMI housing in lieu of separate applications to the applicable local boards. The written request shall identify the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief letter signed by the authorized representative of the applicant, setting forth the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking adjustments;~~ and

(3) A proposed timetable for the commencement of construction and completion of the project; and

~~(4) A sample land lease or deed restriction with affordability liens that will restrict use as LMI housing in conformance with the guidelines of the agency providing the subsidy for the LMI housing, but for a period of not less than 30 years; and~~

~~(5) Identification of an approved entity that will monitor the long-term affordability of the LMI housing units; and~~

~~(6) A financial pro forma for the proposed development; and~~

~~(7) For comprehensive permit applications: (A) not involving major land developments or major subdivisions including, but not limited to, applications seeking relief from specific provisions of the zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other local ordinances and regulations; those items required by local regulations promulgated pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and (B) involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in section 32-183 of this chapter. Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in section 32-184 of this chapter, with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and~~

~~(8) The planning board may impose fees on comprehensive permit applications that are consistent with but do not exceed fees that would otherwise be assessed for a project of the same scope and type such as a conventional subdivision or land development project, provided, however, that the imposition of such fees shall not preclude a showing by a non-profit applicant that the fees make the project financially infeasible; and~~

~~(9) Notwithstanding the submission requirements set forth above, the planning board may request, at the applicant's expense, additional, reasonable documentation throughout the public hearing, including, but not~~

limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.

(10) Further detailed design standards/requirements as may be adopted by the planning board from time to time.

(4) Those items required under Article V of this chapter if a minor land development or subdivision or Article VI of this chapter if a major land development or subdivision, with the exception of evidence of state or federal permits; and for comprehensive permit applications included in the checklist for the preliminary plan review in the local regulations promulgated pursuant to chapter 23 of title 45.

Notwithstanding the submission requirements set forth above, the planning board may request additional, reasonable documentation throughout the public hearing, including, but not limited to opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-303. Certification of completeness shall be amended to meet required updates to RIGL:

Sec. 32-303. - Certification of completeness – Preliminary plan review.

The preliminary plan application must be certified complete or incomplete by the administrative officer according to the provisions of 32-107; provided, however, that ~~for a major land development or major subdivision, the certificate for a master plan~~ shall be granted within 3025 days and for a preliminary plan shall be granted within 45-25 days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than 4410 days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO

THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-303. Pre-application conference shall be amended to meet required updates to RIGL:

Sec. 32-304. - Pre-application conference for preliminary and final plan.

~~Where the comprehensive permit application proposal is a major land development project or a major subdivision, a pre-application conference with the administrative officer may shall be required. In advance of an applicant proposing a project under this chapter to first schedule a pre-application conference, with the planning board, (or technical review committee). To request a pre-application conference, the applicant shall be required to submit only a short description of the project in writing including the number of units, type of housing, density analysis, preliminary list of adjustments needed, as well as a location map and a map showing soil types indicating areas suitable for septic systems based on soil types and other existing mapped features i.e. wetlands conceptual site plan.~~ The purpose of the pre-application conference shall be to review a concept plan of the proposed development and to elicit feedback from the administrative officer. Upon receipt of a request by an applicant for a pre-application conference, the ~~planning board has administrative officer shall have thirty (30) days to schedule and hold the pre-application conference, unless a different timeframe is agreed to by the applicant in writing.~~ If thirty (30) days has elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for preliminary plan review for a comprehensive permit.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-305. Review of applications shall be amended to meet required updates to RIGL:

Sec. 32-305. - Review of applications – Preliminary plan.

An application filed in accordance with this section shall be reviewed by the planning board at a public hearing in accordance with the following provisions:

(1) Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.

(12) Local Notification. Upon issuance of a certificate of completeness for a comprehensive permit, the planning board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.

(23) Public notice. Public notice for all public hearings will be the same notice required under local regulations for a public hearing for a preliminary plan promulgated in accordance with [section 32-185](#) of this chapter. The cost of notice shall be paid by the applicant.

~~(34) Timeframe for Review of minor projects. The planning board review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this section, shall render a decision on the preliminary plan of the application within ninety (90) days of the date the application is certified complete, or within a further amount of time that may be consented to by the applicant through the submission of a written consent. The timeframe for review shall be the same for applications qualifying as minor land developments/subdivisions or major land developments/subdivisions, be conducted following the procedures in the applicable local regulations, with the exception that all minor land developments or minor subdivisions under this section are required to hold a public hearing on the application, within 95 days of issuance of the certificate of completeness, or within such further time as is agreed to by the applicant and the planning board.~~

~~(4) Review of major projects. In the review of a comprehensive permit application involving a major land development and/or major subdivision, the planning board shall hold a public hearing on the master plan and shall, within 120 days of issuance of the certification of completeness, or within such further amount of time as may be agreed to by the planning board and the applicant, render a decision. Preliminary and final plan review shall be conducted according to local regulations promulgated pursuant to sections [32-184](#) (Preliminary plan submission requirements) and [32-186](#) (Final plan submission requirements) of this regulations except as otherwise specified in this section.~~

~~(5) Failure to act. Failure of the local review board to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the local review board to act within the required time and the resulting approval shall be issued on request of the applicant. Further, if the public hearing is not convened or a decision is not rendered within a practicable time period as referenced in subsection (1) of this section, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.~~

(56) Required findings for approval. In approving an application, the Planning Board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, in accordance with each of the following standard provisions, where applicable:

a. The proposed development is consistent with local needs as identified in the Foster Comprehensive Plan, as amended, with particular emphasis on the Housing Element — Foster Affordable Housing Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

b. The proposed development is in compliance with the standards and provisions of the Foster Zoning Ordinance and this chapter, and/or where ~~expressly varied or waived adjustments are requested by the applicant, that~~ local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.

c. All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

~~d. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.~~

e. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

f. All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of [section 32-106\(5\)](#) of this chapter.

g. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

(7) Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:

a. The proposal is not consistent with local needs, including, but not limited to, the needs identified in the comprehensive plan, and/or chapter 38 and procedures promulgated in conformance with the comprehensive plan;

b. The proposal is not in conformance with the comprehensive plan;

c. The plans to meet the goal of ten percent (10%) of the year-round units being low- and moderate-income housing listed in the comprehensive plan enable the planning board to deny an application; provided that, the planning board also finds that the community has achieved or has made significant progress towards meeting the goals required by this section

d. Concerns for the environment and the health and safety of current residents have not been adequately addressed.

(8) Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the local review board. The vesting for the preliminary plan approval includes all ordinance provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and supporting material.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-306. Powers of the board shall be amended to meet required updates to RIGL:

Sec. 32-306. - Powers of the board and/or administrative officer.

The planning board and/or the administrative officer has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-307. Submission requirements – Final plan review shall be added to meet required updates to RIGL:

Sec. 32-307 – Submission requirements – Final plan review

The second and final stage of review for the comprehensive permit project shall be done administratively, unless an applicant has requested and been granted any waivers from the submission of checklist items for preliminary plan review, and then, at the planning board's discretion, it may vote to require the applicant to return for final plan review and approval. Applications for final plan review under this chapter shall include:

1. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and
2. A draft monitoring agreement which identifies an approved entity that will monitor the long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

3. A sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30) years; and

4. Those items required by local regulations promulgated pursuant to applicable state law included in the checklist for final plan review in the local regulations promulgated pursuant to chapter 23 of title 45, including, but not limited to:

a. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees; and

b. Certification by the tax collector that all property taxes are current; and

c. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-308. Certification of completeness – Final plan review shall be added to meet required updates to RIGL:

~~Secs. 32-308 – 32-330. – Reserved.~~

Sec. 32-308 – Certification of completeness – Final plan review

The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of Sec. 32-107; provided however, that, the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO

THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-309. Review of applications – Final plan review shall be added to meet required updates to RIGL:

Sec. 32-309 - Review of applications – Final plan

(1) *Timeframe for review.* The planning board shall render a decision on the final plan application within forty-five (45) days of the date the application is certified complete. The timeframe for review shall be the same for applications qualifying as minor land developments/subdivisions or major land developments/subdivisions.

(2) *Modifications and changes to plans.*

a. *Minor changes.* Minor changes as defined in Sec. 32-161(j)(1)(i) to the plans approved at preliminary plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from either the technical review committee or the local review board. Denial of the proposed change(s) shall be referred to the local review board for review as a major change.

b. *Major changes.* Major changes as defined in Sec. 32-161(j)(2) to the plans approved at preliminary plan may be approved only by the planning board and must follow the same review and public hearing process required for approval of preliminary plans as described in subsection (1) of Sec. 32-305.

1. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer is referring the application to the local review board under this subsection.

(3) *Decision.* An application filed in accordance with this chapter shall be approved by the administrative officer unless such application does not satisfy conditions set forth in the preliminary plan approval decision or such application does not have the requisite state and/or federal approvals or other required submissions, does not post the required improvement bonds, or such application is a major modification of the plans approved at preliminary plan.

(4) *Failure to act.* Failure of the administrative officer to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.

(5) *Vesting.* The approved final plan is vested for a period of two (2) years with the right to extend for one one-year extension upon written request by the applicant, who must appear before the

planning board for the extension request. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the planning board.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-310. Infeasibility of conditions of approval shall be added to meet required updates to RIGL:

Sec. 32-310. Infeasibility of conditions of approval.

The burden is on the applicant to show, by competent evidence before the administrative officer, that proposed conditions of approval are infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
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IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-311. Fees shall be added to meet required updates to RIGL:

Sec. 32-311. Fees.

The fees associated with a comprehensive permit application shall be the same as the fees required for minor land development/subdivisions if the application results in the creation of nine (9) or fewer units. The fees associated with a comprehensive permit application shall be the same as the fees required for major land development/subdivisions if the application results in the creation of ten (10) or more units. The imposition of fees shall not preclude a showing by an applicant that the fees make the project financially infeasible.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
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IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-312. Recording of written decisions shall be added to meet required updates to RIGL:

Sec. 32-312. Recording of written decisions All written decisions on applications under this chapter shall be recorded in the land evidence records within twenty (20) days after the planning board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the administrative officer.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-313. Majority vote required shall be added to meet required updates to RIGL:

Sec. 32-313. Majority vote required

All planning board decisions on the preliminary plan of comprehensive permits shall be by majority vote of the members present at the proceeding; provided that, there is at least a quorum of the planning board present at the voting and proceeding.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-314. Construction timetable shall be added to meet required updates to RIGL:

Sec. 32-314. Construction timetable.

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

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-315. Remanded applications shall be added to meet required updates to RIGL:

Sec. 32-315. Remanded applications.

Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, a local review board shall commence hearings within thirty (30) days of receiving an application remanded by the state housing appeals board or superior court, as applicable. If more than one remanded application exists in Foster at any given time, applications may be scheduled for hearing in the order in which they were received, and may be taken up sequentially, with the thirty-day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier filed application.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-316. Density Bonuses shall be added to meet required updates to RIGL:

Sec. 32-316. Density bonuses

Applicants for low or moderate income shall be provided more dwelling units than allowed by right in the district where the project is proposed to be located in the form of a density bonus to allow an increase in the

allowed dwelling units per acre. Application and permit fees associated with development may be waived by the planning board.

a. The standard for the planning board or administrative officer's consideration of adjustments shall be the same as the standards for relief found in Sec. 38-324 (d)(1) and RIGL §45-53-4(d)(2)(iii)(E)(II).

b. The following density bonuses for projects submitted under this Article are provided in applications for low or moderate income housing, provided that the total land utilized in the density calculation shall exclude wetlands, wetland buffers, area devoted to infrastructure necessary for development and easements or rights of way of record:

1. Adjustments, meaning a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of Sec. 38-359.

2. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least twenty-five percent (25%) low- and moderate-income housing shall be three (3) units per acre;

3. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least fifty percent (50%) low- and moderate-income housing shall be five (5) units per acre;

4. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides one hundred percent (100%) low- and moderate-income housing shall be eight (8) units per acre;

5. *Parking.* For comprehensive permit applications one (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. A dwelling unit with more than two bedrooms shall have more than one (1) off-street parking space.

6. *Bedrooms.* The maximum number of bedrooms within a dwelling unit shall be three (3) for single family dwelling units.

7. *Floor area.* Floor area shall not be limited within any application, except as provided by RIGL 45-24.3-11.

8. *Senior Citizen group dwellings – height.* For senior citizen group dwellings, the maximum building height shall be 3 stories or 30 feet with one story (or the equivalent number of units of one story) being LMI units.

9. *Senior Citizen group dwellings – building coverage.* For senior citizen group dwellings located on properties not connected to either public water or sewer or both, but which provide

competent evidence as to the availability of water to service the development and/or a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the maximum building coverage shall be increased to 25 percent of the lot size in any district where the use is permitted if any unit in the development is an LMI unit, or the maximum building coverage shall be afforded the density bonus per acre listed in subsection (2)(3)(4), whichever is greater.

10. Residential compound density bonus. For residential compounds, a compound shall include not more than three single-family dwelling units having frontage in common on a public or private road or roads and sharing a driveway held in common. Two additional units that meet the definition of LMI may be added for a total of five units within the compound.

ORDINANCE NO. _____

AN ORDINANCE IN AMENDMENT TO
THE SUBDIVISION REGULATIONS CODE OF THE TOWN OF FOSTER

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Subdivision Regulations Ordinance of the Town be amended as follows:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-317. Definitions shall be added to meet required updates to RIGL:

Sec. 32-317. Definitions

(1) "Adjustment(s)" means a request, or requests by the applicant to seek relief from the literal use and dimensional requirements of the municipal zoning ordinance and/or the design standards or requirements of the municipal land development and subdivision regulations. The standard for the local review board's consideration of adjustments is set forth in § 45-53-4(D)(2)(iii)(E)(II).

(2) "Affordable housing plan" means a component of a housing element, as defined in § 45-22.2-4(1) that addresses housing needs in a city or town that is prepared in accordance with guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(b)(1) and (c).

(3) Approved affordable housing plan" means an affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council; provided, however, that state review and approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, § 45-22.2-9, or § 45-22.2-9.

(4) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or town pursuant to chapters 22.2 and 22.3 of this title.

(5) “Consistent with local needs” means reasonable in view of the state need for low and moderate-income housing, considered with the number of low-income persons in the city or town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by a city or town council after a comprehensive hearing in a city or town where:

(i) Low- or moderate-income housing exists which is: (A) In the case of an urban city or town which has at least 5,000 occupied year-round rental units and the units, as reported in the latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the year-round housing units, and is in excess of fifteen percent (15%) of the total occupied year-round rental units; or (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the year-round housing units reported in the census.

(ii) The city or town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan that has been adopted and approved pursuant to chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides for low- and moderate-income housing in excess of either ten percent (10%) of the year-round housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided in subdivision (4)(i).

(iii) Multi-family rental units built under a comprehensive permit may be calculated towards meeting the requirements of a municipality’s low- or moderate-income housing inventory, as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

(6) Infeasible” means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it financially or logistically impracticable for any applicant to proceed in building or operating low- or moderate-income housing within the limitations set by the subsidizing agency of government or local review board, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the applicant.

(7) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage finance corporation in accordance with § 42-55-5.3(a).

(8) “Local review board means the planning board as defined by 45-22.2-4.

(9) “Low- or moderate-income housing” shall be synonymous with “affordable housing” as defined in § 42-128-8.1, and further means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or

municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

(10) "Meeting local housing needs" means as a result of the adoption of the implementation program of an approved affordable housing plan, the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan, and a showing that at least twenty percent (20%) of the total residential units approved by a local review board or any other municipal board in a calendar year are for low- and moderate-income housing as defined in § 42-128-8.1.

(11) "Monitoring agents" means those monitoring agents appointed by the Rhode Island housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

(12) "Municipal government subsidy" means assistance that is made available through a city or town program sufficient to make housing affordable, as affordable housing is defined in § 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any combination of forms of assistance.

H. Chapter 38 – Discussion

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE IV – USES

Sec 38-191: Table of Uses shall be amended as follows:

Any use, not expressly permitted in this article, is ~~prohibited~~ shall be matched to a use listed in Sec. 38-191 by the administrative officer upon application for the use not listed or at a pre-application meeting. Upon simple majority approval of the planning board, the use listed in Sec. 38-191 may be amended prior to the commencement of the meeting at which the application is to be heard. If the application is to be reviewed administratively, the simple majority vote shall be taken by the planning board.

A use not listed which is matched by the administrative officer to a use listed in Sec. 38-191 as a prohibited use in the zoning district for which the application was made shall require a simple majority approval of the planning board prior to the application being denied by the administrative officer.

ORDINANCE NO. _____

**AN ORDINANCE IN AMENDMENT TO
THE ZONING CODE OF THE TOWN OF FOSTER**

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Zoning Ordinance of the Town be amended as follows:

Chapter 38 – ZONING

ARTICLE VI – SUPPLEMENTARY REGULATIONS

- Sec 38-298: Reserved shall be amended to reserve sections 38-298-38-320. Supplementary regulations for Screening Standards to be added as follows:

Sec. 38-298. – Screening Standards.

Must be screened by an opaque fence or hedge no less than six feet in height. This requirement does not apply to such uses by the state or town government. Applicable to Sec. 38-191 – Wholesale business and storage uses #2 and #4.
