

E. Old Business - Discussion



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 ~~eing~~ 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~~ 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)~~ one (1) lots pursuant to this subsection ~~if the area within the land being subdivided amounts to more than 22.5 acres. For land being subdivided having area of less than 22.5 acres, the subdivider shall be required to pay a fee in lieu of land dedication. The same area requirements as are provided by section 32-110 shall be applicable to all subdivisions regulated under this Article.~~

(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 or private 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 or private 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 one~~-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 32-298: 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 subsection if the area within the land being subdivided amounts to more than 22.5 acres. For land being subdivided having area less 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 or private 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 or private 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 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 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 of a private road or private extension of a public 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 of a private road or private extension of a public road. Creation of a private road or private extension of a public road shall be ~~effected~~ regulated as follows:

a. Any minor subdivision which proposes the creation of a private road or private extension of a public road shall be required to meet the design improvement standards for ~~public private~~ roads as provided in article VII of this chapter. After August 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. Any minor subdivision that proposes the creation or extension of a private road shall be required to meet design improvement standards as provided in Article VII of this chapter to the satisfaction of the building official and 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.

c. In minor subdivisions, the board may require that every ___ feet a road right-of-way width of ___ feet is provided as a turnaround for emergency vehicles.

(2) *Frontage on ~~improved~~ roads.* The area to be subdivided shall have frontage on ~~an existing, improved~~ public or private or unimproved road whether existing or planned. 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 which have been declared by the town council to be public, and which have been or shall be quietly, peaceably, and actually used and improved and considered as public highways for the space of twenty (20) years platted, shall be taken and considered as public highways to all intents and purposes as fully and effectually as if the lands had been regularly laid out, recorded and opened by the town council. ~~but~~ Where such roads have not been not officially accepted by the town declared by the council to be public highways, such roads shall not be considered existing, improved public roads. ~~Where these~~ All creation and/or extension of roads are to be incorporated within the subdivision, they shall be require a maintenance plan submitted improved by the developer to meet the chapter standardssatisfaction of the planning board, zoning-enforcement officer and department of public works.

(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, zoning-enforcement officer and the director of public works. 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 resulting in the creation of more than one (1) lot 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 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 ten (10) or more lots and which requires the creation of a private road or private 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 of this chapter and this section. Standards for the design and required improvements of such major subdivisions shall be as follows:

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

a. Any major subdivision which proposes the creation of a private road or private extension of a public road shall be required to meet the design improvement standards for private roads as provided in article VII of this chapter. After August 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. Any minor subdivision that proposes the creation or extension of a private road shall be required to meet design improvement standards as provided in Article VII of this chapter to the satisfaction of the building official and 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.

c. In major subdivisions, the board may require that every _____ feet a road right-of-way width of _____ feet is provided as a turnaround for emergency vehicles.

(2) Frontage on roads. The area to be subdivided shall have frontage on a public or private or unimproved road whether existing or planned. 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 which have been declared by the town council to be public, and which have been or shall be quietly, peaceably, and actually used and improved and considered as public highways for the space of twenty (20) years shall be taken and considered as public highways to all intents and purposes as fully and effectually as if the lands had been regularly laid out, recorded and opened by the town council. Where such roads have not been declared by the council to be public highways, such roads shall not be considered existing, improved public roads. All creation and/or extension of roads to be incorporated within the subdivision shall require a maintenance plan submitted by the developer to meet the satisfaction of the planning board, zoning-enforcement officer and department of public works.

(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, zoning-enforcement officer and the director of public works. 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 major subdivision involving road creation or extension shall require review as a Land Development Project pursuant to Article VIII of chapter 38.
