

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:

ARTICLE I. – IN GENERAL

Sec. 32-2. – Purpose of chapter.

- Sec. 32-2. – Purpose of chapter shall be amended as follows to meet RIGL.

**Sec. 32-2. – Purpose of chapter.**

The purpose of this chapter is to establish a procedure to provide thorough, orderly and expeditious processing of land development and subdivision project applications that is in keeping with the provisions of the town's comprehensive plan and zoning ordinance and accomplish the following:

(1) Promoteing the public health, safety and general welfare of the town;

(2) Providing for the orderly, thorough and expeditious review and approval of land developments and subdivisions;

(23) Promoteing high quality and appropriate design and construction of subdivisions and land developments;

(34) Promoting the Protection of the existing natural and built environment and the mitigateion of all significant negative impacts of any proposed development on the existing environment;

(45) Promoting Provide for the design of subdivisions and land developments which are well-integrated with the surrounding districts neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;

(56) Encouraging Establish local design and improvement standards to reflect the intent of the town's comprehensive plan with regard to the physical character of the various neighborhoods and districts of the town;

(67) Promoteing thorough technical review of all proposed subdivisions and land developments by appropriate town officials;

(78) Provide Encouraging town requirements for dedications of public land, impact mitigation and payment-in-lieu thereof, which will be based on clear documentation of needs and fairly applied and administered; and

(89) Establishncouraging the establishment and-procedures for consistent application of procedures for local record-keeping on all matters of subdivision and land development review, approval and construction.

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:

ARTICLE I. – IN GENERAL

Sec. 32-5. – Definitions.

- Sec. 32-5. – Definitions shall be amended as follows to meet RIGL.

Sec. 32-5. - Definitions.

- (1) Administrative officer, means tThe town planner, the municipal official designated by local regulations, who will to administer the land development and subdivision regulations and to review and approve qualified applications and/or coordinate with the building inspector, local boards and commissions, other municipal staff and state agencies as set forth herein.
- (2) Board of appeal, means tThe local review authority for appeals of actions of the town planner and the planning board on matters of land development or subdivision, which shall be the local zoning board of review constituted as the board of appeal. See Sec. 32-42
- (3) Bond, means a security instrument accepted by a municipality to ensure that all improvements, facilities or work required by the land development and subdivision regulations, or required by the municipality as a condition of approval, will be completed in compliance with the approved plans and specific actions of a development. (See Improvement guarantee.)
- (4) Buildable lot, means a lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as requirements of the pertinent federal, state and local regulations. See 32-106(4)
- (5) Certificate of compliance, means a notice issued by the town planner informing an applicant that the application is complete and meets the requirements of this chapter, and that the applicant may proceed with the approved review process.
- (6) Concept plan, means a drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for pre-application meetings, and early discussions, and classification of the project within the approval process.
- (7) Consistency with the comprehensive plan, means a requirement of all local land use regulations which means that all such these regulations and subsequent actions shall be are in accordance with the public policies arrived at through detailed study and analysis and adopted by the town as the comprehensive community plan as specified in section 32-2.
- (8) Dedication, fee-in-lieu-of, means payments of cash, which are authorized in this chapter, when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which such payments will be allowed and all formulas for calculating the amount are specified in section 32-110.
- (9) Development plan review. Design or site plan review of a development of a permitted use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific

- and objective guidelines, for developments including, but not limited to:
- (i) A change in use at the property where no extensive construction of improvements is sought;
- (ii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;
- (iii) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- (iv) Development in a designated urban or growth center;
- (v) Institutional development design review for educational or hospital facilities; or
- (vi) Development in a historic district.
- (10) Development regulation. means zZoning, subdivision, land development plan, development plan review, historic district, official map, floodplain regulation, soil erosion control or any other governmental regulation of the use and development of land.
- (11) Division of land. means aA subdivision.
- (12) Environmental constraints. means aNatural features, resources or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. (See also *Physical constraints to development*.)
- (13) Final plan. means tThe final stage of land development and subdivision review. (See Sec. 32-186 section 32-161(e).)
- (14) Final plat. means tThe final drawing(s) of all or a portion of a subdivision to be recorded after approval by the planning board and any accompanying material as described in the community's regulations is chapter and/or required by the planning board.
- (15) Floor area, gross. means tThe floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features. (See section 806.0 of the state building code.)
- (16) Governing body. means tThe town council, the body of the local government having the power to adopt ordinances, accept public dedications, release public improvement guarantees, and collect fees.
- (17) Improvement. means aAny natural or built item which becomes part of, is placed upon, or is affixed to, real estate.
- (18) Improvement guarantee. means aA security instrument accepted by a municipality the planning department and/or board to ensure that all improvements, facilities, or work required by the land development and subdivision regulations, or required by the municipality planning department and/or board as a condition of approval, will be completed in compliance with the approved plans and specifications of a development. (See article VIII of this chapter.)
- (19) Land-development project. A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential commercial, institutional, recreational, open space, or mixed uses. The local regulations shall include all requirements, procedures and standards necessary for proper review and approval of land development projects to ensure consistency with this chapter and the Rhode Island zoning enabling act.
- (i) Minor land development project. A land development project involving any one the following:
- (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development; or less, or
- (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing or industrial structures; or
- (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less; or
- (D) Multi-family residential or residential condominium development of nine (9) units or less; or

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

Formatted: Default Paragraph Font, Font: Times New Roman, 12 pt, Font color: Auto, Not Expanded by / Condensed by , Pattern: Clear

Formatted: Default Paragraph Font, Font: Times New Roman, 12 pt, Font color: Auto, Not Expanded by / Condensed by , Pattern: Clear

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

- (E) Change in use at the property where no extensive construction of improvements are sought;
- (F) An adaptive reuse project of up to twenty-five thousand (25,000) square feet of gross floor area located in a commercial zone where no extensive exterior construction of improvements is sought;
- (G) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- A community can increase, but not decrease the thresholds for minor land development set forth above if specifically set forth in the local ordinance and/or regulations. The process by which 3 minor land development projects are reviewed by the local planning board, commission, technical review committee and/or administrative officer is set forth in § 45-23-38.
- (ii) Major land development project. A land development project which exceeds the thresholds for a minor land development project as set forth in this section and local ordinance or regulation. The process by which major land development projects are reviewed by the local planning board, commission, technical review committee or administrative officer is set forth in § 45-23-39.
- (20) Local regulations. means ~~the~~ The land development and subdivision review regulations adopted under the provisions of this chapter. For purposes of clarification, throughout this chapter, where reference is made to local regulations, it ~~shall~~ is to be understood as the land development and subdivision review regulations and all related ordinances and rules properly adopted pursuant to this chapter.
- (21) Low or moderate income (LMI) housing. means a ~~Any~~ 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 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 30 years from initial occupancy.
- (22) Maintenance guarantee. means a ~~Any~~ Any security instrument which may be required and accepted by ~~a municipality~~ the planning department and/or board to ensure that necessary improvements will function as required for a specific period of time. (See *Improvement guarantee*.)
- ~~Major land development plan means any land development plan not classified as a minor land development plan.~~
- (23) Master plan. means a ~~An~~ An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review only. It is the first formal review step of the major land development or major subdivision process and the step in the process in which the public hearing is held (See [section 32-183](#).)
- ~~Minor land development plan means a development plan for a residential project as defined in local regulations, provided that such development does not require waivers or modifications as specified in this chapter. All nonresidential land development projects shall be considered as major land development plans.~~
- (24) Modification of requirements. See [section 32-47\(b\)](#).
- (25) Open space. means a ~~Any~~ Any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided, however, that the area may be improved with only those buildings, structures, roads and off-road parking, and other improvements that are designated to be incidental to the natural openness of the land.
- (26) Parcel, and tract mean a ~~A~~ A lot or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.
- (27) Parking area or lot. means a ~~All~~ All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

Formatted: p0, Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5", Pattern: Clear (White)

Formatted: Font: Open Sans, 10.5 pt, Font color: Custom Color(RGB(49,51,53)), Expanded by 0.1 pt, Pattern: Clear (White)

Formatted: Bulleted + Level: 1 + Aligned at: 0.25" + Indent at: 0.5"

- ~~(28) Permitting authority, means t~~The planning board ~~or administrative officer~~, the local agency of government empowered by ~~the~~ state enabling law and local regulation or ordinance to hear and decide on specific matters pertaining to local land use.
- ~~(29) Phased development, means d~~Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by sections, subsequent to the approval of a master plan for the entire site. (See section 32-109.)
- ~~(30) Physical constraints to development, means e~~Characteristics of a site or area, either natural or manmade, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. (See also *Environmental constraints.*)
- ~~(31) Planning board, means t~~The official planning agency of the town. The local review board as established pursuant to 45-22-1 and defined by state law under 45-22-1, 45-23-1 et. al. 45-22.2-4(20), and other applicable sections. G.L. 1956, § 45-22.2-4(24), and in addition to its general duties and responsibilities, the planning board is designated by the zoning ordinance as the board to act on comprehensive permits for the town, in place of the zoning board of review.
- ~~(32) Plat, means a~~A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in the local regulations.
- ~~(33) Preapplication conference, means a~~An initial meeting between developers and municipal representatives which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others. (See section 32-1681.)
- ~~(34) Preliminary plan, means the~~ A required stage of land development and subdivision review which shall generally require detailed engineered drawings ~~and all required state and federal permits.~~ (See section 32-1681(b).)
- ~~(35) Public hearing. A hearing before the planning board which is duly noticed in accordance with § 45-23-42 and which allows public comment. A public hearing is not required for an application or stage of approval unless otherwise stated in this chapter.~~
- ~~(36) Public improvement, means a~~Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-~~road~~street parking area, drainage feature, or other facility for which the town government or other governmental entity either is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon municipal acceptance.
- ~~Public informational meeting means a meeting of the town planning board preceded by a notice, open to the public and at which the public shall be heard.~~
- ~~Resubdivision means any change of an approved or recorded subdivision plat or in a lot recorded in the municipal land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of the local land development and subdivision regulations. For the purposes of this chapter, any such action shall constitute a subdivision.~~
- ~~(37\*) Right-of-way, means a~~An easement or other legal right associated with land entitling one to pass through, over or upon property belonging to another.
- ~~(38\*) Slope of land. The grade, pitch, rise or incline of the topographic landform or surface of the ground.~~
- ~~(39\*) Stormwater detention, means a~~A provision for storage of storm water runoff and the controlled release of ~~such~~ runoff during and after a flood or storm.
- ~~(40\*) Stormwater retention, means a~~A provision for storage of storm water runoff.
- ~~(41\*) Road Street, means a~~A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. RoadsStreets are further classified by the functions they perform. (See Road street classification.)
- ~~(42\*) Road Street, access to, means a~~An adequate and permanent way of entering a lot. All lots of record shall have access to a public road for all vehicles normally associated with the uses permitted for that lot.
- ~~(43\*) Road Street classification, means a~~A method of roadway organization which identifies a roadstreet hierarchy according to function within a road system, that is, types of vehicles served and

anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Local classifications ~~shall~~ use the following as major categories:

- (1) Arterial, ~~means~~ a major ~~roadstreet~~ that serves as an avenue for the circulation of traffic into, out of, or around the municipality and carries high volumes of traffic.
- (2) Collector, ~~means~~ a ~~road street~~ ~~the whose~~ principal function ~~of which~~ is to carry traffic between local ~~roadsstreets~~ and arterial ~~roadsstreets~~ but that may also provide direct access to abutting properties.
- (3) Local, ~~means~~ ~~roadsStreets~~ ~~whosethe~~ primary function ~~of which~~ is to provide access to abutting properties.
- ~~(44\*)RoadStreet, cul-de-sac, means a~~ local ~~roadstreet~~ with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.
- ~~(45\*)RoadStreet, limited access highway, means a~~ freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.
- ~~(46\*)RoadStreet, private, means a~~ thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific, municipal improvement standards. This definition shall not apply to driveways.
- ~~(47\*)RoadStreet, public, means a~~ public property reserved or dedicated for street traffic. ~~Town roads are roads that have been duly accepted as such by the town pursuant to state law.~~
- ~~(48\*)RoadStreet, stub, means a~~ portion of a ~~roadstreet~~ reserved to provide access to future development, which may provide for utility connections.
- ~~(49\*)Subdivider, means a~~ Any person who:
  - (1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision ~~or who;~~
  - (2) Directly or indirectly sells, leases or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel, site, unit or plat in a subdivision; ~~or who~~
  - (3) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision.
- ~~(50\*)Subdivision, means~~ ~~†~~ The division ~~or redivision~~ of a lot, tract or parcel of land into two or more lots, tracts or parcels. ~~Any or any~~ adjustment to existing lot lines ~~of a recorded lot by any means shall be is~~ considered a subdivision. ~~All resubdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.~~
  - ~~(i) Administrative subdivision. Subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of streets. This subdivision only involves division, mergers, mergers and division, or adjustments of boundaries of existing lots. The process by which an administrative officer or municipal planning board or commission reviews any subdivision qualifying for this review is set forth in § 45-23-37.~~
  - ~~(ii) Minor subdivision. A subdivision creating nine (9) or fewer buildable lots. The process by which a municipal planning board, commission, technical review committee, and/or administrative officer reviews a minor subdivision is set forth in § 45-23-38.~~
  - ~~(iii) Major subdivision. A subdivision creating ten (10) or more buildable lots. The process by which a municipal planning board or commission reviews any subdivision qualifying for this review under § 45-23-39.~~
- ~~Subdivision, administrative, means~~ resubdivision of existing lots which yields no additional lots for development, and involves no creation or extension of roads. Such resubdivision shall only involve divisions, mergers, mergers and division or adjustments of boundaries of existing lots.
- ~~Subdivision, major, means~~ any subdivision not classified as either an administrative subdivision or a minor subdivision.

- ~~Subdivision, minor, means a plan for a residential subdivision of land consisting of five or fewer units or lots, provided that such subdivision does not require waivers or modifications as specified in this chapter. All nonresidential subdivisions shall be considered as major subdivisions.~~
- (51\*) Technical review committee. A committee or committees appointed by the municipality for the purpose of reviewing, commenting, approving and/or 30 making recommendations to the planning board or administrative officer, as set forth in RIGL 45-23 and this ordinance.
- (52\*) Temporary improvement. means i Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.
- (53\*) Vested rights. means t The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.
- (54\*) Waiver of requirements. See section 32-47.

---

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:

ARTICLE II. – ADMINISTRATION  
DIVISION 1. – GENERALLY

Sec. 32-42. – Planning board of appeals.

- Sec. 32-42. – Planning Board of Appeals shall be amended as follows to meet RIGL.

Sec. 32-42. - ~~Planning b~~Board of appeals.

Appeals of decisions of the ~~planning board or the~~ administrative officer on matters of review and approval of land developments and subdivision projects except as provided in RIGL 45-23-67 shall be made to the ~~planning~~ board of appeals, which shall be the Zoning Board of Review in accordance with the provisions of ~~G.L. 4956, § RIGL 45-23-67~~ 45-23-1 et seq., and as provided in Charter § 9.03. Appeals of decisions of the Planning Board shall be made to the Providence/Bristol County Superior Court pursuant to RIGL 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:

ARTICLE II. – ADMINISTRATION  
DIVISION 1. – GENERALLY

Sec. 32-47. – Waivers and modifications.

- Sec. 32-47. – Waivers and Modifications shall be amended as follows to meet RIGL.

**Sec. 32-47. - Waivers and modifications.**

~~(a) Waiver of development plan approval. The planning board may waive requirements for development plan approval where there is a change in use or occupancy and no extensive construction of improvements is sought. This waiver may be granted only by a decision by the planning board finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of development plan approval, and that the existing facilities do not require upgraded or additional site improvements.~~

~~(ba) Waiver or modification of requirements. The planning board shall have the authority to waive or modify one or more of the requirements for subdivision or land development approval contained in this chapter if the planning board finds that:~~

- ~~(1) The waiver or modification is reasonable and within the general purposes and intents of this chapter; and~~
- ~~(2) Literal enforcement of the particular regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver or modifications in the best interest of good planning practice or design as evidenced by consistency with the comprehensive plan.~~

~~(eb) Reinstatement of applications. When an applicant has exceeded a deadline established by this chapter for submission of material for a subdivision or land development, thereby rendering a previously granted approval invalid, the application may be reinstated by the planning board under the following conditions:~~

- ~~(1) The subdivision is consistent with the comprehensive community plan;~~
- ~~(2) The subdivision regulations are substantially the same as they were at the time of original approval;~~
- ~~(3) The zoning of the subdivision parcel is substantially the same as it was at the time of original approval;~~
- ~~(4) Physical conditions on the subdivision parcel are substantially the same as they were at the time of original approval; and~~
- ~~(5) Any applicable state or federal regulations are substantially the same as they were at the time of original approval.~~

~~Application for reinstatement of a previously approved subdivision shall be made to the planning board in writing by the subdivider. The planning board, in approving or denying the request for an extension, shall make findings of fact which shall be made part of the record.~~

~~(ec) Decision on waivers and modifications. The planning board shall approve, approve with conditions or deny a request for a waiver or modification by the following procedure:~~

- ~~(1) The planning board's decision shall be made within 45 days of the date the request for the waiver on modification was first considered by the planning board unless the applicant waives the deadline.~~
- ~~(2) The planning board's decision shall be in writing, and shall contain findings of fact addressing the conditions contained in subsection (ba)(1) 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:

ARTICLE II. – ADMINISTRATION  
DIVISION 2. – APPEALS

Sec. 32-71. – Procedure.

- Sec. 32-71. – Procedure shall be amended as follows to meet RIGL.

**Sec. 32-71. – Procedure for appeals of the administrative officer.**

(a) Any decision or action of the ~~planning board or~~ administrative officer on matters of subdivision or land development may be appealed by an aggrieved party. The board of appeals or review authority for appeals to ~~these~~ decisions of the administrative officer shall be the zoning board of review. The following procedure shall apply for all appeals:

(1) The appeal must be taken within 20 days of the day the decision was recorded and posted in the office of the town clerk.

(2) The appeal shall be in writing, on a form provided by the clerk of the board of appeal, and shall state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal and the relief sought.

(3) Any person may appear in person or may be represented by an agent or attorney.

(4) The appeal shall either be sent by certified mail, with a return receipt requested, or hand delivered to the clerk of the board of appeal.

(5) Upon receipt of an appeal, the clerk of the board of appeal shall require the planning board or administrative officer to transmit forthwith to the board of appeal, all papers, documents and plans, or a certified copy thereof, constituting the record of the action that is being appealed.

(b) An appeal shall stay all proceedings in furtherance of the action being appealed.

(c) Decisions by the administrative officer approving or denying projects under §§ 45-23-38 or 45-23-50 shall not be subject to this section and shall proceed directly to Superior Court as set forth in Sec. 32-74.

---

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:

**ARTICLE II. – ADMINISTRATION**  
**DIVISION 2. – APPEALS**

Sec. 32-72. – Public hearing.

- Sec. 32-72. – Public hearing shall be amended as follows to meet RIGL.

**Sec. 32-72. - Public hearing.**

(a) The board of appeals shall hold a public hearing on the appeal within 45 days of receipt of the appeal by the clerk of the board. The public hearing shall be conducted at a meeting called and advertised especially for ~~the purpose of hearing the appeal(s) anynd which has been so zoning board of review meeting that may be advertised.~~ The hearing may be held on for the same date and place as a meeting of the zoning board of review. The hearing must be held as a separate meeting from any zoning board of review meeting. ~~The planning board of appeals shall maintain a complete record of all its proceedings including Separate minutes of meetings and records of votes taken as required by Sec. 32-73, which shall be maintained by the board of appeal separate from the minutes and records of the zoning board of review.~~

(b) Any party may appear in person, or may be represented by an agent or attorney.

(c) Notice of the public hearing shall be published in a newspaper of general circulation within the town at least one week prior to the date of the public hearing. Notice shall be sent by certified mail to the parties to the appeal and to those abutters within 400 feet, pursuant to [section 32-185](#). The party who filed the appeal shall bear the cost of advertising and notice.

(d) The board of appeals shall render a decision within ten days of the close of the public hearing.

---

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:

**ARTICLE II. – ADMINISTRATION**  
**DIVISION 2. – APPEALS**

Sec. 32-73. – Standards for review.

- Sec. 32-73. – Standards for review shall be amended as follows to meet RIGL.

**Sec. 32-73. - Standards for review.**

(a) The board of appeals shall not substitute its own judgment for that of the ~~planning board or~~ administrative officer but must consider the issue upon the findings and record of the administrative officer. The board of appeals shall not reverse a decision of the ~~planning board or~~ administrative officer except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record.

(b) The concurring vote of three of the five members of the board of appeals sitting at a hearing shall be necessary to reverse any decision of the ~~planning board or~~ administrative officer.

(c) In the instance where the board of appeals overturns a decision of the ~~planning board or~~ administrative officer, the proposed project application shall be remanded to the ~~planning board or~~ administrative officer, at the stage of processing from which the appeal was taken, for further proceedings before the ~~planning board or~~ administrative officer and/or for final disposition, which shall be consistent with the board of appeal's decision.

(d) The board of appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The board of appeal shall include in the written record the reasons for each decision.

---

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:

ARTICLE II. – ADMINISTRATION  
DIVISION 2. – APPEALS

Secs. 32-74 – 32-105. - Reserved.

- Secs. 32-74 – 32-105. – Reserved shall be amended as follows to meet RIGL. The language below is taken from Sec. 32-73(d).

~~(d) Sec. 32-74 Appeals to the superior court, shall be made as follows:~~

Formatted: Font: Bold

(1) Decisions of the ~~planning~~ board of appeals, decisions of the administrative officer made pursuant to Sec. 32-161 or DPR where authorized to approve or deny an application, or a decision of the planning board shall be appealed as follows:

a. An aggrieved party may appeal a decision of the board of appeals, decisions of the administrative officer made pursuant to Sec. 32-161 or DPR where authorized to approve or deny an application, or a decision of the planning board to the county superior court by filing a complaint setting forth the reasons ~~of~~ for the appeal within 20 days after the decision has been recorded and posted in the office of the town clerk.

Recommendations by any public body or officer under this chapter are not appealable under this section. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the ~~members of the~~ planning board shall be made parties to the proceedings. No responsive pleading is required for an appeal filed pursuant to this section.

b. Appeals from a decision granting or denying approval of a final plan shall be limited to elements of the approval or disapproval not contained in the decision reached by the planning board at the preliminary stage; providing that, a public hearing has been held on the plan, if required pursuant to this chapter.

~~bc.~~ The board of appeals shall file the original documents acted upon by it and constituting the record of the case appealed former certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court within 30 days after being served with a copy of the complaint.

ed. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

de. The superior court shall review the appeal pursuant to G.L. 1956, § 45-23-71(d).

---

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:

ARTICLE II. – ADMINISTRATION  
DIVISION 2. – APPEALS

Secs. 32-74 – 32-105. - Reserved.

- Secs. 32-74 – 32-105. – Reserved shall be amended as follows to meet RIGL. The language below is taken from Sec. 32-73(d)(2).

~~(2) Sec. 32-75 Enactment of or amendment of local regulations, may be appealed as follows:~~

Formatted: Font: Bold

Enactment of or amendment of local regulations may be appealed as follows:

- a. Any legal resident or landowner, or any association of residents or landowners of the town, may appeal an enactment for an amendment of local regulations by filing a complaint in the county superior court within 30 days after such enactment or amendment has become effective.
- b. The complaint shall set forth with specificity the areas in which the enactment or amendment is not consistent with the Comprehensive Planning and Land Use Regulation Act (G.L. 1956, § 45-22.2-1 et seq.); the Zoning Enabling Act of 1991 (G.L. 1956, § 45-24-27 et seq.); the Foster Comprehensive Plan of 1992; or the town zoning ordinance (chapter 38).
- c. The appeal shall not stay the enforcement of the regulations, as enacted or amended, but the court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.
- d. The review shall be conducted by the court without a jury. If the court finds that the enactment or amendment is not consistent with any of the regulatory provisions in the town documents enumerated in subsection (d)(2)b of this section, the court shall invalidate the enactment or the amendment, or those parts of such enactment or amendment which are not consistent. The court shall not revise the regulations to be consistent, but may suggest appropriate language as part of its decision.
- e. The court may, in its discretion, upon motion of the parties or on its own motion, award reasonable attorney's fees to any party to an appeal, as set forth in this section, including a municipality.

---

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 II. – ADMINISTRATION  
DIVISION 3. APPEALS**

**Sec. 38-91. – Procedure.**

- ~~Sec. 38-91. – Procedure shall be amended as follows to meet RIGL.~~

**Sec. 38-91. - Procedure.**

An appeal to the zoning board of review from a decision of ~~the any other~~ zoning enforcement ~~agency or~~ officer ~~or the planning board~~ may be taken by an aggrieved party. Such appeal shall be taken within 30 days of the date of the recording of the decision of the officer or agency, or within 30 days of the time when the aggrieved party knew or should have known of the action or decision of such officer or agency. The appeal shall be commenced by filing an application with the board, with a copy to the officer or agency from whom the appeal is taken, specifying the ground thereof. The officer or agency from whom the appeal is taken shall forthwith transmit to the board all papers, including any transcript or audio tapes, constituting the record upon which the action for appeals was taken. Notice of the appeal shall also be transmitted to the planning board.

---

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 II. – ADMINISTRATION  
DIVISION 3. APPEALS**

**Sec. 38-93. – Public hearing.**

- ~~Sec. 38-93. – Public hearing shall be amended as follows to meet RIGL.~~

**Sec. 38-93. - Public hearing.**

The zoning board of review shall fix a reasonable time for the hearing of the appeal, give public notice thereof in the same manner as set forth in [section 38-431](#), as well as due notice to the parties of interest, and decide the appeal within 20 days of the hearing. The hearing of any appeals shall be at a separate meeting from the hearing of any variance or special use permit applications, although such hearings may be held on the same day or night. At the hearing, any party may appear in person or by agent or by attorney. The ~~zoning enforcement officer or a designated individual of the agency, commission or board~~ from whom the appeal is taken shall appear before the zoning board at the hearing to represent such agency, commission or board. ~~Other members of the agency, commission or board may appear and be heard, but shall not represent the agency, commission or board.~~ The cost of any notice required for the hearing shall be borne by the appellant.

---

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 II. – ADMINISTRATION  
DIVISION 3. APPEALS

Sec. 38-94. – Decision and records of the zoning board of review.

- Sec. 38-94. – Decision and records of the zoning board of review shall be amended as follows to meet RIGL.

Sec. 38-94. - Decision and records of the zoning board of review.

In exercising its powers in ruling, the zoning board of review may, in conformity with the provisions of this chapter, reverse or affirm wholly or partly and may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the zoning enforcement officer ~~or agency~~ from whom the appeal was taken. All decisions and records of the board respecting appeals shall conform to the provisions of section 38-67.

---

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 Regulation Ordinance of the Town be amended as follows:

ARTICLE III. – GENERAL REQUIREMENTS

Sec. 32-107. – Certificate of completeness.

- Sec. 32-107. – Certificate of completeness shall be amended as follows to meet RIGL.

Sec. 32-107. - Certificate of completeness.

(a) Classification. The administrative officer shall advise the applicant as to which approvals are required and the appropriate board for hearing an application for a land development or subdivision project. The following types of applications, as defined in Sec. 32-5, may be filed:

- (1) Subdivisions. Administrative subdivision, minor subdivision or major subdivision;
- (2) Land development projects. Minor land development or major land development; and
- (3) Development plan review.

Formatted: Indent: First line: 0.5"

(b) An application shall be complete for the purposes of commencing the applicable time period for action when so certified by ~~the planning board, with input from~~ the administrative officer. The certification of completeness shall be in writing. If such certification of the application is not made within the time specified in this chapter for the type of plan, the application shall be deemed complete for purposes of commencing the review period unless the application lacks the information required for such applications as specified in this chapter, and the administrative officer has notified the applicant, in writing, of the deficiencies in the application.

(bc) Notwithstanding other provisions of this section, ~~the~~ the planning board may subsequently require correction of any information found to be in error and submission of additional information specified in this chapter, but not required by the administrative officer, prior to certification, as is necessary to make an informed decision.

(ed) Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the administrative officer or the planning board determines that the required application information is complete.

(e) See Sec. 32-108\*, Sec. 32-146, Sec. 32-161, Article VI of this chapter, and DPR for applicable certification timeframes and requirements.

---

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:

**ARTICLE III. – GENERAL REQUIREMENTS**

**Sec. 32-108. – Preapplication meeting and concept review.**

- Sec. 32-108. – Preapplication meeting and concept review shall be amended as follows to meet RIGL.

**Sec. 32-108. - Pre-application meetings and concept review.**

(a) One or more pre-application meetings shall be held for all major land development or subdivision applications and minor subdivisions and land development projects. Pre-application meetings may be held for administrative subdivision applications, upon request of either the municipality or the applicant. Pre-application meetings shall allow the applicant to meet with the appropriate officials, boards and/or commissions, planning staff and, where appropriate, state agencies, for advice as to the required steps in the approvals process, the pertinent local plans, ordinances, regulations, rules, and procedures and standards which may bear upon the proposed development project.

(b) At the pre-application stage the applicant may request the planning board for an informal concept plan review for a development. The purpose of the concept plan is also to provide the planning board input in the formative stages of major subdivision and land development concept design.

(c) Applicants seeking a pre-application meeting or an informal concept review shall submit materials ~~ten~~ days in advance of the meeting as requested by town officials.

(d) Pre-application meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Pre-application discussions are intended for the guidance of the applicant and shall not be considered approval or commitment of approval of a project or its elements.

(e) Provided that at least one pre-application meeting has been held for major land development or subdivision application or sixty (60) days has elapsed from the filing of the pre-application submission and no pre-application meeting has been scheduled to occur within those sixty (60) days, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for a land development or subdivision project in accordance with Sec. 32-107.

---

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:

ARTICLE III. – GENERAL REQUIREMENTS

Sec. 32-146. – Generally.

- Sec. 32-146. – Generally shall be amended as follows to meet RIGL.

**Sec. 32-146. – Administrative Subdivisions Generally.**

(a) *Defined.* Administrative subdivisions shall be the ~~re~~subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of ~~roads~~streets. ~~Such re~~This subdivision ~~shall~~ only involve s divisions, mergers and divisions, or adjustments of boundaries of existing lots. The process by which the administrative officer reviews any subdivision qualifying for this review is set forth in subsection (d) of this section.

(b) *Application.* Any applicant requesting approval of a proposed administrative subdivision shall submit to the administrative officer the items required by the checklist for administrative subdivision. (See the appendix on file in the town clerk's office or the Planning Department page of the Town website.)

(c) *Certification.* The application shall be certified, in writing, as complete or incomplete by the administrative officer within a 15-day period from the date of its submission according to the provisions of article III of this chapter.

(d) *Review process.*

(1) Within 15 days of certification of completeness, the administrative officer shall review the application and approve, ~~or~~ deny, or refer it to the planning board with recommendations. The officer shall report his actions to the planning board at its next regular meeting, ~~and such report shall to~~ be made part of the record.

(2) If no action is taken by the administrative officer within the fifteen (15) days, the application shall be placed on the agenda of the next regular planning board meeting



(e) If referred to the planning board, the board shall consider the application and the recommendations of the administrative officer and either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the planning board to act within the prescribed period constitutes approval of the administrative subdivision plan and a certificate of the administrative officer as to the failure of the planning board or committee to act within the required time and the resulting approval shall be issued on request of the applicant.

(f) Denial of an application by the administrative officer is not appealable and requires the plan to be submitted as a minor subdivision application.

(g) Any approval of an administrative subdivision shall be evidenced by a written decision which shall be filed and posted in the office of the city or town clerk.

(h) Approval of an administrative subdivision expires ninety (90) days from the date of approval unless within that period a plat in conformity with that approval is submitted for signature and recording as specified in § 45-23-64.