



ORDINANCE NO. \_\_\_\_\_

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

IT IS HEREBY ORDAINED by the Town Council of Foster, Rhode Island, that the Businesses 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 12-49 – 12-65. Business licenses shall be regulated as follows:

**Sec. 12-48 – Requirement for issuance/renewal of all business licenses excepting home businesses**

No license for any business under this chapter shall be issued or renewed unless evidence has been provided that a dumpster or similar storage container is placed on site, meeting the requirements of Sec. 38-298. Proof of such dumpster or similar storage container may be provided to the town council upon renewal, to the planning board prior to issuance/renewal, or to the administrative officer prior to issuance/renewal. A waste management and removal plan shall not be required for business uses conducted as home occupations/offices or for agricultural uses which are reviewed as an administrative development plan review.



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 32-225: Regulation of access; filing of request shall be added pursuant to RIGL 45-22-7:

Pursuant to RIGL 45-22-7 and RIGL 24-8-34(b), it shall be required for any person who will be required to file a request for access, also known as a Physical Alteration Permit (PAP) pursuant to RIGL 24-8-34 to file that request not later than the day on which that person files any document in connection with the project in question with the town, and to provide a copy of the request to the town.

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**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.

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**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 ~~30~~ twenty-five (25) days ~~and for a preliminary plan shall be granted within 45~~ 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 ~~14~~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 32-303. 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 and/or the planning board and/or the technical review committee 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.

~~(2) 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 the~~ public hearings will be the same notice required under ~~local regulations Sec. 32-50(b)~~ for a public hearing for a preliminary plan promulgated in accordance with ~~section 32-185 of this chapter RIGL 45-23-42~~. 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. Review process shall be amended to meet required updates to RIGL:

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

~~(a) In reviewing the comprehensive permit request, the planning board may deny the request for any of the following reasons: (A) if the Housing Element — Foster Affordable Housing Plan notes that the Town of Foster is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs identified in the comprehensive plan, and/or the zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance with the comprehensive plan; (D) the Town of Foster has met or has plans to meet the goal of ten percent of the year round units as defined herein as LMI housing; or (E) concerns for the environment and the health and safety of current residents have not been adequately addressed.~~

~~(b) All planning board decisions on comprehensive permits shall be by majority vote of the membership of the board and may be appealed by the applicant to the state housing appeals board.~~

~~(c) If the public hearing is not convened or a decision is not rendered within the time allowed herein, the application is deemed to have been allowed and the relevant approval shall issue immediately; provided, however, that this provision shall not apply to any application remanded for hearing in any town where more than one application has been remanded for hearing provided for in G.L. 1956, § 45-53-6(f)(2).~~

~~(d) Any person aggrieved by the issuance of an approval may appeal to the superior court within 20 days of the issuance of approval.~~

~~(e) A comprehensive permit shall expire unless construction is started within 12 months and completed within 60 months of final plan approval unless a longer and/or phased period for development is agreed to by the planning 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.~~

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.

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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.

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**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 32-312. 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.

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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 32-313. 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.

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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.

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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.

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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 32-316. 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 is set forth in 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 chapter 38 and/or the design standards or requirements of this chapter.

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 – 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 which permits senior citizen group dwellings if any unit in the development is an “affordable housing” unit as defined in RIGL 42-128-8.1, or, in the case of a comprehensive



permit application, the maximum building coverage shall be afforded the density bonus per acre listed in Sec. 32-316 (2)(3)(4) as is applicable.

9. 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.



ORDINANCE NO. \_\_\_\_\_

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

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

**Chapter 34 – TAXATION**

**ARTICLE III – TAX STABILIZATION INCENTIVE FOR INDUSTRIAL, COMMERCIAL,  
AND MANUFACTURING FACILITIES**

Sec 34-51 – 34-60: shall be removed because the sections have expired. Sec. 34-51 – 34-60 shall be replaced with a partial tax exemption increasing at a rate of 20% annually of the post-improvement property tax after a new structure for commercial use, manufacturing use, or use which underwent environmental remediation is built or an existing use listed above is expanded:

**ARTICLE III. – PARTIAL TAX STABILIZATION INCENTIVE  
EXEMPTION FOR INDUSTRIAL ENVIRONMENTALLY**

# **REMEDIATED, COMMERCIAL AND MANUFACTURING FACILITIES**

## **Sec. 34-51. - Authorization.**

The town council has the authority under G.L. 1956, § 44-3-9 to exempt from tax payment, in whole or in part, real and personal property which has undergone environmental remediation, or is used for manufacturing or commercial purposes, or to determine a stabilized amount of taxes to be paid on account of the property, notwithstanding the valuation of the property or the tax rate.

## **Sec. 34-52. - Purpose.**

In order for the town to grow economically, it must incentivize new construction on vacant/underutilized space as well as support the rehabilitation and reuse of real property which has undergone environmental remediation as well as existing commercial and industrial manufacturing buildings, ~~as well as incentivize new construction on vacant/unused space~~, in order to return ~~them~~ such buildings and properties to productive use. The purpose of this article is to provide the town with a tool to promote and encourage the use of vacant and underutilized space through new construction and development and the expansion, relocation, or renovation of industrial environmentally remediated, commercial and manufacturing facilities in the town through partial tax stabilization exemption with the goal of continuing the town's revitalization and promoting job creation. The high cost of rehabilitating, developing and/or remediating these buildings or parcels for productive use is prohibitively expensive and cannot be achieved without both private and public investment. It is therefore in the public interest to provide property tax incentives for owners of qualifying properties in order that there may be substantial redevelopment of the properties for industrial environmentally remediated, manufacturing and commercial uses, and the commercial portion of mixed use developments. This will result in an improved physical plant for the town and long term economic growth and benefits, including job creation.

## **Sec. 34-53. - Definitions.**

Any capitalized terms used herein but not separately defined herein shall have the definition set forth in the Rules and Regulations for the Tax Stabilization Incentive Program promulgated by the Rhode Island Commerce Corporation pursuant to RIG-L-1956, tit. 42, ch. 64.22 ~~(the "Commerce Corporation Rules and Regulations")~~.

*Cost* means expenses by a developer incurred after an application for a tax stabilization agreement for:

- (1) Site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; and/or
- (2) Obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods for the operation of a business on real property or in a building, structure, facility, or improvement to real property.

The term "cost" includes any capital investment, as such term is defined in the Commerce Corporation Rules and Regulations.

*Developer* means the owner, prospective owner, or tenant for life or for a term of ten or more years that is deemed to be the owner for the purposes of taxation under G.L. 1956, § 44-4-6, proposing to construct a Project on a Property.

*Project* means the expansion of an existing facility, or construction of a new facility, or renovation work, to be performed on a property.

*Property* means the following types of real property: An industrial, commercial or manufacturing facility, or vacant parcel, located in the Town of Foster where a tax stabilization agreement is being sought.

## **Sec. 34-54. - Eligibility/criteria.**

(a) For a property to be eligible for this partial tax-stabilization exemption program, the project must be:

- (1) Eligible for tax relief under RIG-L-1956, § 44-3-9;
- (2) Located in the general business ~~mixed-use, manufacturing industrial~~ or neighborhood/highway commercial 2 zoning district;
- (3) Unimproved or in need of substantial rehabilitation or construction, and/or vacant for a period of 12 months. Rehabilitation and construction shall be considered "substantial" if the cost of such rehabilitation or construction is greater than or equal to the lesser of: (a) 25 percent of the ~~then~~ current pre-improvement assessed value of the property (as assessed by the town), or (b) \$100,000.00; and
- (4) The developer of the property must begin construction of the project within 12 months of the granting of the subject ~~stabilization partial exemption~~ agreement, and must complete construction of the project and obtain a certificate of occupancy for such construction within 36 months of the granting of the ~~stabilization partial exemption~~ agreement. Developers of the property that fail to meet these deadlines will be required retroactively to pay the difference between their actual stabilized partially exempted tax payments and ~~what they would have~~ the full post-improvement assessed rate paid if ineligible for the specified tax considerations (unless granted an extension of such applicable deadline due to events of force majeure, as determined by the town council).

(b) Notwithstanding anything contained herein to the contrary, the following types of projects are ineligible for this tax stabilization program:

- (1) Projects that would have a material adverse impact on the environment, as determined by the ~~town council~~ RIDEM in its sole discretion;
- (2) Residential projects which did not undergo environmental remediation;
- ~~(3) New retail construction, including without limitation so-called "big box" stores, as well as new restaurants, but excluding the expansion or rehabilitation of existing retail stores or restaurants, the construction of a restaurant as part of a larger, mixed-use development under section 34-57(e) below, the construction of one or more grocery stores or food markets, or stores selling second-hand or artisan produced goods;~~
- (4) Projects that, once completed, would render the property exempt from taxation under RIG-L-1956, § 44-3-3; and

(5) Renewable energy systems that are potentially eligible for exemption under ~~RIG-L. 1956, § 44-3-21.~~

(c) As set forth in section 34-56 below, the tax assessor shall process applications made under this article. To qualify for partial tax-stabilization exemption under this article, the finance director must certify that the applicant and its affiliates owning property in the town are current with regard to all taxes and assessments due and payable to the town. The tax assessor will concurrently confirm the then current pre-~~construction~~improvement assessed value of land and building at the time of application (based on the applicable assessment at the time).

(d) Projects consisting of multiple buildings on one lot, or multiple buildings on multiple lots, where such projects are being performed by the same developer, can be consolidated and treated as one project for the purposes of this article and the requirements hereof. For the purposes of this article, a project involving multiple buildings on one lot shall be deemed "completed" as of the date of issuance of the final building certificate of occupancy.

### **Sec. 34-55. - Conditions.**

~~Partial tax-stabilization exemptions~~ for eligible properties shall be bound to the applicant for such partial tax exemption run with the land and shall not be transferable to new owners or tenants; ~~but~~ the duration of the tax consideration period shall not be extended (unless otherwise approved by the town council). If the applicant ~~(or the successor fee owner of a property subject to a stabilization agreement granted hereunder)~~ defaults on any quarterly tax or other payment due and payable to the town (i.e., real estate, motor vehicle, or personal property) that is not the subject of a lawful and unresolved appeal process, the town council may, after a 30-day notice and cure period, order the subject ~~stabilization partial tax exemption~~ agreement be terminated. In the event that the town council shall terminate a ~~stabilization partial tax exemption~~ agreement for such failure to pay taxes (after applicable notice and cure periods), the applicant ~~(or then current owner, if the applicant is no longer the fee owner)~~ shall thereafter be required to repay all of the taxes which it did not pay as a result of the ~~stabilization partial tax exemption~~ agreement granted under this article. The applicant, on its behalf ~~and the behalf of its successors and assigns,~~ shall agree in the applicable ~~stabilization partial tax exemption~~ agreement to permit the town to place a lien against the subject property immediately following any such termination by the town council for all such unpaid amounts. Furthermore, the partial tax-stabilization exemption shall cease immediately upon the vacating of the property or if the ~~industrial~~environmentally remediated, commercial or manufacturing facility ceases operation; and if the property is vacated or operations cease prior to the expiration of the ~~stabilization partial tax exemption~~ period, the applicant shall owe the town all of the taxes, and interest thereon which it did not pay as a result of the partial tax-stabilization exemption granted under this article. The applicant, ~~its successors and assigns~~ agrees to allow the town to place an annual lien against the property which is benefitting from partial tax stabilization exemption to secure any taxes and interest owed if the property is vacant or operations cease prior to the expiration of the ~~partial stabilization exemption~~ period.

### **Sec. 34-56. - Procedure.**

Any developer may apply for partial tax-stabilization exemption at the office of the tax assessor. The tax assessor and finance director shall develop such forms and additional procedures consistent with this article, as the tax assessor deems necessary and proper to effectuate their respective obligations under the terms and provisions contained herein. The procedure for eligible properties under this article shall be as follows:

(1) No person shall be entitled to any exemption herein authorized without first filing an application for partial tax-stabilization exemption at the office of the tax assessor. No application shall be considered unless:

- a. The application is filed prior to the issuance of a certificate of occupancy (or temporary certificate of occupancy);
- b. The applicant certifies that the project will involve "substantial construction or rehabilitation" (as defined in this article) of an eligible property; and
- c. A non-refundable application fee in the amount of one-hundredth of a percent of the estimated cost of the project is paid to the town;

(2) Within fifteen (15) days of receipt of a completed application (together with the application fee), the tax assessor shall forward a copy of such application to the finance director, the town building official, the town zoning enforcement officer and the town council. The town council shall review the application and direct the appropriate town departments to conduct required due diligence. All due diligence must be completed within thirty (30) days of the completed application's submission to the tax assessor.

(3) If the town building official reports a violation of the town or state building code with respect to the subject property, said violations shall be reported to the town council and notice shall be given to the applicant within thirty (30) days of the report of the violation to the town council. If the town zoning enforcement officer reports a violation of the town zoning ordinance with respect to the subject property, said violations shall be reported to the town council and notice shall be given to the applicant within thirty (30) days of the report of the violation to the town council. If the town administrative officer reports a violation of the town land development/subdivision ordinance with respect to the subject property, said violations shall be reported to the town council and notice shall be given to the applicant within thirty (30) days of the report of violation to the town council. No partial tax-stabilization exemption agreement shall be issued unless and until any and all such violations have been cured, or unless the plans for such project establish that such violation will be cured in connection with such work (and such stabilization exemption agreement shall state that such work shall be a condition of such agreement continuing).

(4) If the town finance director reports that an applicant owes taxes to the town with respect to the subject property which the partial tax-stabilization exemption agreement would apply, notice of the taxes owed shall be given to the town council. Notice shall be given to-and the applicant within thirty (30) days of the date which the notice was given to the town council. The applicant shall have thirty (30) days from receipt of notice to make the required tax payment(s). Failure by the applicant to cure any tax deficiencies associated with the subject property shall result in cancellation of the application as an incomplete application (unless an extension is granted by the town council) without a prejudicial effect as to the ability of the applicant to reapply.

Note: Steps (3) and (4) shall be performed concurrently.

(5) The town council shall review each application and, if all eligibility requirements established in this article are satisfied, shall authorize the tax assessor to grant a partial tax-stabilization exemption for the subject property in accordance with the guidelines set forth below. Without limiting the foregoing, and notwithstanding anything contained herein to the contrary, prior to granting a partial exemption or a stabilization of taxes, the town council shall determine that:

(A) granting of the exemption or stabilization of taxes will inure to the benefit of the town by reason of:

(i) †The willingness of the manufacturing or commercial-~~firm~~ concern to locate in the town, or of individuals to reside in such an area; or

(ii) ~~€~~The willingness of a manufacturing firm to expand facilities with an increase in employment or the willingness of a commercial or manufacturing firm or concern to retain or expand its facilities in the town and not substantially reduce its work force in the town with an increase in employment, or ~~the willingness of a commercial or manufacturing concern to retain or expand its facility in the city or town and not substantially reduce its work force in the city or town~~; or

(iii) aAn improvement of the physical plant of the town which will result in a long-term economic benefit to the town and state; or

(iv) aAn improvement which converts or makes available land or facility that would otherwise be not developable or difficult to develop without substantial environmental remediation; or

(b) gGranting of the exemption ~~or stabilization~~ of taxes will inure to the benefit of the town by reason of the willingness of a manufacturing or commercial or residential firm or property owner to construct new or concern to replace, reconstruct, convert, expand, retain, or remodel existing buildings, facilities, ~~fixtures~~, machinery, or equipment with modern buildings, facilities, fixtures, machinery or equipment resulting in an increase or maintenance in plant, residential housing, or commercial building investment by the firm or ~~concern~~ property owned in the town.

**Sec. 34-57. - Stabilization-Partial tax exemption amounts.**

~~(a) Projects between \$100,000.00—\$1,000,000.00. If the cost of a project is over \$100,000.00, but less than \$1,000,000.00, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the property prior to the commencement of the project. The number of tax stabilization agreements issued in connection with this subsection shall be limited to 20. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:~~

The amount to be exempted from the post-improvement property tax following completion of construction and obtaining a certificate of occupancy as described in Sec. 34-54 (a)(4) shall be as follows:

	<u>Percentage of increase in value post-improvement property tax exempt from taxation</u>
<u>Year 1</u>	<u>100%</u>
<u>Year 2</u>	<u>7580%</u>
<u>Year 3</u>	<u>5060%</u>
<u>Year 4</u>	<u>2540%</u>
<u>Year 5</u>	<u>020%</u>
<u>Year 6</u>	<u>0%</u>

~~(b) Projects between \$1,000,000.00—\$10,000,000.00. If the cost of the project is over \$1,000,000.00, but less than \$10,000,000.00, or if the cost of the project is over \$10,000,000.00, but the project does not result in the creation of at least 50 new full-time jobs or is otherwise ineligible for the tax stabilization incentives set forth in the commerce corporation rules and regulations, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the property prior to the commencement of the project. The number of tax stabilization agreements issued under in connection with this subsection shall be limited to ten. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:~~



	Percent of Increase in Value Exempt from Taxation
Year 1	100
Year 2	87.5
Year 3	75
Year 4	62.5
Year 5	50
Year 6	37.5
Year 7	25
Year 8	12.5
Year 9	0

(c) *Projects above \$10,000,000.00.* If the project results in the creation of at least 50 new full-time jobs, and the developer has committed a capital investment of not less than \$10,000,000.00 towards the project cost, and the project otherwise meets the eligibility criteria set forth in the commerce corporation rules and regulations, the effect of the tax stabilization shall be to exempt from taxation, according to the guidelines set forth herein, a percent of the increase in value over the assessed value of the property prior to the commencement of construction of the project. The number of tax stabilization agreements issued in connection with this subsection shall be limited to five. The following tax stabilization guidelines shall apply to applicants who meet the criteria contained herein and is granted tax stabilization pursuant to this subsection:

	Percent of Increase in Value Exempt from Taxation
Year 1	100
Year 2	100
Year 3	100
Year 4	90
Year 5	80
Year 6	70
Year 7	60
Year 8	50
Year 9	40
Year 10	30
Year 11	20
Year 12	10
Year 13	0

### **Sec. 34-58. - Revocation.**

The town council shall terminate an exemption granted hereunder prior to the expiration thereof in the event of fraud or misrepresentation by an applicant regarding any statements or representations contained in the application or the materials provided therewith.

### **Sec. 34-59. - Number of projects.**

The number of partial tax-stabilization exemption agreements issued under or in connection with this article shall be limited as set forth in each subsection above. Applications shall be considered on a first come, first serve basis (considering only those applications that are deemed complete by the town council). The tax assessor shall keep a list of all applications filed, and shall remove applications that are deemed incomplete by the town council. Upon removal of an incomplete application, the tax assessor shall provide the applicant with notice of such action. The applicant shall not be prejudiced from reapplying for tax consideration.

**Sec. 34-60. - Sunset limitation.**

Owners of qualifying properties shall have ~~48~~ 60 months from the effective date contained herein to apply to the town council for tax stabilization under this article by submitting an application to the tax assessor. The application must be certified as complete by the tax assessor on or before the aforementioned date in order to be considered by the town council.