



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) Establishing encouraging 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.



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**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~~ ¶The 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~~ ¶The 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/teness, 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 ~~p~~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 ~~z~~Zoning, 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 ~~a~~A subdivision.
- (12)Environmental constraints, means ~~n~~Natural 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 ~~t~~The final stage of land development and subdivision review. (See Sec. 32-186 section 32-161(e).)
- (14) Final plat, means ~~t~~The 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 ~~e~~community's regulations is chapter and/or required by the planning board.
- (15) Floor area, gross, means ~~t~~The 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 ~~t~~The 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 ~~a~~Any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.
- (18) Improvement guarantee, means ~~a~~A 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:

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- (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
- (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 4 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~~ 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 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 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 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 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 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

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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 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 that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.
- (28) Permitting authority, means ~~†~~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 ~~†~~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, 45-22-4(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 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 requires 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 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 provision for storage of storm water runoff.

- (41\*)RoadStreet, means 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\*)RoadStreet, access to, means a 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\*)RoadStreet classification, means 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 roadstreets and arterial roadstreets 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 All 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 iImprovements 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 †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.



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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:

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(a) 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 45-24-63(a)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.~~



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

**Chapter 32- SUBDIVISION REGULATIONS**

**ARTICLE II - ADMINISTRATION**

**DIVISION 1 - GENERALLY**

- Sec 32-43 - Administrative fees shall be amended as follows:

**Sec. 32-43. - Administrative fees.**

The following administrative fees are required to be paid by an applicant for approval of any subdivision and land development project, for the adequate review and hearing of applications, issuance of permits and the recording of the decisions thereon:

(1) Administrative subdivision:

a. The application fee for an administrative subdivision-fee shall be \$100.00.

b. If approved, the recording fee shall be \$49.00

(2) Minor land development and minor subdivision fees shall be as follows:

a. ~~Preapplication meeting and concept review~~ The application fee for a minor land development or subdivision (preliminary and final plan) shall be: ~~\$100.00~~400.00 in the event that one lot is proposed to be created.

b. Preliminary: \$200.00, plus \$20.00 per unit For minor subdivisions proposing the creation of more than one lot, \$150.00 shall be required for each additional lot proposed to be created.

c. Final: \$100.00, plus \$20.00 per unit If approved, the recording fee shall be \$49.00.

d. If approved and land is not being dedicated to the public, the fee-in-lieu of land dedication shall be \$1,335.00 for each lot created.

e. The stenographer fee shall be \$250.00. A stenographer fee shall be required for all minor subdivision applications, pursuant to Sec. 38-67.

(3) Major land development and major subdivision fees shall be as follows:



a. ~~Preapplication meeting and concept review: The application fee for a major land development or subdivision (master, preliminary and final plan) shall be \$100.00~~ 1,500.00 in the event that ten lots are proposed to be created.

b. ~~Master plan: \$200.00, plus \$20.00 per unit~~ For major subdivisions proposing the creation of more than ten lots, \$250.00 shall be required for each additional lot proposed to be created.

c. ~~Preliminary: \$200.00, plus \$20.00 per unit~~ If approved, the recording fee shall be \$49.00.

d. ~~Final: \$100.00, plus \$20.00 per unit~~ If approved and land is not being dedicated to the public, the fee-in-lieu of land dedication shall be \$1,335.00 for each lot created.

e. The stenographer fee shall be \$250.00. A stenographer fee shall be required for all minor subdivision applications, pursuant to Sec. 38-67.

~~(4) The fee for recording of a subdivision plan shall be as provided in G.L. 1956, § 34-13-1 et seq.~~

(5) Inspection fees shall be two percent of the total amount of the original performance bond including all required improvements. In the absence of a performance bond, inspection fees in the amount of two percent of the total estimated cost of all required improvements as estimated in accordance with the procedure established in [section 32-258](#).



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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 II – ADMINISTRATION

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

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

~~(a) Zoning board. Where an applicant requires both a variance from the zoning ordinance and planning board approval, the applicant shall first obtain an advisory recommendation from the planning board as well as conditional planning board approval for the approval stage for the proposed project, which may be simultaneous, then obtain conditional zoning board relief, and then return to the planning board for the subsequent required approvals. Where an applicant requires both a special use permit under the zoning~~

ordinance and planning board approval, the applicant shall first obtain an advisory recommendation from the planning board, as well as conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain a conditional special-use permit from the zoning board, and then return to the planning board for the subsequent required approvals.

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

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

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

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

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

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

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

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

7. Public hearing. Unless otherwise provided in this chapter or in chapter 32, all applications under this section or Sec. 38-325 shall require a single public hearing, held pursuant to RIGL 45-23-50.1(d). The public hearing must meet the following requirements:

a. Public hearing notice shall adhere to the requirements found in § 45-23-42(b), Sec. 38-38(b) and Sec. 32-50(b).

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

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

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

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

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

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

~~(bc) Town council.~~ Where an applicant requires both planning board approval and town council approval for a zoning ordinance, ~~or~~ zoning map change or kennel license, the applicant shall first obtain an advisory recommendation on the zoning change or kennel license from the planning board as well as conditional planning board approval for the first approval stage for the proposed project, which may be simultaneous, then obtain ~~a conditional~~ zoning change or kennel license approval from the council, ~~and then return to the planning board for the subsequent required approvals.~~



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 or 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:

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE II – ADMINISTRATION

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

**Sec. 32-49 – Technical Review Committee**

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

a. TRC established; TRC membership; TRC organization. The TRC shall consist of no less than three (3) members. Membership shall be comprised, at a minimum, of the active members of the planning board in addition to the administrative officer. Membership may include members of the public. The administrative officer shall recommend the members of the TRC to be appointed by the town council at a regular town council meeting in January of each year.

Appointments are made for terms of a length that the terms of no more than one third ( $\frac{1}{3}$ ) of the committee expire each year. Any vacancy occurring in the membership of the committee shall be filled by the town council for the remainder of the unexpired term. The TRC shall organize annually by electing from its membership a vice chairperson and a secretary. The secretary need not also be a member of the planning board.

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

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

d. Recommendations of the TRC. Recommendations of the TRC to the permitting authority shall be in writing and kept as part of the permanent record of the development application. In no case shall the

recommendations of the technical review committee be binding on the planning board in its activities or decisions. The recommendation of the TRC shall be made available to the applicant prior to a decision by the permitting authority.

e. Review of applications in an advisory capacity. The committee's responsibilities shall be to review and provide an advisory recommendation any application under RIGL 45-23-27 if requested by the administrative officer.

f. Meetings of the TRC. Meetings of the TRC will be held at the call of the chair. An agenda providing notice of a meeting will be posted to RI Secretary of State 48 hours prior to any meeting of the TRC.



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

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

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

**Chapter 32 – SUBDIVISION REGULATIONS**

**ARTICLE II – ADMINISTRATION**

**DIVISION 1. - GENERALLY**

Sec 32-50. Public notice requirements shall be added to meet required updates to RIGL:

**Sec. 32-50 – Public notice requirements.**

a. Applications requiring public notice. Any application or appeal filed under this chapter or chapter 38 except for those reviewed administratively shall require public notice.

b. Notice requirements. Public notice on applications and review stages requiring a public hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of local circulation. The same notice shall be posted in the town clerk's office and one other municipal building in the municipality.

The municipality must make the notice accessible on the homepage of the town website at least fourteen (14) days prior to the hearing. Notice shall be sent to the applicant and to each owner within the notice area, by first class mail, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Notice shall also be sent to any individual or entity holding a recorded conservation or preservation restriction on the property that is the subject of the application at least fourteen (14) days prior to the hearing. The notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10's) of a mile. For any notice sent by first-class mail, the sender of the notice shall submit a notarized affidavit to attest to such mailing.

1. Pursuant to Sec. 32-184(8) and RIGL 45-23-39(d)(4), Where combined review is not held, prior to the first planning board meeting on the preliminary plan of a major subdivision application, public notice shall be sent to abutters only at least fourteen (14) days before the meeting.

c. Notice area.

1. Notice distances. Public notice of the hearing shall be sent to all property owners within a maximum of two hundred feet (200') of the subject property.

2. Watersheds. Additional notice within watersheds shall also be sent as required in § 45- 23-53(b) and (c).

3. Adjacent municipalities. Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if:

- i. The notice area extends into the adjacent municipality, or
- ii. The development site extends into the adjacent municipality, or
- iii. There is a potential for significant negative impact on the adjacent municipality.

d. Notice cost. The cost of all newspaper and mailing notices shall be borne by the applicant. Any party may appear at the hearing in person, by agent or by attorney.



e. Severability. Where this section is in conflict with another section of this chapter or chapter 38, this section shall apply.



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 twenty (20) days of the day after the decision was recorded in the land evidence records 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 forty-five (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) and 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 given pursuant to Sec. 32-50(b).~~

(d) The board of appeals shall render a decision within ten (10) 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 ~~(3)~~ of the five ~~(5)~~ 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) Appeals to the superior court shall be made as follows:~~

~~(1) Decisions of the planning board of appeals shall be appealed as follows:~~

~~a. An aggrieved party may appeal a decision of the board of appeals to the county superior court by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the town clerk. 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.~~

~~b. 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.~~

~~c. 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.~~

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

~~(2) 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.

(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).

**Sec. 32-74 Appeals to the superior court.**

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(1) Decisions of the board of appeals, decisions of the administrative officer made pursuant to RIGL 45-23-38 or RIGL 45-23-50 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 RIGL 45-23-38 or RIGL 45-23-50 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 for the appeal within twenty (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 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.

c. 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 thirty (30) days after being served with a copy of the complaint.

d. 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.

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

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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 of or an amendment of local regulations by filing a complaint in the county superior court within thirty (30) days after such enactment or amendment has become effective.

b. The complaint shall set forth with specificity the area or 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. The court shall consider whether the enactment or amendment of the local regulations is consistent with the Comprehensive Planning Act (RIGL 45-22.2); The Rhode Island Zoning Enabling Act of 1991, (RIGL 45-24-27 et seq.; the municipality's comprehensive plan; or the municipality's zoning ordinance. If the enactment or amendment is not consistent, then 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 the court 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 SUBDIVISIONS REGULATIONS CODE OF THE TOWN OF FOSTER**

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

**Chapter 32- SUBDIVISION REGULATIONS  
ARTICLE III – GENERAL REQUIREMENTS**

- Sec 32-106 – Standards applicable to all land developments and subdivisions shall be amended as follows:

**Sec. 32-106. - Standards applicable to all land developments and subdivisions.**

The requirements listed in this section shall be applicable to all land developments and subdivisions submitted for approval, unless otherwise specifically provided. Prior to approval of any subdivision or land development project, (if planning board approval is required) the planning board shall address each of the general purposes stated in RIGL 45-23-30 and make positive findings on all of the standards listed in this

section, as part of the proposed project's record. If a negative finding for any of the following standards is made, the planning board shall have grounds for denial of the project design:

(1) Each land development or subdivision shall be consistent with the requirements of the town comprehensive community plan and/or shall satisfactorily address the issues where there may be inconsistencies.

(2) Each lot in the land development or subdivision shall conform to the standards and provisions of the town zoning ordinance; provided, however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements of the zoning ordinance, provided that:

a. A notation is shown on the recorded plat that the lot being created is not a buildable lot; and

b. A conservation or preservation easement pursuant to G.L. 1956, § 34-39-1 et seq. is granted to the town prohibiting any such present or future development.

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

(4) The land development or subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. See the definition of the term "buildable lot," as provided in [section 32-5](#). Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

(5) All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public ~~road~~ street. Lot frontage on a public ~~road~~ street without physical access shall not be considered compliance with this requirement.

(6) Each land development or subdivision shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface water runoff, for suitable building sites and for preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

(7) The design and location of roads, building lots, utilities, drainage improvements and other improvements in each land development or subdivision shall minimize flooding and soil erosion.

(8) The design shall allow for the adequate delivery of municipal services including, but not limited to: fire vehicle access, safety, rescue, solid waste and recyclables collection, school bus service and road maintenance/snow plowing.

Except for administrative subdivisions, findings of fact must be supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted.



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. - Certificateion 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.

(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, ~~T~~he 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, Sec. 32-46, Sec. 38-325 for applicable certification timeframes and requirements.



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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:

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 ~~and minor 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 ~~road~~streets. ~~Such re~~This subdivision ~~shall~~ only involves ~~division~~s, mergers, mergers and ~~division~~s, 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.



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

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

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

**Chapter 32 – SUBDIVISION REGULATIONS**

**ARTICLE VII – PHYSICAL DESIGN STANDARDS**

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

**Sec. 32-224. - Lots.**

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

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

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

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

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

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

(1) *Drainage easements.* Easements to install and maintain underground drainage facilities on private land shall be dedicated to the town where required. The nominal width for such a drainage easement shall be 20 feet. Where aboveground drainage flows are directed over private property which does not contain natural watercourses or wetlands, or where publicly owned and maintained drainage systems outfall on private land, a drainage easement shall be dedicated to the town over the area and at a location adequate for the

intended purpose. Easements into and upon aboveground drainage facilities such as stormwater detention or retention basins shall be granted to the town wherever stormwater from town-owned roads or other improvements is intended to be directed to such basins.

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

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

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

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

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