



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

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

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

**Chapter 38 – ZONING**

**ARTICLE VIII – LAND DEVELOPMENT PROJECTS**

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

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

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



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

**ARTICLE VI. – SUPPLEMENTARY REGULATIONS**

**Sec. 38-273 – Corner lots.**

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

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

(a) Corner lots. For the purpose of complying with section 38-192, the minimum lot frontage on both roads shall comply with the minimum lot width for the district of location. All other dimensional regulations of article IV shall apply. ~~except that, i~~In the case of a corner lot with two yards not fronting on a road but adjacent to the front yards fronting on a road, these two yards having access to the lot shall be the front side yards. The rear yard shall be the yard opposite the front yard. The yard fronting a road without access shall and comply with be the side yard. The other side yard shall be the remaining yard. depths for the district of location. On any corner lot, no driveway or access way shall be constructed within seventy-five feet of the intersection of two road lines.

(b) Through lots. For the purpose of complying with section 38-192, on a through lot, at least one lot frontage shall meet minimum zoning requirements for the district. The yard having access to the lot shall be the front yard. The rear yard shall be opposite the front yard. The yards which are not front and rear yards shall be side yards.



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**Chapter 38 – ZONING**

**ARTICLE VI – SUPPLEMENTARY REGULATIONS**

Sec 38-289: Historic cemeteries shall be amended as follows:

**Sec. 38-289. - Historic cemeteries.**

No construction, excavation or other ground disturbing activity shall take place within 3525 feet of a cemetery except in compliance with the following provisions pursuant to RIGL 23-18-11:-

1. The boundaries of the cemetery are adequately documented and there is no reason to believe additional graves exist outside the recorded cemetery and the proposed construction or excavation activity will not damage or destructively alter the historic cemetery through erosion, flooding, filling, or encroachment; or

2. The proposed construction or excavation activity has been reviewed and approved by the city or town in accordance with § 23-18-11.1.

~~No driveway shall be permitted within 15 feet of a cemetery.~~ Ordinary road maintenance on town roads shall be exempt from these distance requirements, ~~except that such~~ When an application for any project or development involving construction, excavation or other ground disturbing activity is filed on a property or portion of right-of-way or portion of proposed right-of-way directly abutting a cemetery of which the boundaries are not adequately documented and there may be reason to believe additional graves exist outside the recorded cemetery and/or the proposed construction or excavation activity may damage or destructively alter the historic cemetery through erosion, flooding, filling, or encroachment it shall be considered an application for alteration of a historic cemetery pursuant to § 23-18-11.1.

In these cases the applicant, at its own expense shall conduct an archaeological investigation to determine the actual size of the cemetery prior to final consideration of the application to alter. After due consideration, the Town Council may grant the application to alter the historic cemetery in part under the supervision of an archaeologist and with any restrictions and stipulations that it deems necessary to effectuate the purposes of § 23-18-11.1 and this section, or deny the application in its entirety. Any person or persons aggrieved by a decision of the Town Council shall have the right of appeal concerning the decision to the superior court and from the superior court to the Supreme Court by writ of certiorari. Private road construction shall not undermine or destroy a cemetery. In addition, excavation on a property shall not undermine or destroy any cemetery, burial ground or any structures or gravesites located therein. This chapter shall not apply to the ordinary installation of gravesites, monuments, markers or mausoleums.



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**Chapter 38 – ZONING**

**ARTICLE VI – SUPPLEMENTARY REGULATIONS**

- Sec 38-298: Reserved shall be amended to reserve sections 38-298-38-320. Supplementary regulations for Screening Standards to be added as follows:

**Sec. 38-298. – Screening Standards.**

Must be screened by an opaque fence or hedge no less than six feet in height. This requirement does not apply to such uses by the state or town government. Applicable to Sec. 38-191 – Wholesale business and storage uses #2, #4, Industrial uses #21, Business uses #9, Transportation and parking uses #1, Sec. 12-48, Sec. 38-394, Sec. 38-395 and any other uses requiring trash or waste accommodations.

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**Chapter 38 – ZONING**

**ARTICLE VIII – LAND DEVELOPMENT PROJECTS**

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

**38-360 - Adaptive Reuse.**

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

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

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

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

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

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

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

4. Nonconforming provisions. See Sec. 38-239 for nonconforming provisions.



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

Chapter 38 – ZONING  
ARTICLE XI – VESTED RIGHTS

Sec 38-470: Development requiring both planning board and zoning board approval shall be amended to meet RIGL:

**Sec. 38-470. - Development requiring both planning ~~board~~ and zoning ~~board~~ approval.**

Where ~~both planning board and zoning board~~ approvals are required under chapter 32 or development plan review and under chapter 38 for development, an applicant is vested when the planning board certifies that the plans are complete under the ~~respective~~ guidelines and regulations of unified development review pursuant to chapter 32 and this chapter, including article IX of this chapter. ~~T~~he applicant is vested under this chapter and regulations in effect at the time of the certification, not the date of application.

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