

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE IN AMENDMENT TO**  
**THE ZONING CODE OF THE TOWN OF FOSTER**

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

\*\*\*

**ARTICLE IV. – USES**  
**DIVISION 2. - DESCRIPTION OF USES**  
**Sec. 38-191 – Table of uses.**

Sec 38-191 – Notes (#3) shall be amended to state the following:

Notes:

3. Must be screened by an opaque fence, ~~wall, or landscaping or hedge~~ no less than ~~six~~ **eight (8)** feet in height. This requirement does not apply to such uses by the state or town government.

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**ARTICLE IV. – USES**

**DIVISION 2. - DESCRIPTION OF USES**

**Sec. 38-191. – Table of Uses. Public and Semi-Public Uses**

Sec 38-191 – Public and Semi-Public Uses shall be amended to state the following

| Public and Semi-Public Uses                           | A            | R            | N            | C            | G            | B            | M            | I            | R            | SC           | M            |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 2. Religious institution <del>other than church</del> | <del>S</del> | <del>X</del> | <del>Ø</del> | <del>X</del> | <del>Ø</del> | <del>X</del> | Ø            | Ø            | Ø            | Ø            | Ø            |
| <del>3. Church</del>                                  | <del>X</del> | <del>X</del> | <del>X</del> | <del>X</del> | <del>Ø</del> | <del>Ø</del> | <del>Ø</del> | <del>Ø</del> | <del>Ø</del> | <del>Ø</del> | <del>Ø</del> |

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**ARTICLE IV. – USES**  
**DIVISION 2. – DESCRIPTION OF USES**  
**Sec. 38-191. – Table of uses.**

- Sec. 38-191 of the Foster Code of Ordinances in Chapter 38: Zoning is hereby amended as follows:

| <i>Wholesale Business and Storage</i> |   | AR             | NC       | GBM      | MI             | R-SC     | M        |
|---------------------------------------|---|----------------|----------|----------|----------------|----------|----------|
| 1.                                    | Wholesale business and storage of non-flammable and non-explosive material in a building  | O              | O        | X        | X              | O        | O        |
| 2.                                    | Open lot storage of building materials and machinery, etc.  | S <sup>3</sup> | O        | O        | S <sup>3</sup> | O        | O        |
| 3.                                    | Storage of flammable or explosive materials above ground (other than for normal home heating fuel use, not to exceed 1,000 gallons) Amended 9/21/95   | O              | O        | O        | S              | O        | O        |
| 4.                                    | Open storage of solid fuel (other than wood), sand and gravel   | S <sup>3</sup> | O        | O        | S <sup>3</sup> | O        | O        |
| 5.                                    | Storage of flammable or explosive materials on-site, above or underground   | O              | S        | S        | S              | O        | O        |
| 6.                                    | Retail Outlet for wholesale or storage  | O              | O        | S        | X              | O        | O        |
| 7.                                    | <u>Enclosed storage of equipment and materials used for purposes including, but not limited to, landscaping, agriculture (feed and grain), construction, and woodworking. Keeping of animals strictly prohibited by this use. Structure not to exceed 2,500 sq. ft.</u> | <u>X</u>       | <u>X</u> | <u>X</u> | <u>X</u>       | <u>X</u> | <u>X</u> |

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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 IV – USES**

**DIVISION 2 – DESCRIPTION OF USES**

**Sec 38-191: Table of Uses**

Sec 38-191 – Business shall be amended to state the following:

|            | <i>Business</i>   | AR | NC | GBM | MI | R-SC | M            |
|------------|---|----|----|-----|----|------|--------------|
| <u>19.</u> | Medical Office Building situated on a <del>State or</del> US Highway <del>(not to exceed 5,000 sq. ft. in area)</del> | S  | X  | X   | O  | O    | <del>O</del> |

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

AN ORDINANCE IN AMENDMENT TO  
THE BUILDINGS AND BUILDING REGULATIONS CODE OF THE TOWN OF FOSTER

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

Chapter 10 – BUILDINGS AND BUILDING REGULATIONS  
ARTICLE III – BUILDING PERMITS  
DIVISION 2 – GROWTH MANAGEMENT ISSUANCE RESTRICTIONS

- Division 2 of Article III of Chapter 10: Buildings and Building Regulations of the Foster Code of Ordinances is hereby removed:

• ~~Sec. 10-101. Purpose.~~

~~The purpose of this division is to fairly distribute permits for residential development among applicants over time, and to guide the form of development so as to minimize the burden on facilities, primarily schools, and other resources that are at capacity. It is the intent of these provisions to provide for the housing needs of all population groups in a manner which is consistent with the Rhode Island Comprehensive Planning and Land Use Regulation Act (G.L. 1956, § 45-22-2-1 et seq.), with the Foster Comprehensive Community Plan and with Land Use 2010: State Land Use Policies and Plan.~~

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• ~~Sec. 10-102. Findings.~~

~~The town council, planning board, town staff and consultants have conducted studies and have followed state planning documents in order to develop a growth management program as called for in the comprehensive community plan. The town council finds that these studies and documents, listed below, establish the basis for the town's growth management plan, and are incorporated herein by reference:~~

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~~(1) Foster Growth Management Program, Andrew Teitz, Esq., and Samuel Shamoan, February 2004.~~

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~~(2) Conceptual Design Options: Building Feasibility Study for Foster/Glocester Regional School, Aharonian and Associates, Inc., August 5, 2003.~~

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~~(3) Town of Foster Comprehensive Plan – 2003 Update, February 2004.~~

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~~(4) Capital Improvement Budgets, Town of Foster, RI, as adopted annually by the town council for fiscal years 1958 through present.~~

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• ~~Sec. 10-103. Basic residential requirements.~~

~~(a) Issuance of building permits authorizing creation of one or more additional dwelling units through new construction or change of use shall be allowed only under the procedures and requirements set forth herein.~~

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~~(b) Applicants for such residential building permits shall be authorized in accordance with the priority assigned to them in [section 10-108](#). Applicants shall be assigned dates to begin construction by the building~~

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~~official so that the total number of dwelling units authorized to begin construction in any quarter does not exceed either the 12-month quota as established in [section 10-104](#). The term "quarter" shall mean a period of three consecutive calendar months, beginning on the first day of the first month and continuing through three consecutive months.~~

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• ~~Sec. 10-104. 12-month quota.~~

~~(a) **Definitions.** The term "12-month quota" shall mean the maximum number of residential dwelling units that may be authorized by building permits, except for exemptions as provided herein, during any continuous 12-month period, beginning on July 1 and ending on June 30.~~

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~~(b) **Established.** The 12-month quota shall be established as follows:~~

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~~(1) On or before the end of the second quarter (December 31, 2004), the planning and building departments shall issue a written report detailing the issuance of permits, exemptions and an analysis of the following data:~~

~~a. The town's ability to provide public local school capacity over the period of the current capital improvement budget.~~

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~~b. The town's ability to provide regional school capacity over the period of the current capital improvement budget.~~

~~c. The demands upon capacity that are anticipated to be made by nonresidential development and by residential development not subject to the development priority provisions or exempted in previous years but not yet constructed.~~

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~~(2) The town council has determined, based upon studies conducted pursuant to the comprehensive plan, that the town's present six-year capacity for additional dwelling units within its sustainable and serviceable limits equals not more than 156 dwelling units in addition to those now existing.~~

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~~(3) Any application for a building permit creating one or more additional dwelling units submitted after the effective date of this article shall be subject to the review procedures set forth in [section 10-106](#). Permit applications submitted before the effective date of the ordinance from which this division is derived shall not be subject to any of the quota limitations of this division.~~

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~~(4) The town council shall set the town's six-year capacity as part of its annual capital improvement budget approval without necessity of amending the provisions of the zoning ordinance. During the capital improvement budget approval, an assessment will be provided by the planning department to the town council members detailing the local and regional school capacity and the current annual enrollment at said schools. For purposes of administering this division, the council's determination of the town's six-year capacity shall take effect upon its adoption.~~

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• ~~Sec. 10-105. Dwelling units exempt from the quota.~~

~~The following types of dwellings shall not be subject to the provisions of this division with regard to the 12-month or current quarterly quota. These types of dwellings have been determined to have no or minimal impact upon the town's capacity for additional dwelling units within its sustainable and serviceable limits or they provide positive benefits to the town that are consistent with the comprehensive community~~

plan. The building official shall accept applications for construction of the types of dwelling units listed below and shall act upon them without regard to the quotas, priority determination and procedures as set forth in this article. All such permits issued shall be considered to be issued in addition to the 12-month or quarterly quota provisions of this division.

(1) *Protected development.* The application to construct a dwelling unit is not subject to this division because of the vested rights provisions of G.S. 1956, § 45-24-44.

(2) *Elderly housing.* Dwelling units which would contribute to meeting the yearround housing needs of elderly citizens through publicly enforceable restrictions limiting occupancy for a period of not less than 30 years to households at least half or more of whose members are 62 years of age or older.

(3) *Accessory apartments.* Apartment houses are subject to further limitations in the zoning ordinance (chapter 38).

• ~~Sec. 10-106. — Procedure for issuance of building permits.~~

(a) Applications for building permits for construction of one or more dwelling units shall be submitted to the building official, who shall adhere to the following procedure in reviewing and issuing permits:

(1) *Completeness.* The building official shall, upon receipt of an application submitted, examine the application, plans and all materials for completeness, which shall include all plans and materials required for a building permit under the applicable provisions of the zoning ordinance and the state building code. If said application, plans and materials are complete, the building official shall stamp it indicating the date and time of official receipt by the town.

(2) *Incomplete application.* If the application is incomplete and does not contain all plans and materials as required by the zoning ordinance (chapter 38) and the state building code, the application, plans and materials shall be returned to the applicant, within 15 days, who will be informed by the building official what is missing from the submission in order to qualify as a complete application.

(b) The building official shall not issue permits for any dwelling units in excess of the quota unless such units are exempt, as provided in ~~section 10-105~~. The building official shall keep track of all permits issued plus complete applications submitted during the most recent quarter. If, within any quarter, the number exceeds the quota, additional building permits shall no longer be issued. Applications for additional permits shall be accumulated for action at the beginning of the next quarter, and shall be prioritized and issued under the ensuing quarter.

(c) At the beginning of the next quarter, the building official shall issue building permits for the accumulated permits held over from the prior quarter. If the quarterly quota has not been met, building permits will be issued for complete applications received during the current quota as provided in this division.

~~(d) The annual number of permits are assigned as follows:~~

|                           |                                     |
|---------------------------|-------------------------------------|
| <del>First quarter</del>  | <del>July 1 to September 30</del>   |
| <del>Second quarter</del> | <del>October 1 to December 31</del> |

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|                           |                                  |  |
|---------------------------|----------------------------------|--|
| <del>Third quarter</del>  | <del>January 1 to March 31</del> | <del>Formatted: Font: Garamond, 11 pt, Strikethrough</del> |
| <del>Fourth quarter</del> | <del>April 1 to June 30</del>    | <del>Formatted: Font: Garamond, 11 pt, Strikethrough</del> |

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~~Under no circumstances shall the number of building permits, other than those exempt dwellings, exceed the annual quota.~~

~~(c) In the event that the number of building permits issued in any one year, July 1 to June 30, does not reach the annual quota, there shall be no carryover of permits to the following year.~~

~~• **Sec. 10-107. — Low or moderate income housing.**~~

~~Dwellings which are authorized under the provisions of the Low and Moderate Income Housing Act (G.L. 1956, § 45-53-1 et seq.) shall be treated as follows:~~

~~(1) Complete applications for construction of dwelling units so authorized shall be granted permits within the time limits prescribed in the state building code, regardless of the availability of permits within the current quarterly quota, but may be subject to the procedural requirements of [section 10-106](#), or the priority criteria of [section 10-108](#) and the limitations of [section 10-109](#), depending on the procedure of the application;~~

~~(2) All permits so issued shall be considered to be issued as part of the quota provisions of this article and shall be counted when determining the number of permits issued within the 12-month quota.~~

~~• **Sec. 10-108. — Priority criteria.**~~

~~(a) Building permits shall be issued by the building official up to the maximum number permitted by the applicable current quarterly quota, in the order of priority assigned below and in accordance with the procedure set forth in [section 10-106](#) and the limitations set forth in [section 10-109](#). In the event of a tie, priority shall go to the application with the earlier date and time of the submission of a complete application.~~

~~(b) The order of priority shall be as follows:~~

~~(1) Applicants for development meeting the criteria for low and moderate income housing as defined in G.L. 1956, § 45-53-3(5).~~

~~(2) Other applicants whose application for construction of a dwelling has been denied for two consecutive quarters because of the provisions of this division, provided that no more than one permit shall be issued to an applicant in this priority until all such available permits for the quarter have been exhausted.~~

~~(3) Applications for construction of a single household detached dwelling as an individual applicant provided that the property has not been subdivided and a permit has not been granted for other parcels within the subdivided land.~~

~~(4) Any remaining applications in the order of complete applications received.~~



• **Sec. 10-109. - Limitation on number of authorized units.**

~~In order to ensure that residential building permits are equitably distributed among all qualified applicants, the following shall apply:~~

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~~(1) No single applicant shall be granted building permits for more than one dwelling unit during any quarter if doing so would result in denial of a permit for any other applicant.~~

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~~(2) Permits for construction granted priority under the provisions of [section 10-108\(b\)\(1\)](#), low or moderate income housing, shall be limited to a total of three dwelling units per quarter on a townwide basis if the issuance of more permits would result in denial of a permit for any other applicant for other types of dwellings. If the building official receives applications for more than four such affordable dwelling units in any quarter, priority shall go to the application with the earlier date and time of submittal of a complete application.~~

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~~(3) Notwithstanding the provisions of this division or the provisions of G.S. 1956, § 23-27.3-114.2, nothing herein shall prevent any applicant from accumulating building permits (or commitments for future building permits) over a period of time and using all permits (or commitments) so accumulated to construct a multi-household structure or land development project as a single construction project.~~

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• **Sec. 10-110. – Nondwelling development.**

~~(a) In acting upon special use permits or variances for developments other than those comprised only of dwelling units, the zoning board of review shall take into consideration the intent of this division, and in acting upon applications for major land development projects, other than those comprised only of dwelling units, the planning board shall do the same. Those boards may require applicants for such special use permits, variances or major land development projects to document the townwide impacts of their proposals upon the following, using a format and materials to be provided by the planning department to facilitate that task:~~

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~~(1) Amount of land resources remaining for development;~~

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~~(2) Impact upon the adequacy of the town's road system;~~

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~~(3) Impact upon public schools;~~

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~~(4) Impact upon the adequacy of public facilities, including town hall, police and fire facilities, library, and recreation facilities.~~

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~~(b) In granting approvals for such permits, each of those boards shall impose such conditions as are appropriate to ensure that the timing of the resulting development will be consistent with the objective to deplete not more than one third of the town's capacity for additional development within sustainable and serviceable limits in any two years, taking into consideration the documented impacts, the context of impacts from other development, and the mitigation, if any, which has been proposed or required.~~

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~~(c) The provisions of this division shall apply only to applications for development which requires the granting of special use permits other than for a special impact development and/or variances and shall not apply to any use permitted by right in the zoning ordinance ([chapter 38](#)). Similarly, major land development projects, if allowed by right in the zoning ordinance ([chapter 38](#)), if no special use permits or use variances~~

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are required, shall not be subject to the provisions of this division. All such permitted nondwelling uses shall be exempt from the procedural and quota provisions of this division.

- ~~Sec. 10-111. - Expiration of division.~~

~~This division shall expire December 31, 2010, unless it is earlier extended through amendment of this provision. Upon its expiration, any timing limitations previously placed on building permit availability shall no longer be enforced, but any housing cost or income eligibility stipulations upon which permits were earlier qualified shall remain in full force and effect.~~

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- ~~Sec. 10-112. - Protection against zoning change.~~

~~Any protection against zoning change provided by this division or by state law (G.L. 1956, § 45-24-44) shall be extended three months each quarter that a building permit application for the dwelling unit in question has been denied.~~

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- ~~Sec. 10-113. - Appeals.~~

~~Any decision by the building official to carry out the purposes of this division may be appealed by an aggrieved party to the zoning board of review. The appeal shall be taken within 20 days following an action by the building official to enforce the provisions of this division and shall specify the grounds for such appeal. The building official shall forthwith transmit to the zoning board of review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the planning board. The procedure for any appeal including a public hearing shall be in accordance with the zoning ordinance (chapter 38).~~