



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

ARTICLE I. – IN GENERAL

Sec. 32-5. – Definitions.

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

Sec. 32-5. - Definitions.

- (1) Administrative officer. means tThe town planner, the municipal official designated by local regulations, ~~who will to~~ administer the land development and subdivision regulations ~~and to review and approve qualified applications and/or~~ coordinate with ~~the building inspector,~~ local boards and commissions, ~~other~~ municipal staff and state agencies as set forth herein.
- (2) Board of appeal. means tThe local review authority for appeals of actions of the town planner ~~and the planning board on matters of land development or subdivision,~~ which shall be the local zoning board of review constituted as the board of appeal. See Sec. 32-42
- (3) Bond. means a security instrument accepted by a municipality to ensure that all improvements, facilities or work required by the land development and subdivision regulations, or required by the municipality as a condition of approval, will be completed in compliance with the approved plans and specific actions of a development. (See Improvement guarantee.)
- (4) Buildable lot. means a lot where construction for the use(s) permitted on the site under the local zoning ordinance is considered practicable by the planning board, considering the physical constraints to development of the site as well as requirements of the pertinent federal, state and local regulations. See 32-106(4)
- (5) Certificate of compliance/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 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 ~~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](#)

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development projects to ensure consistency with this chapter and the Rhode Island zoning enabling act.

- (i) Minor land development project. A land development project involving any one the following:
 - (A) Seven thousand five hundred (7,500) gross square feet of floor area of new commercial, manufacturing or industrial development; or less, or
 - (B) An expansion of up to fifty percent (50%) of existing floor area or up to ten thousand (10,000) square feet for commercial, manufacturing or industrial structures; or
 - (C) Mixed-use development consisting of up to six (6) dwelling units and two thousand five hundred (2,500) gross square feet of commercial space or less; or
 - (D) Multi-family residential or residential condominium development of nine (9) units or less; or
 - (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 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 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 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).

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- (25) Open space, means aAny parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided, however, that the area may be improved with only those buildings, structures, roads and off-road parking, and other improvements that are designated to be incidental to the natural openness of the land.
- (26) Parcel, and tract mean aA 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 aAll 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 tThe 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 dDevelopment, 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 eCharacteristics 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 tThe official planning agency of the town. The local review board as established pursuant to 45-22-1 and defined by state law under 45-22-1, 45-23-1 et. al. 45-22.2-4(20), and other applicable sections. G.L. 1956, § 45-22.2-4(24), and In addition to its general duties and responsibilities, the planning board is designated by the zoning ordinance as the board to act on comprehensive permits for the town, in place of the zoning board of review.
- (32) Plat, means aA 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 aAn initial meeting between developers and municipal representatives which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others. (See section 32-1681.)
- (34) Preliminary plan, means the A required stage of land development and subdivision review which shall generally require detailed engineered drawings and all required state and federal permits. (See section 32-1681(b).)
- (35) Public hearing. A hearing before the planning board which is duly noticed in accordance with § 45-23-42 and which allows public comment. A public hearing is not required for an application or stage of approval unless otherwise stated in this chapter.
- (36) Public improvement, means aAny 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 aAn 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 aA 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. RoadStreets are further classified by the functions they perform. (See Road street classification.)
- (42*)RoadStreet, access to. means an adequate and permanent way of entering a lot. All lots of record shall have access to a public road for all vehicles normally associated with the uses permitted for that lot.
- (43*)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 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 roadStreets whose the primary function ~~of which~~ is to provide access to abutting properties.
- (44*)RoadStreet, cul-de-sac. means a local roadstreet with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.
- (45*)RoadStreet, limited access highway. means a freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons have no legal right to access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.
- ~~(46*)RoadStreet, private. means a thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific, municipal improvement standards. This definition shall not apply to driveways.~~
- (47*)RoadStreet, public. means a public property reserved or dedicated for street traffic. ~~Town roads are roads that have been duly accepted as such by the town pursuant to state law.~~
- (48*)RoadStreet, stub. means a portion of a roadstreet reserved to provide access to future development, which may provide for utility connections.
- (49*)Subdivider. means a 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 tThe 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 shall be made to the ~~planning~~ board of appeals, which shall be the Zoning Board of Review in accordance with the provisions of ~~G.L. 4956, § RIGL 45-23-67~~ 45-23-1 et seq., and as provided in Charter § 9.03. Appeals of decisions of the Planning Board shall be made to the Providence/Bristol County Superior Court pursuant to RIGL 45-23-71.



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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. 32-47. – 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.

(~~dc~~) *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.



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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 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.~~



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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 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)~~ **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) anynd which has been so zoning board of review meeting that may be advertised. The hearing may be held on for the same date and place as a meeting of the zoning board of review. The hearing must be held as a separate meeting from any zoning board of review meeting. The planning board of appeals shall maintain a complete record of all its proceedings including Separate minutes of meetings and records of votes taken as required by Sec. 32-73, which shall be maintained by the board of appeal separate from the minutes and records of the zoning board of review.~~

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

(c) Notice of the public hearing shall be ~~published in a newspaper of general circulation within the town at least one week prior to the date of the public hearing. Notice shall be sent by certified mail to the parties to the appeal and to those abutters within 400 feet, pursuant to section 32-185. The party who filed the appeal shall bear the cost of advertising and notice given pursuant to Sec. 32-50.~~

(d) The board of appeals shall render a decision within ten (10) days of the close of the public hearing.



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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 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.

e. 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~~).

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

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

(~~e~~) See Sec. 32-108, Sec. 32-146, Sec. 32-161, Article VI of this chapter, 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 minorsubdivision~~ applications, upon request of either the municipality or the applicant. Pre-application meetings shall allow the applicant to meet with the appropriate officials, boards and/or commissions, planning staff and, where appropriate, state agencies, for advice as to the required steps in the approvals process, the pertinent local plans, ordinances, regulations, rules, and procedures and standards which may bear upon the proposed development project.

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

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

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

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



ORDINANCE NO. _____

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

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

ARTICLE III. – GENERAL REQUIREMENTS

Sec. 32-146. – Generally.

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

Sec. 32-146. – Administrative Subdivisions Generally.

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

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

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

(d) *Review process.*

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

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

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

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

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

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



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 32-46: 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 (b) of this section. 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 and Sec. 32-50.

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:

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 all applications subject to the jurisdiction delegated under this section.

a. TRC established; TRC membership. The TRC shall consist of five (5) members. Membership may include members of the public, planning board, zoning board of review, the building official, engineering board, police department, and department of public works.

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) 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 the following applications if requested by the planning board, zoning board of review or the administrative officer:

1. Minor land development projects and subdivisions;
2. Major land development projects and subdivisions, provided that the TRC reviews the application prior to the planning board's first meeting on the application;
3. Administrative subdivisions at the request of the administrative officer; advisory to the administrative officer;
4. Comprehensive permit applications in an advisory capacity to the planning board;
5. Minor modifications or changes as defined in Sec. 38-394, 38-395 and in Sec. 32-161(j)(1)(i);
6. Administrative development plan review applications; advisory to the administrative officer;
7. Formal development plan review applications; advisory to the planning board;
8. Other matters referred to the TRC by the planning board, zoning board of review, or the administrative officer



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. The notice shall be posted to 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.

i. Applications and review stages not requiring a public hearing shall not be required to advertise in a newspaper of local circulation, but shall be required to send notice to each owner within the notice area, by first class mail, notifying the owner of the time and place of the hearing not less than ten (10) days prior to the date of 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:

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.

(32) 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.



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 IX – SPECIAL PROVISIONS

Sec 32-296: Minor subdivision involving no road creation or extension shall be amended to come into compliance with RIGL and to clarify opportunities for land dedication to the public opposed to paying a fee-in-lieu:

Sec. 32-296. - Minor subdivision involving no road creation or extension.

(a) *Applicability of section.* Any subdivision of a parcel of land ~~into at least two but no more than five creating nine (9) or fewer lots for the purpose of development, all of which have~~ing frontage on a public ~~or private~~ road, which meet all applicable area and dimensional requirements of the zoning ~~ordinance district in which the lots to be created are located,~~ but which do not require the extension or creation of a road, shall be considered to be a minor subdivision and shall be reviewed according to the applicable provisions of ~~section 32-161,~~ and this article. Subdivisions in this section which create more than ~~five~~ nine (9) lots ~~for the purpose of development~~ shall be considered to be major subdivisions, and shall be reviewed according to the provisions of article VI of this chapter.

(b) *Minor subdivisions involving the creation of ~~two one~~ lots.* Minor subdivisions described above involving the creation of no more than ~~two one~~ lots (one original lot plus one new lot) shall first be reviewed by the administrative officer in accordance with the procedure established in ~~section 32-161.~~ The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the preliminary plat checklist for minor subdivisions. Any further subdivision of either ~~of the two original or the created lots which was~~ created under this section at any time after December 20, 1995, whether immediate or future, shall be considered to be a minor subdivision ~~of three or more lots unless, the further division results in the creation of more than nine (9) lots, or in which case it shall be considered~~ a major subdivision and shall be reviewed under the applicable provisions of this chapter. The option of land dedication in lieu of fees, as provided by ~~section 32-110~~ shall ~~not only~~ be available to minor subdivisions involving the creation of ~~two one (1) lots~~ pursuant to this subsection ~~if the original or created lot is larger than 22.5 acres. For original or created lots smaller than 22.5 acres, the~~ subdivider shall be required to pay a fee in lieu of land dedication.

(1) *Criteria for review.* The following criteria shall be used by the planning board in its review of any two-lot minor subdivision:

a. *Potential for further subdivision.* The planning board shall consider whether the parcel being subdivided has the potential for further subdivision under current applicable zoning regulations. If it has such potential, the planning board shall consider the impacts from such future development in its review of the proposed subdivision and may impose any or all of the lot development standards provided in subsection (b)(2) of this section as necessary to mitigate such impacts.

b. *Adequacy of the road on which the proposed lots front.* The lots must be provided with access to a road which is adequate for access for vehicular traffic, and the frontage must provide safe and adequate access to a public ~~or private~~ road.

c. *Adequacy of the access from the lots onto the road.* The lots must be accessible by the fire department, police department and other agencies charged with protection of the public peace, safety and welfare, and the lots must be physically accessible from the road upon which it fronts i.e., they cannot be isolated by topographic or natural features which prevent adequate physical access from the road.

d. *Relationship to scenic highways.* Adequate provision shall be made to preserve scenic values along the road frontage of local or state-designated scenic highways in accordance with standards adopted by the state scenic highway board pursuant to G.L. 1956, § 24-15-9 et seq.

e. *Conformity to zoning.* The proposed lots must be in conformity with all applicable zoning ordinance requirements.

f. *Conformity with the comprehensive plan.* The proposed lots shall be in conformity with the town's comprehensive community plan including, but not limited to, discouraging the development of residential lots having direct frontage on major roads, encouraging residences to take access from local roads, and preserving visual quality and rural character.

g. *Relationship to adjacent or nearby uses.* The proposed lots and access thereto shall be designed so as to minimize conflict with existing adjacent uses, driveways, buildings or other structures, roads, intersections, hills, curves or other similar existing features.

(2) *Lot development standards.* Standards which may be imposed by the planning board on any ~~two~~one-lot minor subdivision as a condition of approval may include the following:

- a. Relocating or modifying proposed access driveway along the road frontage;
- b. Modifying or limiting the proposed number of access driveways onto any road from any lot or group of lots;
- c. Combining driveways of adjacent lots, or groups of contiguous lots and the use of common driveways, where feasible;
- d. Screening, buffering or landscaping of the lot and/or driveway from adjacent public roads;
- e. Preserving existing unique natural and/or historic features such as trees or stone walls; and
- f. Ensuring adequate sight distances from the proposed access driveway along adjacent public roads in order to alleviate any potentially hazardous situation.

(c) *Minor subdivisions involving the creation of ~~three to five~~ two (2) or more lots.* Minor subdivisions described in [section 32-161](#) involving the creation of ~~three, four or five~~ two (2) or more lots for the purpose of development shall first be reviewed by the administrative officer in accordance with the procedure established in [section 32-161](#). The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the preliminary plat checklist for minor subdivisions ([see section 32-48](#)). Any further subdivision of ~~any the original or created~~ lots ~~as part of a minor subdivision involving the creation of two (2) or more lots~~ at any time after December 20, 1995, whether immediate or future, ~~so as to create a total of six lots or more from the original lot,~~ after December 20, 1995, shall be

considered to be a ~~major~~ minor subdivision unless the further subdivision results in the creation of ten (10) or more lots, and in which case, the further subdivision shall be reviewed under the provisions of article VI of this chapter.

(1) *Criteria for review.* In their review of any ~~three-lot to five-lot~~ minor subdivision involving the creation of two (2) or more lots, the planning board shall use the same criteria for review of a ~~two~~ one-lot minor subdivision involving no road creation or extension as provided in subsection (b)(1) of this section. In addition, the planning board may also consider the following:

a. *Preservation of agricultural land.* The preservation of land in agricultural use (including forestry/silvicultural uses) or which contains prime farmland or farmland of statewide importance soils shall be maximized wherever possible by means of locating lots and/or buildings on portions of the parcel being subdivided which are not being used for agriculture or which are not suitable for agricultural use.

~~b. *Internal access roads on major arterial roads.* Wherever possible and practical, the lots shall be developed on remaining portions of the parcel being subdivided so as to avoid creation of individual lots having direct frontage on an existing public arterial or collector road. In such cases, the planning board may require the applicant to submit alternative plans to demonstrate the feasibility of creating other types of subdivisions, such as a three-lot to five-lot minor subdivision with an internal road, a residential cluster development or a conventional subdivision. If the planning board determines that such development is feasible and practical, the creation of frontage lots may be rejected and the applicant shall be required to develop the property in an alternative fashion, acceptable to the planning board.~~

(2) *Lot development standards.* Standards which may be imposed by the planning board as a condition of approval of any ~~three-lot to five-lot~~ minor subdivision involving the creation of two (2) or more lots, also involving no road creation or extension may include the following: Any of the standards for the development of a ~~two~~ one-lot minor subdivision as provided in subsection (b)(2)a.—f. of this section, plus any of the following:

a. Improvements to the road on which the proposed lot fronts may be required in order to provide safe vehicular access; provided, however, that the standards for construction or upgrading of any such access roads shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

b. Provisions ~~shall~~ may be made for construction of an access road or shared driveway to provide vehicular access to multiple frontage lots from a common access point on to the public or private road on which the lots front. Minimum standards for the design and construction of such service roads may be imposed by the planning board in order to provide safe vehicular access; provided, however that such standards shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.

c. If adequate provision is made for access from individual lots to service roads as required in subsection (c)(2)b of this section, then a restriction may be required that prohibits individual driveway access from lots onto the frontage roads.

d. Provisions may be made for incorporating proposed frontage lots into future subdivision of contiguous land, if such future subdivision is determined to be feasible by the planning board. Such provisions may include the following:

1. Preparation of a concept plan to indicate future access to and development of residual land contiguous to proposed frontage lots.
2. Reservation of land or easements to provide for future access from access roads to contiguous land; and/or
3. Temporary driveways for frontage lots with provisions made for future permanent driveways to be connected to future roads in subdivision of contiguous land.
4. The provision or submission by the applicant of such plans shall under no circumstances create vested rights to any such proposed future subdivision.

(d) Vested rights – Substantial completion. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.



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 IX – SPECIAL PROVISIONS

Sec 32-298: Major subdivision involving no road creation or extension shall be added to provide special provisions for major subdivisions not involving creation or extension of roads and to come into compliance with RIGL:

Sec. 32-298 – Major subdivision involving no road creation or extension

(a) Applicability of section. Any subdivision of a parcel of land creating ten (10) or more lots, all having frontage on a public or private road, which meet all applicable area and dimensional requirements of the zoning district in which the lots are located, but which do not require the extension or creation of a road, shall be considered to be a major subdivision and shall be reviewed according to the applicable provisions of Article VI, and this article.

(b) Major subdivision review. Major subdivisions described above shall first be reviewed in the preapplication meeting stage by the administrative officer and/or planning board in accordance with the procedure established in section 32-181. The applicant shall be required to submit to the administrative officer all plans and supporting materials as required by the master plan checklist for major subdivisions. Any further subdivision of any of the lots created under this section at any time after December 20, 1995, whether immediate or future, shall be considered to be a minor subdivision if the further subdivision would

result in the creation of nine (9) or fewer lots. If the further subdivision results in ten (10) or more lots, it shall be reviewed as a major subdivision. The option of land dedication in lieu of fees, as provided in section 32-110 shall only be available to major subdivisions pursuant to this section if any lot created, or the original lot remains larger than 22.5 acres. For original or created lots smaller than 22.5 acres, the subdivider shall be required to pay a fee in lieu of land dedication.

(1) *Criteria for review.* The following criteria shall be used by the planning board in its review of any major subdivision.

a. *Potential for further subdivision.* The planning board shall consider whether the parcel being subdivided has the potential for further subdivision under current applicable zoning regulations. If it has such potential, the planning board shall consider the impacts from such future development in its review of the proposed subdivision and may impose any or all of the lot development standards provided in subsection (b)(2) of this section as necessary to mitigate such impacts.

b. *Adequacy of the road on which the proposed lots front.* The lots must be provided with access to a road which is adequate for access for vehicular traffic, and the frontage must provide safe and adequate access to a public or private road.

c. *Adequacy of the access from the lots onto the road.* The lots must be accessible by the fire department, police department and other agencies charged with protection of the public peace, safety and welfare, and the lots must be physically accessible from the road upon which it fronts i.e., they cannot be isolated by topographic or natural features which prevent adequate physical access from the road.

d. *Relationship to scenic highways.* Adequate provision shall be made to preserve scenic values along the road frontage of local or state-designated scenic highways in accordance with standards adopted by the state scenic highway board pursuant to G.L. 1956, § 24-15-9 et seq.

e. *Conformity to zoning.* The proposed lots must be in conformity with all applicable zoning ordinance requirements.

f. *Conformity with the comprehensive plan.* The proposed lots shall be in conformity with the town's comprehensive community plan including, but not limited to, discouraging the development of residential lots having direct frontage on major roads, encouraging residences to take access from local roads, and preserving visual quality and rural character.

g. *Relationship to adjacent or nearby uses.* The proposed lots and access thereto shall be designed so as to minimize conflict with existing adjacent uses, driveways, buildings or other structures, roads, intersections, hills, curves or other similar existing features.

(2) *Optional criteria for review.* In addition to the criteria listed in subsection (1), the planning board may also consider the following:

a. *Preservation of agricultural land.* The preservation of land in agricultural use (including forestry/silvicultural uses) or which contains prime farmland or farmland of statewide importance soils shall be maximized wherever possible by means of locating lots and/or buildings on portions of the parcel being subdivided which are not being used for agriculture or which are not suitable for agricultural use.

(3) Lot development standards. Standards which may be imposed by the planning board on any major subdivision as a condition of approval may include the following:

- a. Relocating or modifying proposed access driveway along the road frontage;
- b. Modifying or limiting the proposed number of access driveways onto any road from any lot or group of lots;
- c. Combining driveways of adjacent lots, or groups of contiguous lots and the use of common driveways, where feasible;
- d. Screening, buffering or landscaping of the lot and/or driveway from adjacent public roads;
- e. Preserving existing unique natural and/or historic features such as trees or stone walls; and
- f. Ensuring adequate sight distances from the proposed access driveway along adjacent public roads in order to alleviate any potentially hazardous situation.
- g. Improvements to the road on which the proposed lot fronts may be required in order to provide safe vehicular access; provided, however, that the standards for construction or upgrading of any such access roads shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.
- h. Provisions may be made for construction of an access road or shared driveway to provide vehicular access to multiple frontage lots from a common access point on to the public or private road on which the lots front. Minimum standards for the design and construction of such service roads may be imposed by the planning board in order to provide safe vehicular access; provided, however that such standards shall not exceed those standards required by article VII of this chapter for construction of roads in minor subdivisions.
- i. If adequate provision is made for access from individual lots to service roads as required in subsection (c)(2)b of this section, then a restriction may be required that prohibits individual driveway access from lots onto the frontage roads.
- j. Provisions may be made for incorporating proposed frontage lots into future subdivision of contiguous land, if such future subdivision is determined to be feasible by the planning board. Such provisions may include the following:
 - 1. Preparation of a concept plan to indicate future access to and development of residual land contiguous to proposed frontage lots.
 - 2. Reservation of land or easements to provide for future access from access roads to contiguous land; and/or
 - 3. Temporary driveways for frontage lots with provisions made for future permanent driveways to be connected to future roads in subdivision of contiguous land.

4. The provision or submission by the applicant of such plans shall under no circumstances create vested rights to any such proposed future subdivision.

(4) Vested rights. Construction shall start within twelve (12) months of the date of recording. Construction shall be completed within sixty (60) months of the date of recording.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-301. In general shall be amended to meet required updates to RIGL:

Sec. 32-301. - In general.

Any applicant proposing to build LMI housing may submit to the planning board a single application for a comprehensive permit to build that housing in lieu of separate applications to the zoning board. This procedure is only available for proposals in which at least 25 percent of the housing is low or moderate income housing. This article describes allowance of density bonuses including those relating to water availability and OWTS permits from DEM, parking, bedrooms, and floor area. The application and review process for a comprehensive permit shall be as follows.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec. 32-302. Submission requirements shall be amended to meet required updates to RIGL:

Sec. 32-302. - Submission requirements – Preliminary Plan review.

Applications for a ~~comprehensive permit~~ preliminary plan under this Article shall include:

(1) A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development or other state or federal agencies, an award letter indicating the subsidy, or application in such form as may be prescribed for a municipal government subsidy; and

(2) ~~A written request to the planning board to submit a single application to build or rehabilitate LMI housing in lieu of separate applications to the applicable local boards. The written request shall identify the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking relief~~ letter signed by the authorized representative of the applicant, setting forth the specific sections and provisions of applicable local ordinances and regulations from which the applicant is seeking adjustments; and

(3) A proposed timetable for the commencement of construction and completion of the project; and

(4) ~~A sample land lease or deed restriction with affordability liens that will restrict use as LMI housing in conformance with the guidelines of the agency providing the subsidy for the LMI housing, but for a period of not less than 30 years; and~~

~~(5) Identification of an approved entity that will monitor the long-term affordability of the LMI housing units; and~~

(6) ~~A financial pro-forma for the proposed development; and~~

(7) ~~For comprehensive permit applications: (A) not involving major land developments or major subdivisions including, but not limited to, applications seeking relief from specific provisions of the zoning ordinance, or involving administrative subdivisions, minor land developments or minor subdivisions, or other local ordinances and regulations: those items required by local regulations promulgated pursuant to applicable state law, with the exception of evidence of state or federal permits; and for comprehensive permit applications; and (B) involving major land developments and major subdivisions, unless otherwise agreed to by the applicant and the town; those items included in the checklist for the master plan in section 32-183 of this chapter. Subsequent to master plan approval, the applicant must submit those items included in the checklist for a preliminary plan for a major land development or major subdivision project in section 32-184 of this chapter, with the exception of evidence of state or federal permits. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and~~

(8) ~~The planning board may impose fees on comprehensive permit applications that are consistent with but do not exceed fees that would otherwise be assessed for a project of the same scope and type such as a conventional subdivision or land development project, provided, however, that the imposition of such fees~~

shall not preclude a showing by a non-profit applicant that the fees make the project financially infeasible;
and

~~(9) Notwithstanding the submission requirements set forth above, the planning board may request, at the applicant's expense, additional, reasonable documentation throughout the public hearing, including, but not limited to, opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.~~

~~(10) Further detailed design standards/requirements as may be adopted by the planning board from time to time.~~

~~(4) Those items required under Article V of this chapter if a minor land development or subdivision or Article VI of this chapter if a major land development or subdivision, with the exception of evidence of state or federal permits; and for comprehensive permit applications included in the checklist for the preliminary plan review in the local regulations promulgated pursuant to chapter 23 of title 45.~~

Notwithstanding the submission requirements set forth above, the planning board may request additional, reasonable documentation throughout the public hearing, including, but not limited to opinions of experts, credible evidence of application for necessary federal and/or state permits, statements and advice from other local boards and officials.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-303. Certification of completeness shall be amended to meet required updates to RIGL:

Sec. 32-303. - Certification of completeness – Preliminary plan review.

The preliminary plan application must be certified complete or incomplete by the administrative officer according to the provisions of 32-107; provided, however, that ~~for a major land development or major subdivision, the certificate for a master plan shall be granted within 3025 days and for a preliminary plan shall be granted within 45-25 days of submission of the application.~~ The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the

applicant. However, in no event will the administrative officer be required to certify a corrected submission as complete or incomplete less than ~~44~~10 days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.



ORDINANCE NO. _____

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-303. Pre-application conference shall be amended to meet required updates to RIGL:

Sec. 32-304. - Pre-application conference for preliminary and final plan.

~~Where the comprehensive permit application proposal is a major land development project or a major subdivision, A pre-application conference with the administrative officer may shall be required. In advance of an applicant proposing a project under this chapter to first schedule a pre-application conference, with the planning board, (or technical review committee). To request a pre-application conference, the applicant shall be required to submit only a short description of the project in writing including the number of units, type of housing, density analysis, preliminary list of adjustments needed, as well as a location map and a map showing soil types indicating areas suitable for septic systems based on soil types and other existing mapped features i.e. wetlands conceptual site plan.~~ The purpose of the pre-application conference shall be to review a concept plan of the proposed development and to elicit feedback from the administrative officer. Upon receipt of a request by an applicant for a pre-application conference, the ~~planning board has~~ administrative officer shall have thirty (30) days to schedule and hold the pre-application conference, unless a different timeframe is agreed to by the applicant in writing. If thirty (30) days has elapsed from the filing of the pre-application submission and no pre-application conference has taken place, nothing shall be deemed to preclude an applicant from thereafter filing and proceeding with an application for preliminary plan review for a comprehensive permit.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-305. Review of applications shall be amended to meet required updates to RIGL:

Sec. 32-305. - Review of applications – Preliminary plan.

An application filed in accordance with this section shall be reviewed by the planning board at a public hearing in accordance with the following provisions:

(1) Public hearing. A public hearing shall be noticed and held as soon as practicable after the issuance of a certificate of completeness.

~~(2) Local Notification.~~ Upon issuance of a certificate of completeness for a comprehensive permit, the planning board shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and/or land development and subdivision regulations as applicable.

~~(23) Public notice.~~ Public notice for ~~all the~~ public hearings will be the same notice required under ~~local regulations Sec. 32-50~~ for a public hearing for a preliminary plan promulgated in accordance with ~~section 32-185 of this chapter RIGL 45-23-42~~. The cost of notice shall be paid by the applicant.

~~(34) Timeframe for Review of minor projects.~~ The ~~planning board review of a comprehensive permit application involving only minor land developments or minor subdivisions or requesting zoning ordinance relief or relief from other local regulations or ordinances not otherwise addressed in this section,~~ shall render a decision on the preliminary plan of the application within ninety (90) days of the date the application is certified complete, or within a further amount of time that may be consented to by the applicant through the submission of a written consent. The timeframe for review shall be the same for applications qualifying as ~~minor land developments/subdivisions or major land developments/subdivisions,~~ be conducted following the procedures in the applicable local regulations, with the exception that all minor land developments or minor subdivisions under this section are required to hold a public hearing on the application, within 95 days of issuance of the certificate of completeness, or within such further time as is agreed to by the applicant and the planning board.

~~(4) Review of major projects.~~ In the review of a comprehensive permit application involving a major land development and/or major subdivision, the planning board shall hold a public hearing on the master plan and shall, within 120 days of issuance of the certification of completeness, or within such further amount of time as may be agreed to by the planning board and the applicant, render a decision. Preliminary and final plan review shall be conducted according to local regulations promulgated pursuant to sections ~~32-184 (Preliminary plan submission requirements) and 32-186 (Final plan submission requirements)~~ of this regulations except as otherwise specified in this section.

~~(5) Failure to act.~~ Failure of the local review board to act within the prescribed period constitutes approval of the preliminary plan and a certificate of the administrative officer as to the failure of the local review board to act within the required time and the resulting approval shall be issued on request of the applicant.

Further, if the public hearing is not convened or a decision is not rendered within a practicable time period as referenced in subsection (1) of this section, the application is deemed to have been allowed and the preliminary plan approval shall be issued immediately.

(56) Required findings for approval. In approving an application, the Planning Board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, in accordance with each of the following standard provisions, where applicable:

a. The proposed development is consistent with local needs as identified in the Foster Comprehensive Plan, as amended, with particular emphasis on the Housing Element — Foster Affordable Housing Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.

b. The proposed development is in compliance with the standards and provisions of the Foster Zoning Ordinance and this chapter, and/or where ~~expressly varied or waived adjustments are requested by the applicant, that~~ local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing.

c. All low and moderate income housing units proposed are integrated throughout the development; are compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.

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

e. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

f. All proposed land developments and all subdivisions lots will have adequate and permanent physical access to a public street in accordance with the requirements of [section 32-106\(5\)](#) of this chapter.

g. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

(7) Required findings for denial. In reviewing the comprehensive permit request, the local review board may deny the request for any of the following reasons:

a. The proposal is not consistent with local needs, including, but not limited to, the needs identified in the comprehensive plan, and/or chapter 38 and procedures promulgated in conformance with the comprehensive plan;

b. The proposal is not in conformance with the comprehensive plan;

c. The plans to meet the goal of ten percent (10%) of the year-round units being low- and moderate-income housing listed in the comprehensive plan enable the planning board to deny an

application; provided that, the planning board also finds that the community has achieved or has made significant progress towards meeting the goals required by this section

d. Concerns for the environment and the health and safety of current residents have not been adequately addressed.

(8) Vesting. The approved preliminary plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the planning board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the local review board. The vesting for the preliminary plan approval includes all ordinance provisions and regulations at the time of the approval, general and specific conditions shown on the approved preliminary plan drawings and supporting material.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-306. Powers of the board shall be amended to meet required updates to RIGL:

Sec. 32-306. - Powers of the board and/or administrative officer.

The planning board and/or the administrative officer has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-307. Review process shall be amended to meet required updates to RIGL:

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

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

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

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

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

~~(e) A comprehensive permit shall expire unless construction is started within 12 months and completed within 60 months of final plan approval unless a longer and/or phased period for development is agreed to by the planning board and the applicant. Low and moderate income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.~~

The second and final stage of review for the comprehensive permit project shall be done administratively, unless an applicant has requested and been granted any waivers from the submission of checklist items for preliminary plan review, and then, at the planning board's discretion, it may vote to require the applicant to return for final plan review and approval. Applications for final plan review under this chapter shall include:

1. All required state and federal permits must be obtained prior to the final plan approval or the issuance of a building permit; and

2. A draft monitoring agreement which identifies an approved entity that will monitor the long-term affordability of the low- and moderate-income units pursuant to § 45-53-3.2; and

3. A sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of not less than thirty (30) years; and

4. Those items required by local regulations promulgated pursuant to applicable state law included in the checklist for final plan review in the local regulations promulgated pursuant to chapter 23 of title 45, including, but not limited to:

a. Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees; and

b. Certification by the tax collector that all property taxes are current; and

c. For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing public improvements for prior phases.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-308. Certification of completeness – Final plan review shall be added to meet required updates to RIGL:

~~Sees. 32-308 – 32-330. – Reserved.~~

Sec. 32-308 – Certification of completeness – Final plan review

The final plan application must be certified complete or incomplete by the administrative officer according to the provisions of Sec. 32-107; provided however, that, the certificate shall be granted within twenty-five (25) days of submission of the application. The running of the time period set forth herein will be deemed stopped upon the issuance of a written certificate of incompleteness of the application by the administrative officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the administrative officer be required to certify a corrected

submission as complete or incomplete less than ten (10) days after its resubmission. If the administrative officer certifies the application as incomplete, the officer shall set forth in writing with specificity the missing or incomplete items.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-309. Review of applications – Final plan review shall be added to meet required updates to RIGL:

Sec. 32-309 - Review of applications – Final plan

(1) Timeframe for review. The planning board shall render a decision on the final plan application within forty-five (45) days of the date the application is certified complete. The timeframe for review shall be the same for applications qualifying as minor land developments/subdivisions or major land developments/subdivisions.

(2) Modifications and changes to plans.

a. Minor changes. Minor changes as defined in Sec. 32-161(j)(1)(i) to the plans approved at preliminary plan may be approved administratively, by the administrative officer, whereupon final plan approval may be issued. The changes may be authorized without additional public hearings, at the discretion of the administrative officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the administrative officer from requesting a recommendation from either the technical review committee or the local review board. Denial of the proposed change(s) shall be referred to the local review board for review as a major change.

b. Major changes. Major changes as defined in Sec. 32-161(j)(2) to the plans approved at preliminary plan may be approved only by the planning board and must follow the same review and public hearing process required for approval of preliminary plans as described in subsection (1) of Sec. 32-305.

1. The administrative officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the administrative officer is referring the application to the local review board under this subsection.

(3) Decision. An application filed in accordance with this chapter shall be approved by the administrative officer unless such application does not satisfy conditions set forth in the preliminary plan approval decision or such application does not have the requisite state and/or federal approvals or other required submissions, does not post the required improvement bonds, or such application is a major modification of the plans approved at preliminary plan.

(4) Failure to act. Failure of the administrative officer to act within the prescribed period constitutes approval of the final plan and a certificate of the administrative officer as to the failure to act within the required time and the resulting approval shall be issued on request of the applicant.

(5) Vesting. The approved final plan is vested for a period of two (2) years with the right to extend for one one-year extension upon written request by the applicant, who must appear before the planning board for the extension request. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the planning board.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-310. Infeasibility of conditions of approval shall be added to meet required updates to RIGL:

Sec. 32-310. Infeasibility of conditions of approval.

The burden is on the applicant to show, by competent evidence before the administrative officer, that proposed conditions of approval are infeasible, as defined in § 45-53-3. Upon request, the applicant shall be provided a reasonable opportunity to respond to such proposed conditions prior to a final vote on the application.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-311. Fees shall be added to meet required updates to RIGL:

Sec. 32-311. Fees.

The fees associated with a comprehensive permit application shall be the same as the fees required for minor land development/subdivisions if the application results in the creation of nine (9) or fewer units. The fees associated with a comprehensive permit application shall be the same as the fees required for major land development/subdivisions if the application results in the creation of ten (10) or more units. The imposition of fees shall not preclude a showing by an applicant that the fees make the project financially infeasible.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-312. Recording of written decisions shall be added to meet required updates to RIGL:

Sec. 32-312. Recording of written decisions All written decisions on applications under this chapter shall be recorded in the land evidence records within twenty (20) days after the planning board's vote or the administrative officer's decision, as applicable. A copy of the recorded decision shall be mailed within one business day of recording, by any method that provides confirmation of receipt, to the applicant and to any objector who has filed a written request for notice with the administrative officer.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-313. Majority vote required shall be added to meet required updates to RIGL:

Sec. 32-313. Majority vote required

All planning board decisions on the preliminary plan of comprehensive permits shall be by majority vote of the members present at the proceeding; provided that, there is at least a quorum of the planning board present at the voting and proceeding.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-314. Construction timetable shall be added to meet required updates to RIGL:

Sec. 32-314. Construction timetable.

A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of the recording of the final plan unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low- and moderate-income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-315. Remanded applications shall be added to meet required updates to RIGL:

Sec. 32-315. Remanded applications.

Notwithstanding the provisions of § 45-53-4 in effect on February 13, 2004, a local review board shall commence hearings within thirty (30) days of receiving an application remanded by the state housing appeals board or superior court, as applicable. If more than one remanded application exists in Foster at any given time, applications may be scheduled for hearing in the order in which they were received, and may be taken up sequentially, with the thirty-day (30) requirement for the initiation of hearings, commencing upon the decision of the earlier filed application.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-316. Density Bonuses shall be added to meet required updates to RIGL:

Sec. 32-316. Density bonuses

Applicants for low or moderate income shall be provided more dwelling units than allowed by right in the district where the project is proposed to be located in the form of a density bonus to allow an increase in the

allowed dwelling units per acre. Application and permit fees associated with development may be waived by the planning board.

a. The standard for the planning board or administrative officer's consideration of adjustments shall be the same as the standards for relief found in Sec. 38-324 (d)(1) and RIGL §45-53-4(d)(2)(iii)(E)(II).

b. The following density bonuses for projects submitted under this Article are provided in applications for low or moderate income housing, provided that the total land utilized in the density calculation shall exclude wetlands, wetland buffers, area devoted to infrastructure necessary for development and easements or rights of way of record:

1. Adjustments, meaning a request, or requests by the application to seek relief from the literal use and dimensional requirements of the zoning ordinance and/or the design standards or requirements of Sec. 38-359.

2. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least twenty-five percent (25%) low- and moderate-income housing shall be three (3) units per acre;

3. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides at least fifty percent (50%) low- and moderate-income housing shall be five (5) units per acre;

4. For properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the density bonus for a project which provides one hundred percent (100%) low- and moderate-income housing shall be eight (8) units per acre;

5. *Parking.* For comprehensive permit applications one (1) off-street parking space per dwelling unit is required for units up to and including two (2) bedrooms. A dwelling unit with more than two bedrooms shall have more than one (1) off-street parking space.

6. *Bedrooms.* The maximum number of bedrooms within a dwelling unit shall be three (3) for single family dwelling units.

7. *Floor area.* Floor area shall not be limited within any application, except as provided by RIGL 45-24.3-11.

8. *Senior Citizen group dwellings – building coverage.* For senior citizen group dwellings located on properties not connected to either public water or sewer or both, but which provide competent evidence as to the availability of water to service the development and/or a permit for on-site wastewater treatment facilities to service the dwelling units from the applicable state agency, the maximum building coverage shall be increased to 25 percent of the lot size in any district where the use is permitted if any unit in the development is an LMI unit, or, in the case of

an approved comprehensive permit application the maximum building coverage shall be afforded the density bonus per acre listed in subsection (2)(3)(4) as is applicable.

9. Residential compound density bonus. For residential compounds, a compound shall include not more than three single-family dwelling units having frontage in common on a public or private road or roads and sharing a driveway held in common. Two additional units that meet the definition of LMI may be added for a total of five units within the compound.



ORDINANCE NO. _____

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

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

Chapter 32 – SUBDIVISION REGULATIONS

ARTICLE X – PROCEDURE FOR APPROVAL OF CONSTRUCTION OF LMI HOUSING

Sec 32-317. Definitions shall be added to meet required updates to RIGL:

Sec. 32-317. Definitions

(1) "Adjustment(s)" means a request, or requests by the applicant to seek relief from the literal use and dimensional requirements of the municipal zoning ordinance and/or the design standards or requirements of the municipal land development and subdivision regulations. The standard for the local review board's consideration of adjustments is set forth in § 45-53-4(D)(2)(iii)(E)(II).

(2) "Affordable housing plan" means a component of a housing element, as defined in § 45-22.2-4(1) that addresses housing needs in a city or town that is prepared in accordance with guidelines adopted by the state planning council, and/or to meet the provisions of § 45-53-4(b)(1) and (c).

(3) Approved affordable housing plan" means an affordable housing plan that has been approved by the director of administration as meeting the guidelines for the local comprehensive plan as promulgated by the state planning council; provided, however, that state review and approval, for plans submitted by December 31, 2004, shall not be contingent on the city or town having completed, adopted, or amended its comprehensive plan as provided for in § 45-22.2-8, § 45-22.2-9, or § 45-22.2-9.

(4) "Comprehensive plan" means a comprehensive plan adopted and approved by a city or town pursuant to chapters 22.2 and 22.3 of this title.

(5) “Consistent with local needs” means reasonable in view of the state need for low and moderate-income housing, considered with the number of low-income persons in the city or town affected and the need to protect the health and safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if the local zoning or land use ordinances, requirements, and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Local zoning and land use ordinances, requirements, or regulations are consistent with local needs when imposed by a city or town council after a comprehensive hearing in a city or town where:

(i) Low- or moderate-income housing exists which is: (A) In the case of an urban city or town which has at least 5,000 occupied year-round rental units and the units, as reported in the latest decennial census of the city or town, comprise twenty-five percent (25%) or more of the year-round housing units, and is in excess of fifteen percent (15%) of the total occupied year-round rental units; or (B) In the case of all other cities or towns, is in excess of ten percent (10%) of the year-round housing units reported in the census.

(ii) The city or town has promulgated zoning or land use ordinances, requirements, and regulations to implement a comprehensive plan that has been adopted and approved pursuant to chapters 22.2 and 22.3 of this title, and the housing element of the comprehensive plan provides for low- and moderate-income housing in excess of either ten percent (10%) of the year-round housing units or fifteen percent (15%) of the occupied year-round rental housing units as provided in subdivision (4)(i).

(iii) Multi-family rental units built under a comprehensive permit may be calculated towards meeting the requirements of a municipality’s low- or moderate-income housing inventory, as long as the units meet and are in compliance with the provisions of § 45-53-3.1.

(6) Infeasible” means any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it financially or logistically impracticable for any applicant to proceed in building or operating low- or moderate-income housing within the limitations set by the subsidizing agency of government or local review board, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the applicant.

(7) “Letter of eligibility” means a letter issued by the Rhode Island housing and mortgage finance corporation in accordance with § 42-55-5.3(a).

(8) “Local review board means the planning board as defined by 45-22.2-4.

(9) “Low- or moderate-income housing” shall be synonymous with “affordable housing” as defined in § 42-128-8.1, and further means any housing whether built or operated by any public agency or any nonprofit organization or by any limited equity housing cooperative or any private developer, that is subsidized by a federal, state, or municipal government subsidy under any program to assist the construction or rehabilitation of affordable housing and that will remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state, or

municipal government subsidy program but that is not less than thirty (30) years from initial occupancy.

(10) "Meeting local housing needs" means as a result of the adoption of the implementation program of an approved affordable housing plan, the absence of unreasonable denial of applications that are made pursuant to an approved affordable housing plan in order to accomplish the purposes and expectations of the approved affordable housing plan, and a showing that at least twenty percent (20%) of the total residential units approved by a local review board or any other municipal board in a calendar year are for low- and moderate-income housing as defined in § 42-128-8.1.

(11) "Monitoring agents" means those monitoring agents appointed by the Rhode Island housing resources commission pursuant to § 45-53-3.2 and to provide the monitoring and oversight set forth in this chapter, including, but not limited to, §§ 45-53-3.2 and 45-53-4.

(12) "Municipal government subsidy" means assistance that is made available through a city or town program sufficient to make housing affordable, as affordable housing is defined in § 42-128-8.1(d)(1); such assistance shall include a combination of, but is not limited to, direct financial support, abatement of taxes, waiver of fees and charges, and approval of density bonuses and/or internal subsidies, zoning incentives, and adjustments as defined in this section and any combination of forms of assistance.



ORDINANCE NO. _____

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

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

Chapter 24 – PLANNING

ARTICLE II – PLANNING BOARD

Sec 24-32 - Duties shall be amended to meet required updates to RIGL:

(a) *Studies, plans and reports.* The planning board shall make studies of and prepare plans and reports for the needs and resources of the town with reference to its physical growth and development as effecting the health, safety, morals and general welfare of the people. Such studies, plans and reports may concern, among other things, the following:

(1) Land use;

(2) Transportation facilities;

- (3) Public utilities;
- (4) Public facilities including recreation areas, school and fire or police stations;
- (5) Blighted areas, including plans for redevelopment or renewal;
- (6) Air and water pollution;
- (7) Natural resources;
- (8) Protection from disaster; and
- (9) Economic and sociological characteristics of the town.

(b) Master Comprehensive plan; contents. The planning board shall prepare and adopt a ~~master comprehensive~~ master comprehensive plan for the future development of the town. Such ~~master comprehensive~~ master comprehensive plan shall, among other things, show the proposed arrangement of land uses, transportation facilities, public facilities, utility systems, deteriorating neighborhoods planned for redevelopment or renewal, land natural resources and historic sites to be preserved. No portion of the ~~master comprehensive~~ master comprehensive plan or amendment thereto shall be adopted by the planning board without a public hearing. Such a ~~master comprehensive~~ master comprehensive plan shall serve as a guide to the planning board in the performance of its duties.

(c) Capital budget; six-year capital improvement program. When directed by the town council, the planning board shall collaborate with the budget committee in the preparation of a capital budget for the following year and a comprehensive six-year capital improvement program.

(d) Calling on others for assistance. The planning board, ~~with the approval of the town council,~~ shall have the authority to call upon other departments, boards and committees of the town and upon state and federal agencies for assistance in the performance of its designated functions, and shall cooperate with such town, state and federal agencies on matters of community, regional and state planning and development. All town officials, boards and committees shall, upon direction of the town council, furnish the planning board with such information as it may require for its work.

(e) Advisory recommendations to council. The planning board shall give an advisory recommendation on ~~the matters within the scope of this section under chapter 38~~ when so requested by the town council. Nothing in this subsection, however, shall prevent the town council from acting on any matter contrary to or in the absence of a recommendation under chapter 38 from the planning board.

(f) Annual report. The planning board shall submit an annual report to the town council summarizing the work of the preceding year and recommending plans for future development. All plans and reports of the planning board shall be submitted to the town council and thereafter, upon approval of the town council, may be published for general distribution.

(g) Authority - Decisions. The planning board shall have the authority to decide on subdivision and land development applications when such complete applications are filed under chapter 32. The planning board shall have the authority to decide on complete applications for formal development plan review filed under Sec. 38-394.

The planning board shall have the authority to decide on applications for relief from the literal requirements of chapter 38 and/or applications for special-use permits where those applications require land development

approval, subdivision approval, or development plan review approval pursuant to Sec. 32-46, Sec. 38-322 and Sec. 38-325. This process shall be known as unified development review.

(h) Authority – Local regulations. Pursuant to RIGL 45-23-51, the town council empowers the planning board to adopt, modify and amend regulations and rules governing land development and subdivision projects within that municipality and to control land development and subdivision projects pursuant to those regulations and rules.

Pursuant to RIGL 45-23-52(a), the planning board shall adopt or repeal, and provide for the administration, interpretation, and enforcement of land development and subdivision review regulations.

Pursuant to RIGL 45-23-52(b) Provisions of the land development and subdivision regulations and appendices shall be presented in text and may incorporate maps, and other technical and graphic material. The land development and subdivision regulations, and all of their amendments, shall be consistent with all provisions of RIGL 45-23 as well as the comprehensive plan and chapter 38.
