



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. 32-5. – Definitions.

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

Sec. 32-5. - Definitions.

(1) *Administrative officer.* The town planner, the municipal official designated by local regulations, to administer the land development and subdivision regulations to review and approve qualified applications and/or coordinate with local boards and commissions, municipal staff and state agencies as set forth herein.

(2) *Board of appeal.* The local review authority for appeals of actions of the town planner, which shall be the local zoning board of review constituted as the board of appeal. See Sec. 32-42

(3) *Bond.* (See *Improvement guarantee*).

(4) *Buildable lot.* 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 completeness.* 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 review process.

(6) *Concept plan.* 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.* A requirement of all local land use regulations which means that all these regulations and subsequent actions 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.* Payments of cash, which are authorized in this chapter, when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons. The conditions under which such payments will be allowed and all formulas for calculating the amount are specified in section 32-110.

(9) *Development plan review.* Design or site plan review of a development of a permitted

use. A municipality may utilize development plan review under limited circumstances to encourage development to comply with design and/or performance standards of the community under specific and objective guidelines, for developments including, but not limited to:

- (i) A change in use at the property where no extensive construction of improvements is sought;
- (ii) An adaptive reuse project located in a commercial zone where no extensive exterior construction of improvements is sought;
- (iii) An adaptive reuse project located in a residential zone which results in less than nine (9) residential units;
- (iv) Development in a designated urban or growth center;
- (v) Institutional development design review for educational or hospital facilities; or
- (vi) Development in a historic district.

(10) *Development regulation.* 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.* A subdivision.

(12) *Environmental constraints.* 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.* The final stage of land development and subdivision review. (See Sec. 32-186)

(14) *Final plat.* 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 this chapter and/or required by the planning board.

(15) *Floor area, gross.* 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.* 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.* Any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.

(18) *Improvement guarantee.* A security instrument accepted by 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 planning department and/or board as a condition of approval, will be completed in compliance with the approved plans and specifications of a development. (See article VIII of this chapter.)

(19) Land-development project. A project in which one or more lots, tracts, or parcels of land or a portion thereof are developed or redeveloped as a coordinated site for one or more uses, units, or structures, including but not limited to, planned development or cluster development for residential commercial, institutional, recreational, open space, or mixed uses. The local regulations shall include all requirements, procedures and standards necessary for proper review and approval of land development projects to ensure consistency with this chapter and the Rhode Island zoning enabling act.

(i) Minor land development project. A land development project involving any one the following:

(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 minor land development projects are reviewed by the local planning board, commission, technical 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.* 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 is to 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.* 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.* Any security instrument which may be required and accepted by the planning department and/or board to ensure that necessary improvements will function as required for a specific period of time. (See *Improvement guarantee.*)

(23) *Master plan.* 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.)

(24) *Modification of requirements.* See section 32-47(b).

(25) *Open space.* Any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided, however, that the area may 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.* A lot or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

(27) *Parking area or lot.* All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

(28) *Permitting authority.* The planning board or administrative officer, the local agency of government empowered by state enabling law and local regulation or ordinance to hear and decide on specific matters pertaining to local land use.

(29) *Phased development.* Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by sections subsequent to the approval of a master plan for the entire site. (See section 32-109.)

(30) *Physical constraints to development.* Characteristics of a site or area, either natural or manmade, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. (See also *Environmental constraints.*)

(31) *Planning board.* The official planning agency of the town. The local review board as established pursuant to 45-22-1 and defined by state law under 45-22-1, 45-23-1 et. al, 45-22.2-4(20), and other applicable sections.)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*. A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified in the local regulations.

(33) *Preapplication conference*. An initial meeting between developers and municipal representatives which affords developers the opportunity to present their proposals informally and to receive comments and directions from the municipal officials and others. (See section 32-181.)

(34) *Preliminary plan*. A required stage of land development and subdivision review which generally requires detailed engineered drawings. (See section 32-181.)

(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*. Any road or roadway, sidewalk, pedestrian way, tree, lawn, off-road 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.

(37) *Right-of-way*. An easement or other legal right associated with land entitling one to pass through, over or upon property belonging to another.

(38) *Slope of land*. The grade, pitch, rise or incline of the topographic landform or surface of the ground.

(39) *Stormwater detention*. A provision for storage of storm water runoff and the controlled release of runoff during and after a flood or storm.

(40) *Stormwater retention*. A provision for storage of storm water runoff.

(41) *Road*. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Roads are further classified by the functions they perform. (See *Road classification*.)

(42) *Road, access to*. 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) *Road classification*. A method of roadway organization which identifies a road 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 use the following as major categories:

(1) *Arterial*. a major road 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*. a road whose principal function is to carry traffic between local roads and arterial roads but that may also provide direct access to abutting properties.

(3) *Local*. roads whose primary function is to provide access to abutting properties.

(44)*Road, cul-de-sac.* A local road with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

(45)*Road, limited access highway.* 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)*Road, private.* 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)*Road, public.* All public property reserved or dedicated for road traffic.

(48)*Road, stub.* A portion of a road reserved to provide access to future development, which may provide for utility connections.

(49)*Subdivider.* Any person who:

(1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who

(2) Directly or indirectly sells, leases or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel, site, unit or plat in a subdivision, or who

(3) Engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision.

(50)*Subdivision.* The division of a lot, tract or parcel of land into two or more lots, tracts or parcels or any adjustment to existing lot lines is considered a subdivision.

(i) Administrative subdivision. Subdivision of existing lots which yields no additional lots for development, and involves no creation or extension of roads. 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.

(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. Improvements 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. The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

(54) Waiver of requirements. See section 32-47.

(Ord. of 1-17-2024)