

A BILL FOR AN ORDINANCE AMENDING THE TOWN OF FOXFIELD MUNICIPAL CODE REGARDING FENCES AND BERMS IN THE LARGE LOT RURAL RESIDENTIAL ZONE DISTRICT, DEFINITIONS, AND NOTICE REQUIREMENTS FOR PUBLIC HEARINGS

WHEREAS, the Board of Trustees has determined a need to amend the requirements for fences and berms in the large lot rural residential zone district; and

WHEREAS, the definitions section of the code needs to be amended to reflect those changes; and

WHEREAS, the sections of the code concerning notice requirements for public hearings should be clarified to reflect the correct publication and posting requirements for public hearings;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF FOXFIELD, COLORADO:

Section 1. Section 16-3-60 of the Town of Foxfield Municipal Code is hereby repealed in its entirety and reenacted as follows:

Sec. 16-3-60. Fences and berms in the Large Lot Rural Residential Zone District.

(a) Permits.

- (1) A permit is required prior to construction of fences and berms except for fences and berms exempt per this Chapter.
- (2) All fences and berms must be located entirely within the property boundaries. It is the responsibility of the homeowner to verify the property lines, rights-of-ways, drainageways and easements on the subject property.
- (3) Whenever an exception to any term of this Article is sought for a fence or berm the applicant shall seek a variance in accordance with Section 16-5-70 of this Chapter.

(b) Fences.

Fences are permitted on lots in the Large Lot Rural Residential Zone District subject to compliance with the following regulations:

1. Application Submittal Requirements:
 - (a) Application form and fee as set in the Fee Schedule Resolution.
 - (b) Copy or sketch of a concept site plan, Improvement Location Certificate (ILC) or survey showing property boundaries (property lines), rights-of-way, drainageways, easements and the proposed location of the fence on the property. It is the responsibility of the Applicant to verify all locations of property lines, rights-of-way, drainageways and easements when applying for a fence permit.
 - (c) Fences that are in drainageways and privacy fences within fifty (50) feet of any property line must be approved by the Town Engineer.
 - (d) Construction must commence within one hundred eighty (180) days of permit issuance and must not cease for periods of one hundred eighty (180) continuous days or the permit will be voided.
 - (e) Fences exempt from permits:
 - (i) Moveable or temporary riding rings.

- (ii) Fences constructed of netting, chicken wire and similar light-weight material, for the purpose of protecting vegetation and gardens from wildlife.
- (iii) Construction fences, for the duration of an approved building or overlot grading permit.
- (iv) Wire attached to the inside of a permitted open fence provided that the wire material used does not cause the fence to become less than 70% open.

2. Height.

- (a) No fence, including fences around swimming pools, shall exceed six (6) feet in height, except as provided in Subsection (c) below.
- (b) Height shall be measured as the vertical distance from existing grade, or the grade of an approved overlot grading plan to the top of the fence. Columns shall not be included in determining the height of the fence so long as the height of the column is not more than two (2) feet greater than the applicable height limitations for the fence. Where fences and berms are constructed one upon the other, the height of the fence and berm shall be the sum of the individual parts.
- (c) Open fences used to enclose the immediate area of a tennis or sports court may not exceed ten (10) feet in height.

3. Construction in Drainageways.

Installation of fences will be allowed in drainageways only if such structures do not impede the flow of drainage in the drainageway and are constructed to minimize the collection of debris that could block the drainage flows.

4. Standards for residential fences.

- (a) In order to preserve the Town's open views, any fences located within fifty (50) feet of the closest edge of a Town right-of-way shall be constructed as open fences (seventy percent [70%] or more open).
- (b) The use of chain-link shall not be permitted within fifty (50) feet of a Town right-of-way.
- (c) The use of barbed wire fences shall not be permitted. Fences shall be constructed of materials designed or specified to be used for such purpose.

5. Nonconforming Fences.

Any fence legally in existence at the time of the creation of this Section that does not fully comply with the requirements of this Section shall be considered legally nonconforming and may remain in place until such time as the fence is enlarged, expanded or modified or requires repair of more than fifty percent (50%) of the linear feet of the nonconforming fence. All nonconforming fences are subject to the requirements for nonconforming structures.

(c) **Berms.**

Berms are permitted on lots in the Large Lot Rural Residential Zone District, subject to compliance with the following regulations:

(1) Application Submittal Requirements.

- a. Application form and fee as set in the Fee Schedule Resolution.
- b. Copy or sketch of a concept site plan, Improvement Location Certificate (ILC) or survey showing property boundaries (property lines), rights-of-way, drainageways, easements and the proposed location of the berm on the

property. It is the responsibility of the Applicant to verify all locations of property lines, rights-of-way, drainageways and easements when applying for a berm permit.

- c. The width, height and length of the proposed berm(s) along all points of the proposed berm(s);
- d. A description of any potential modification or redirection of the preconstruction or historic surface drainage patterns as a result of the proposed berm(s).
- e. Proposed berms must be approved by the Town Engineer and applicant must comply with the escrow deposit requirements of Subsection 16-5-100(b) of this Chapter.
- f. A berm permit shall be valid for ninety (90) days following the date the permit is issued. All of the work on the site authorized by such permit shall be completed within (90) days of the date of issuance thereof; thereafter, said berm permit shall expire and be deemed cancelled. An extension of up to sixty (60) days may be granted by the Town. If any berm is not completed within the time herein provided, a new permit will be required to complete the work. If a new permit is not obtained, the property shall be restored to its preconstruction grade within ninety (90) days after expiration of the permit. The Town shall have any and all remedies available to it under Section 16-3-6(c)(5) of this Code in the event any condition of this permit is violated or not complied with
- g. Berms exempt from permits:
 - 1. Berms not exceeding eighteen (18) inches in height from the existing grade and not more than twelve (12) square yards in area shall not require a permit, but such berms shall comply with Subsections (3) and (4) below.
 - 2. Berms that will be constructed pursuant to an overlot grading plan that is approved as of the date construction of the berm commences.

(2) Height.

Berms shall not exceed four (4) feet in height as measured from existing grade, or if the berm is adjacent to a public street, from the grade of the centerline of the adjacent public street, whichever is less.

(3) Construction in Drainageways.

Installation of berms will be allowed in drainageways throughout the Town only if such berms do not impede the flow of drainage in the drainageway and are constructed to minimize the collection of debris that could block the drainage flows.

(4) Standards for residential berms.

- 1. Berms shall have a maximum side slope of 3:1.
- 2. Tops of berms shall have a minimum width of three (3) feet at the crown.
- 3. Berms shall undulate or otherwise be designed with naturalistic contouring. Berms shall connect into existing grades at their perimeter to ensure that berms appear natural.
- 4. Berms shall be landscaped, at a minimum, with native grasses and/or native landscaping. Such landscaping must be installed within ninety (90) days of completion of the final grading.
- 5. Berms must be mowed or maintained according to Town regulations.
- 6. Berms must be located entirely within property lines.
- 7. Berms shall not be designed to collect, redirect or release surface water upon adjacent property in a manner inconsistent with the historic or preconstruction conditions or applicable law without the written consent of the adjacent landowner.

8. Berms shall be prohibited within the sight triangle or any intersection.
 9. During construction of the berm and until all landscaping is completed, appropriate erosion control is required.
- (5) In addition to any other remedy or penalty for violation of this Section as provided in Article 4 of Chapter 1 or Section 16-1-100, the Town may require immediate removal of any berm constructed contrary to this Section and reimbursement to the Town of any costs associated with such action.
- (6) Nonconforming Berms.

Any berm legally in existence at the time of the creation of this Section that does not fully comply with the requirements of this Section shall be considered legally nonconforming and may remain in place until such time as the berm is enlarged, expanded or modified or requires repair of more than fifty percent (50%) of the linear feet of the nonconforming berm. All non-conforming berms must comply with the requirements of Subsections 16-3-60(c)(4)(4) and 16-3-60(c)(4)(5) above. All nonconforming berms are subject to the requirements for nonconforming structures.

Section 2. Section 16-6-10 of the Town of Foxfield Municipal Code is hereby amended as follows:

Drainageway. An open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water.

Height, structure. Structure height (not including buildings, fences or berms) is measured from the average finished grade five (5) feet from each support of the structure to the highest point of the structure. Structure height is used to measure structures such as signs.

Open fence. A fence that is seventy percent (70%) or more open. Examples of open fences include split rail and ornamental iron.

Privacy fence. A fence that is less than seventy percent (70%) open. Examples of solid fences include board on board, stockade, brick, stone and masonry.

Section 3. Section 16-5-60(d)(2)(a) is hereby repealed and reenacted as follows:

(a) *Publication.* At least fifteen (15) days prior to a public hearing, a notice shall be published one (1) time in the legal notice section of a general circulation newspaper within the Town.

Section 4. Section 16-5-60(d)(2)(d) is hereby repealed and reenacted as follows:

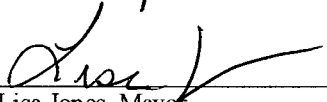
(d) *Posting.* At least fifteen (15) days prior to a public hearing, a notice shall be posted by the applicant on the property for which the land use application is made. The sign shall be approved by the Town and posted by the applicant on a street frontage so that it is weather-protected and legible from a distance of thirty (30) feet.

Section 5. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the Town of Foxfield, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 6. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

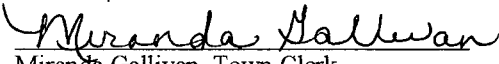
Section 7. This ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 03 Series of 2016, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this 7th day of July A.D. 2016.




Lisa Jones, Mayor

ATTEST:



Miranda Gallivan, Town Clerk



Corey Y. Hoffmann, Town Attorney
(Approved as to Form)

Town Seal

