

MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: September 20, 2018

RE: Sound Walls in Residential Districts

HISTORY:

Previously the Town's Municipal Code included sound wall regulations. However, when revisions were done to the fence and berm code, the sound walls were removed with the intention of further review at a later time.

DISCUSSION:

Based on discussion at the September 6, 2018 Board meeting, staff made several changes to the proposed Sound Wall code. A draft redline version of the current code section 16-3-60 is attached for your discussion. The changes include: the sound wall may be up to a maximum height of 20 ft, the wall may be at the perimeter of the property, and the height will be measured from the road that the sound is coming from.

ATTACHMENTS:

Exhibit A: Draft of Municipal Code section 16-3-60

Exhibit A

Sec. 16-3-60. Fences, ~~and~~ berms and sound walls in the large lot rural residential zone district.

(a) Permits.

(1) A permit is required prior to construction of fences, ~~and~~ berms or sound walls except for fences, ~~and~~ berms and sound walls exempt per this chapter.

(2) All fences, ~~and~~ berms and sound walls 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 or sound wall 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 seventy percent (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 (1) 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 ninety (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.

a. Berms shall have a maximum side slope of 3:1.

b. Tops of berms shall have a minimum width of three (3) feet at the crown.

c. 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.

d. 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.

e. Berms must be mowed or maintained according to Town regulations.

f. Berms must be located entirely within property lines.

g. 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.

h. Berms shall be prohibited within the sight triangle or any intersection.

i. 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.

(d) Sound Walls. Sounds walls are permitted on residential lots located adjacent to property zoned ~~nonresidential~~ commercial and adjacent to Arapahoe Road, Parker Road and South Lewiston Way, to screen views and to block road noise, subject to the following conditions:

(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 sound wall 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 sound wall permit.

c. A drawing and written description depicting the height, dimensions and materials to be used in constructing the sound wall.

d. Sound Walls that are in the drainageways and are within fifty (50) feet of any property line must be approved by the Town Engineer.

e. Construction must commence within one hundred eighty (180) days of the permit issuance and must not cease for periods of one hundred eight (180) continuous days or the permit will be voided.

(2) Height.

a. A sound wall shall may be six (6) feet, not exceed a maximum height of twenty (20) feet, in height unless approved by the Town.

b. Height shall be measured as the vertical distance from existing grade of the road which the noise is coming from, or the grade of an approved overlot grading plan to the top of the sound wall. Columns shall not be included in determining the height of the wall so long as

~~the height of the column is not more than two (2) feet greater than the applicable height limitations for the wall. Where sound walls and berms are constructed one upon the other, the height of such sound walls and berms shall be measured as the sum of the individual units.~~

(3) Standards for Residential Sound Walls.

~~a. Sound walls for sight or sound mitigation may be located adjacent to, or along the perimeter, of property lines along Arapahoe Road, Parker Road and South Lewiston Way, or a commercial development provided that the structure is located entirely within property lines.~~

~~b. All Sound walls located in a utility easement, drainage easement or natural drainageway must be approved by the Town Engineer.~~

~~c. Sound walls greater than twenty (20) feet in height must be approved by the Town.~~

~~d. The wall design and appearance shall be reviewed and approved by the Town.~~

~~e. Sound walls shall be constructed of wood, brick, concrete, or masonry material. The wall surface shall be easy to maintain.~~

(4) Nonconforming Sound Walls. Any sound wall 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 sound wall is enlarged, expanded or modified or requires repair of more than fifty percent (50%) of the linear feet of the nonconforming sound wall. All nonconforming sound walls are subject to the requirements for nonconforming structures.