

MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: December 13, 2018

RE: Ordinance 2018-02 Concerning Fee Waivers and Sound Walls in Residential Districts-Public Hearing Continued

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:

The Board discussed Sound Walls at the September 6th, September 20th, and October 18th, 2018 Board meetings. A public hearing was held at the November 15th, 2018 meeting and was continued until December 13th, 2018. Language has been added to the Ordinance to waive application fees for the four properties along Arapahoe Road that are subject to the public use easement established in the Rule and Order in place with Arapahoe County and the property owners.

Attached for the Public Hearing is Ordinance 2018-02 to amend the current code section 16-3-60 along with a redline version of the Ordinance showing the changes that were made.

ATTACHMENTS:

Exhibit A: Ordinance 2018-02 Concerning Fee Waivers and Sound Walls in Residential Districts-Final Version

Exhibit B: Ordinance 2018-02 Concerning Fee Waivers and Sound Walls in Residential Districts-Redline Version

Trustee Bill No. 02
Series of 2018
Town of Foxfield

Introduced by Trustee _____

**A BILL FOR AN ORDINANCE AMENDING
CHAPTER 16 OF THE FOXFIELD MUNICIPAL CODE
CONCERNING FEE WAIVERS AND SOUND WALLS IN
THE LARGE LOT RURAL RESIDENTIAL ZONE DISTRICT**

WHEREAS, the Board of Trustees desires to amend certain provisions of Chapter 16 of the Town of Foxfield Municipal Code concerning sound walls in the large lot rural residential zone district;

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

Section 1. Section 16-3-60 subsection (a) is hereby repealed in its entirety and re-enacted as follows:

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

(a) Permits.

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

(2) All fences, 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, berm or sound wall the applicant shall seek a variance in accordance with section 16-5-70 of this chapter.

Section 2. Section 16-3-60(b)(1)(a) is hereby amended to read as follows:

a. Application form and fee as set in the Fee Schedule Resolution. Application fees are waived for any property subject to the public use easement, established in the Rule and Order, recorded at reception number B1170877 in the records of the Arapahoe County Clerk and Recorder, so long as such easement is in effect.

Section 3. Section 16-3-60(c)(1)(a) is hereby amended to read as follows:

a. Application form and fee as set in the Fee Schedule Resolution. Application fees are waived for any property subject to the public use easement, established in the Rule and Order, recorded at reception number B1170877 in the records of the Arapahoe County Clerk and Recorder, so long as such easement is in effect.

Section 4. Section 16-3-60 is hereby amended to include subsection (d) regarding sound walls as follows:

(d) Sound Walls. Sound walls are permitted on residential lots located adjacent to property zoned 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. Application fees are waived for any property subject to the public use easement, established in the Rule and Order, recorded at reception number B1170877 in the records of the Arapahoe County Clerk and Recorder, so long as such easement is in effect.

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 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 have a minimum height of eight (8) feet and shall not exceed a maximum height of twenty (20) feet.

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. 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. Sound walls may be constructed of wood, brick, stone, earth berms, concrete, or masonry material and should be constructed such that there are no gaps or holes in a manner consistent with CDOT sound wall construction standards.

c. Berms constructed for sound mitigation shall also comply with the following standards for berms:

i. 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.

ii. 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.

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

- iv. Berms must be located entirely within property lines.
- v. 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.
- vi. Berms shall be prohibited within the sight triangle or any intersection.
- vii. During construction of the berm and until all landscaping is completed, appropriate erosion control is required.

(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.

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. 02 Series of 2018, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this day of 2018.

Lisa Jones, Mayor

ATTEST:

Miranda Gallivan, Town Clerk

Town Seal

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

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- (2) All fences, 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, berm or sound wall the applicant shall seek a variance in accordance with section 16-5-70 of this chapter.

Section 2. Section 16-3-60(b)(1)(a) is hereby amended to read as follows:

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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.

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Section 46. 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 57. This ordinance shall become effective thirty (30) days after final publication.

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Lisa Jones, Mayor

ATTEST:

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