

## **ARTICLE 1 -GENERAL PROVISIONS**

### **SECTION 1.1: Ordinance and Authority**

- A.** An Ordinance of the Board of Trustees of the Town of Foxfield, Colorado, establishing land use classifications, dividing the Town into districts, imposing regulations, prohibitions, procedures, and restrictions, governing the use of land for residential and non-residential purposes, regulating and limiting lot occupancy, determining the size of yards and other open spaces, establishing standards of performance and design, adopting a map of said land use districts, prescribing procedures for changes and modifications of districts, uses by special review, variances, and other permits, allowing for nonconforming uses, structures and land, providing regulations for accessory uses and buildings, providing for the adjustment, amendment, and enforcement thereof, defining certain terms, providing a means of appeal, and prescribing penalties for violations of its provisions, and repealing existing Town of Foxfield Zoning Resolutions, Regulations and Amendments thereof.
- B.** The Town of Foxfield Zoning Ordinance (the "Zoning Ordinance") is authorized by Ordinance 31, Article 23, Section 301, et seq., of the Colorado Revised Statutes and is declared to be in accordance with all provisions of the applicable statutes.
- C.** The Town of Foxfield has the authority to plan for and regulate the use of land and to administer and regulate areas and activities of special interest as might be delineated in the Comprehensive Plan under authority of Ordinance 31, Article 23, Part 2 of the Colorado Revised Statutes, as amended.

### **SECTION 1.2: Effective Date**

To the extent that the provisions of this Zoning Ordinance are the same in substance as the previously adopted provisions that they replace in the Town's Zoning Ordinance, they shall be considered as continuations thereof and not as enactments unless otherwise specifically provided. Any situation that did not constitute a lawful, non-conforming building, use, or site under a previously adopted Zoning Ordinance does not achieve lawful non-conforming status under this Zoning Ordinance.

### **SECTION 1.3: Purpose**

This Zoning Ordinance shall be for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future residents of the Town of Foxfield, Colorado, by lessening of congestion on the streets and roads or reducing the waste of excessive amounts of roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and the distribution of land development and utilization, protection and enhancement of the tax base, securing economy in governmental expenditures, the protection of urban and non-urban development, and providing for the implementation of the goals and policies of the

Comprehensive Plan or other policies approved by the Board of Trustees.

**SECTION 1.4: Relationship to the Foxfield Comprehensive Plan**

It is the intent of the Foxfield Planning Commission and Foxfield Board of Trustees that this Ordinance implements the planning policies adopted by the Planning Commission and Board of Trustees as reflected in the Comprehensive Plan and other related plans and planning documents. The Planning Commission and Board of Trustees reaffirm its commitment that this Ordinance and any amendment to it be in conformity with the adopted planning policies. The Town hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document. The Foxfield Comprehensive Plan shall be used as guide in decision-making and may be reasonable grounds for denial or reconsideration of the application.

**SECTION 1.5: Jurisdiction**

This Zoning Ordinance shall apply to all properties within the incorporated area of the Town of Foxfield, Colorado.

**SECTION 1.6: Application of this Zoning Ordinance**

**A. Application of Developments in Process.**

Any application for development initiated on and after December 31, 2009 shall be reviewed pursuant to the review process and standards set forth in this Zoning Ordinance.

**B. New Applications Initiated after December 31, 2009.**

1. No building or structure shall be erected and no existing building or structure shall be moved, altered or extended, nor shall any land, building, or structure be used for any purpose other than as provided for among the uses hereinafter listed in the district regulations for the zone district in which such land, building or structure, is located.
2. No building or structure shall be erected nor shall any existing building or structure be moved, altered or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the dimensional regulations, district development standards and supplementary regulations or other provisions hereinafter provided in the district regulations for the zone district in which such building, structure, or open space is located.
3. The provisions of this Zoning Ordinance shall apply to all uses as follows:
  - a. New buildings and uses of land.
  - b. Additions involving expansion of the gross floor area of any structure by

twenty percent (20 %) or more above that in existence prior to the effective date of this Ordinance.

- c. A change of use: Prior to issuance of a building permit, or granting of a change in use the applicant shall demonstrate that the property will comply with all applicable regulations in this Zoning Ordinance.
4. All buildings, parking areas, landscaping, signs, and other improvements addressed by the development standards in this Ordinance shall be constructed and installed in accordance with the approved plans filed with the Town of Foxfield prior to issuance of a Certificate of Occupancy for the building or use.
5. The Town Planner may allow certain improvements to be constructed or installed within an agreed upon time allowing for seasonal changes. Such arrangements may involve performance bonds or other methods as deemed appropriate by the Town Planner to assure eventual compliance with this Zoning Ordinance.
6. Every building shall be located and maintained on a "lot" as defined in this Ordinance.
7. No parcel of land which has less than the minimum width, depth and area requirements for the zone in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

### ***SECTION 1.7: Overlapping Regulations***

Except with respect to approved Official Development Plans and Final Development Plans for land zoned Planned Development (PD), whenever a provision of this Zoning Ordinance and any other provision of this Zoning Ordinance, other law, ordinance, resolution, rule, or regulation of any kind contains any restrictions which cover the same subject matter, the more restrictive requirements shall govern.

### ***SECTION 1.8: Violations***

Land in the Town of Foxfield shall not be used, nor any building or structure erected, constructed, enlarged, altered, maintained, moved or used in violation of this Zoning Ordinance or amendments thereto. The Board of Trustees, through the Town Attorney and courts of appropriate jurisdiction, which includes the Town of Foxfield Municipal Court, may initiate legal or other appropriate action to prevent, abate, or remove such unlawful use, maintenance, erection, construction, reconstruction, or alteration, in addition to any other remedies provided by law. Any such violation of this Zoning Ordinance shall be considered unlawful.

## **SECTION 1.9: Enforcement**

### **A. Issuance of Permits.**

All officials, employees, and consultants of the Town of Foxfield vested with the duty or authority to issue permits shall not issue any permit, certificate, or license in conflict with the provisions of this Zoning Ordinance. Any such permit, certificate, or license issued in conflict with the provisions of this Zoning Ordinance shall be null and void.

### **B. Enforcement Responsibilities.**

1. It shall be the duty of the Board of Trustees or a designee of the Board of Trustees of the Town of Foxfield to enforce the provisions of this Zoning Ordinance pertaining to the use, maintenance, erection, construction, reconstruction, alteration, moving, conversion, or addition to any building or structure.
2. No permits shall be issued by any officer of the Town for the construction of any building, or other improvements requiring a permit, upon any unplatted land, unless and until the requirements hereof have been complied with.
3. No building or construction permit shall be issued prior to approval of the Plot Plan or Site Development Plan, unless the property has been specifically exempted from the development process by definition or by official action of the Town Board of Trustees, after Planning Commission review.
4. No Plot Plan or Site Development Plan shall be approved by the Board of Trustees or a designee of the Board unless such property is classified in the appropriate zoning district as defined in this Ordinance.
5. Any person engaging in development, change of use, modification or enlargement of use of any land, building, or structure that is subject to this Zoning Ordinance who does not obtain any necessary permits, approvals, or variances as prescribed by this Zoning Ordinance, who does not comply with permit, approval, or variance requirements, who acts outside the authority of the permit, approval or variance, or who otherwise violates any of the provisions of this Zoning Ordinance, may be enjoined by the Town from engaging in such activity and may be subject to the procedures and penalties described below.
  - a. No building or structure shall be erected, moved, or structurally altered unless a building permit has been issued by the Building Official or his authorized representative. All building permits shall be issued in conformance with the provisions of this Zoning Ordinance and all other applicable regulations and shall be valid for a period of time not exceeding one (1) year from the date of issue.
  - b. No land or building shall hereafter be changed in use, nor shall any new structure, building, or land be occupied or used unless the owner shall have

obtained a Certificate of Occupancy from the Town Building Official. After inspection by the Building Official, and provided that the use shall be in conformance with the provisions of this Zoning Ordinance and all other applicable regulations, a Certificate of Occupancy shall be issued. A copy of all Certificates of Occupancy shall be filed by the Town Building Official and shall be available for examination by any person with either proprietary or tenancy interest in the property or building.

- c. The Town is empowered, pursuant to Article 5 of this Zoning Ordinance, to order in writing the remedy of any violation of any provision of this Zoning Ordinance. After any such order has been served, no work on or use of any building, other structure, or tract of land covered by such order shall proceed, except to correct such violation or comply with said order.
- d. Building permits for new non-residential construction may be referred to the Town Planner and Town Engineer for review of necessary public improvements.
- e. The Town of Foxfield shall not accept any land use application for property currently being used or occupied in violation of the Town of Foxfield Zoning Ordinance unless said application seeks to obtain an approval by the Town that would cause the property to be in compliance with the regulations of the Town.

### ***SECTION 1.10: Penalties***

Any person, firm or corporation, whether as principal agent, employee or otherwise, who violates any of the provisions of this Zoning Ordinance shall be fined an amount not to exceed four hundred ninety-nine dollars (\$499.00) for each such violation, such fine to inure to the Town. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

### ***SECTION 1.11: Severability***

If any part, subpart, section, paragraph, sentence, clause, or phrase of this Zoning Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Zoning Ordinance.

### ***SECTION 1.12: Repeal and Effective Date***

- A. All amendments, extensions, or initial legislation to this Zoning Ordinance are hereby declared null and void and superseded by this Zoning Ordinance.
- B. Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any Regulation repealed hereby, for any offense committed prior to the repeal.
- C. This Zoning Ordinance is effective as of thirty (30) days after final publication of this

Ordinance.

**SECTION 1.13: Correction of Obvious Errors**

Nothing in this Zoning Ordinance shall be construed as a limitation upon the power of the Board of Trustees, Zoning Administrator, Town Attorney, or Town Planner to correct obvious typographical or compositional errors, provided:

- A. Such corrections shall not change the legal effect of this Zoning Ordinance or any part thereof.
- B. Such corrections will be reported to the Board of Trustees.
- C. An errata supplement shall be attached to all copies of this Zoning Ordinance distributed subsequent to the making of such corrections.

**SECTION 1.14: Amendment**

The process for the amendment of this Zoning Ordinance shall be as specified in Article 5, Section 5.6: Changes and Amendments.

**SECTION 1.15: Definitions**

Definitions are included as Article 6 of this Zoning Ordinance.

**SECTION 1.16: Vested Property Rights**

**A. Intent.**

This Article is intended to define a site specific development plan for the Town of Foxfield pursuant to C.R.S. § 24-68-103, and to establish a procedure to govern the creation of vested rights in accordance with C.R.S. § 24-68-101, et seq. Nothing in this Article is intended to create a vested property right, but only to implement the provisions of C.R.S. § 24-68-101, et seq.

**B. Definition of Site Specific Development Plan.**

For purposes of this Article, 'site specific development plan' means:

- 1. For multi-family residential units, apartments and condominiums, the final plat.
- 2. For commercial and single-family residential construction, the Site Development Plan.

**C. Creation of Vested Rights.**

- 1. No vested rights shall be created except by the approval of a site specific development plan by the Board of Trustees, or by a development agreement between the Town and the applicant or landowner. Such agreement shall be construed in accordance with the terms and conditions of said agreement, and

not limited nor expanded by the provisions of this Article.

2. If the applicant seeks approval of a site specific development plan to create vested property rights, the plan shall include a statement that it is being submitted for designation as a site specific development plan. Failure to include such statement shall result in no vested property rights being created by the approval of the site specific development plan.

**D. Other Regulations.**

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions or requirements of the Town pertaining to the development and use of the property adopted before the approval of a site specific development plan.

**E. Waiver or forfeiture.**

1. Failure to abide by any terms or conditions imposed by the Town on the approval of any site specific development plan shall constitute a forfeiture of any vested right created by the plan, unless otherwise expressly agreed to by the Town in writing.
2. A petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and be accompanied by all site specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site specific development plans shall constitute a waiver of the vested property right created by any other local government upon annexation to the Town, unless expressly provided otherwise in the annexation ordinance adopted by the Town.
3. A site specific development plan submitted by a landowner and approved by the Town as provided in this Article shall supersede any prior vested property rights for that property, and the landowner waives any right to claim a vested property right by a site specific development plan previously approved by the Town or any other local government for the property.

**F. Notice.**

It shall be the applicant's responsibility to comply with the publication requirements of C.R.S. § 24-68-103(1) (c) following approval of a site specific development plan by the Town.

***SECTION 1.17: Expiration of Land Use Approvals***

Approval by the Board of Trustees of any Final Development Plan, subdivision plat, Special Review Use, grading permit, or any other land use approval that does not constitute an amendment to the Town of Foxfield Zoning Map shall remain in effect for

one (1) year. Any approval of such an application for which a grading permit or building permit has not been applied for or for which the use has not been otherwise commenced within one (1) year after approval has been obtained shall be null and void. An extension of time of up to six (6) months may be granted by the Board of Trustees upon a finding of good cause. If such an approval expires, the applicant shall be required to resubmit a new application and fee for the same project.

Nothing in this Article 1, Section 19 shall be construed to prevent an applicant from obtaining vested rights pursuant to Section 18 of this Article I for a site-specific development plan within the meaning of Section 24-68-102(4), C.R.S.

***SECTION 1.18: Permit Revocation***

A zoning, sign, building, Special Review Use, other permit or any Certificate of Occupancy issued under the provisions and procedures of this Ordinance may be revoked by an authorized representative of the Town if the permit recipient fails to develop, improve, or maintain the property in accordance with the approved plans, the requirements of this Ordinance, or any additional requirements lawfully imposed by the Town of Foxfield.