

ARTICLE 5: ADMINISTRATION AND PROCEDURES

SECTION 5.1: Administration

A. Intent.

It is the intent and purpose of this Article to provide for the efficient, reasonable, and impartial enforcement of this Zoning Ordinance. This Article establishes and prescribes the basic duties and operating procedures of the administrative individuals responsible for administering and enforcing this Zoning Ordinance and establishes the requirements for development applications and building permit applications with regard to the following:

1. Administration
2. Certificates of Occupancy
3. Plot Plans
4. Site Development Plans
5. Special Review Use
6. Changes and Amendments to the Zoning Ordinance
7. Variances and Appeals
8. Nonconforming Uses, Structures and Lots, and Parking Specifications
9. Notice of Public Hearings.
10. Fees

B. Zoning Administrator.

1. There is hereby established the office of "Zoning Administrator." The Zoning Administrator shall be appointed by the Board of Trustees, and shall be charged with the responsibility for interpretation of and enforcement of this Zoning Ordinance. Interpretation of this Zoning Ordinance includes but is not limited to, clarification of intention, classification, and approval of land uses not specified in this Article 2, clarification of zoning district boundaries, and delegation of procedure.
2. No oversight or dereliction or error on the part of the Zoning Administrator or on the part of any other official or employee of the Town of Foxfield shall legalize, authorize, or excuse the violation of any provisions of this Zoning Ordinance.
3. Right of Entry. The Zoning Administrator shall have the right to enter any premises or structures at any reasonable time for making an inspection as may be necessary to carry out his duties in the enforcement of this Zoning Ordinance.

C. Building Official.

The Building Official shall have duties including the inspection of plans, structures, and site improvements for compliance with the provisions of this Zoning Ordinance and for issuance of permits for Building Construction and Site Improvements, Certificates of Occupancy and other duties as herein authorized. In meeting the responsibilities of the above duties, the Building Official may solicit the assistance of other Town officials, other agencies, or consultants as deemed necessary.

D. Planning Commission.

1. Affirmation: The Planning Commission of the Town is created pursuant to and under the authority of the Colorado Revised Statutes, C.R.S. § 31-23-201, *et seq.*
2. Powers and Duties: The Planning Commission shall have all powers, discretion, and duties established by Colorado Revised Statutes, C.R.S. § 31-23-201,, (CRS) 31.23.
3. The Planning Commission shall be comprised of five (5) members.

E. Board of Adjustment.

1. Appointment of the Board of Adjustment. In accordance with the powers and authority of the Board of Trustees, the Board of Adjustment shall consist of the Board of Trustees acting as the Board of Adjustment
2. The Board of Adjustment shall hear appeals from and review any order, requirement, decision, or determination made by any administrative official of the Town charged with the enforcement of the Zoning Ordinance of the Town. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as in its own opinion ought to be made in the premises and to that end has all the power of the official from whom the appeal is taken.
3. The Board of Adjustment has the authority to vary or modify the application of this Zoning Ordinance, relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance is observed, public safety and welfare secured, and substantial justice done, when the strict application of this Zoning Ordinance will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.
4. The Board of Adjustment does not have the power to change this Zoning Ordinance or to change the Zoning District Map of the Town.

SECTION 5.2: Certificates of Occupancy

A. When Required.

After the effective date of this Zoning Ordinance, no change in the use or occupancy of land, nor any change of use or occupancy in an existing building or structure other than for a residential use shall be made, nor shall any new building or structure be occupied until a Certificate of Occupancy has been issued by the Building Official. No Certificate of Occupancy shall be issued by the Building Official unless the proposed use of the building, structure or land, and improvements thereto, conforms to the requirements of this Zoning Ordinance.

SECTION 5.3: Plot Plans

A. Plot Plan Requirements.

1. Every building permit application for detached single-family dwelling units or accessory structures shall be accompanied by three (3) copies of a Plot Plan. Additional copies may be requested by Town Staff. The Plot Plan shall be drawn to scale and show the following information in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed excavation, construction, conversion, moving or alteration is in conformance with this Zoning Ordinance:
 - a. The actual shape, and dimensions of the lot.
 - b. The location, size, shape, and intended use of all new and existing structures.
 - c. The height, setbacks, and building coverage of all structures.
 - d. Location of easements, natural drainageways, and rights-of-ways.
 - e. Proposed grading or excavation.
 - f. Any other information required by the Town's adopted Building Code or concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Zoning Ordinance are being observed.

B. Public Improvements.

1. The Zoning Administrator shall review the Plot Plan to determine whether any public improvements or conveyances such as streets, street paving, curb and gutter, driveway approaches, sidewalks, rights-of-way or easements shall be required for detached single-family dwelling units. If it is determined that such public improvements or conveyances are necessitated by the proposed development of the property, the developer or property owner shall be required to construct or convey such public improvements or conveyances to the Town by separate agreement.
2. The cost of any such public improvements or conveyances shall be borne by the

developer or property owner and the construction or conveyance thereof shall be at the sole risk and expense of the developer or property owner. The Town Board may defer any public improvements or conveyances until such time as the Town Board may require the completion of said public improvements or conveyances. In making the determination to defer any public improvements or conveyances, the Town Board shall consider the following criteria:

- a. The deferral will not be detrimental to the public good or surrounding properties;
- b. Deferral of the public improvements and conveyances would be more practical due to existing conditions in the neighborhood.
- c. In granting any deferral, the Town Board may attach such reasonable conditions and safeguards, as it may deem necessary to implement the intent and purpose of this Zoning Ordinance

C. Issuance of Permits.

All requirements of this Zoning Ordinance shall be met prior to the issuance of any permit. Any permit issued in conflict with the provisions of this Zoning Ordinance shall be null and void, and may not be construed as waiving any provision of this Zoning Ordinance.

SECTION 5.4: Site Development Plans

A. Site Development Plan Requirement.

1. Site Development Plans shall be required for any non-residential development. All Site Development Plans shall contain the following information.
 - a. Name of the project located at the top center of the sheet. Below this should be the location of the development by streets adjacent to the zone lot, along with the section, range, and township.
 - b. Legal description of zone lot.
 - c. North point - the top of the sheet will be north whenever possible.
 - d. A survey showing property boundary lines and dimensions; existing and proposed public and private easements, existing easements of record, roadways, and rights-of-way adjacent to or crossing the property. Boundary lines of the zone lot shall be shown in heavy solid line. (Also, show the elevation and location of benchmark used, U.S.G.S. datum.)
 - e. Sheet size shall be 24" x 36" with a preferred scale of 1" = 50'. The top, bottom, and sides of the sheet should have a 1" wide margin.
 - f. A general vicinity map drawn to an approximate scale of 1" = 1,000'.
 - g. The existing and proposed finished grade contour lines of the project area

shown in intervals not to exceed two (2) feet.

- h. The present zoning classifications of all abutting properties.
- i. The required setbacks shown as dotted lines on the property.
- j. The location, size and arrangement of proposed buildings and existing buildings which will remain, if any; the maximum height of buildings in stories and feet; the floor area ratio, total floor area and total square feet of ground area coverage; the number of dwelling units.
- k. A minimum of front and side elevations of all buildings showing predominant architectural elements and extension treatments.
- l. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways, trails, and bikeways, including slope and gradient of vehicular elements; the private roads or streets within the project shall be designed to allow reasonable ingress and egress for emergency vehicles.
- m. Utility plans, indicating placement of water mains, sanitary sewers, storm sewers, including surface and subsurface drainage.
- n. Locations, design, height, size and orientation of all outdoor signs and illumination.
- o. Location and height of all walls, fences, screens, berms, buffers, and planting areas.
- p. Location, height and type of all outdoor lighting.
- q. A tabulation of the following information with respect to the area included in the Site Development Plan:
 - Total Project Area _____Acres
 - Floor Area Ratio _____FAR
 - Maximum Height of Buildings _____Feet
 - Number of Parking Spaces Required _____Spaces
 - Number of Loading Spaces Required _____Spaces
 - Landscaped Area _____Sq. Ft.
 - For commercial developments, indicate the area of planting beds and landscaping adjacent to parking areas _____Sq. Ft.
 - Total paved area within the project _____ Sq. Ft.
- r. Location of all outside facilities for solid waste disposal.

- s. Show all existing and proposed fire hydrants, control facilities, standpipes, etc.
- t. Show drainage way plans, detention areas, and water pollution control devices with the volumes described in cubic feet.
- u. Types of surfacing to be used at various locations.
- v. All vehicular and pedestrian elements designed and constructed to Town specifications.
- w. Generally depict the landscape plan for the site. Include:
 - Locations and general plant types planned therein;
 - Types of surface such as asphalt paving, turf, gravel etc.;
 - Proposed initial plant sizes;
 - Designation of any snow storage areas and proposed landscaping thereon;
 - Locations and types of any passive or active recreation areas;
 - Proposed means of plant irrigation.
- x. Proposed facilities and method for public transit boarding and unloading where appropriate.

B. Administrative Review.

1. Except for Special Review Uses (which require review and approval by the Planning Commission and Board of Trustees), Site Development Plans shall be reviewed by the Town Planner within fourteen (14) working days of the submittal of a Plan or Building Permit accompanied by a Plan. At the Town Planner's discretion, the Site Development Plan may be reviewed by the Planning Commission at a regular meeting for their comments. Decisions of the Town Planner and Planning Commission are final.
2. Five (5) copies of the Site Development Plan shall be submitted to the Town Clerk who will forward the Site Development Plan to the Town Planner and if necessary Town Engineer for review either prior to or at the time of application for a Building Permit. The Town Clerk or Town Planner can request additional copies as necessary.
3. Upon approval of a Site Development Plan, the Town Planner shall so note with his/her initials on the Plan, and proceed to issue a Building Permit as per Town Regulations. Failure of the applicant to comply with constructing an approved Site Development Plan arrangement shall have Certificates of Occupancy withheld until compliance is determined.

SECTION 5.5: Special Review Use

A. Intent.

The purpose of Special Review Use is first, to recognize that some uses may or may not be appropriate in a particular district depending upon the circumstances of the individual case and, second, to allow review of such cases so that the Town is assured that these uses are compatible with their locations and surrounding land uses and will further the purposes of this Zoning Ordinance. Uses which require a Special Review Use Permit are those which may be allowed in the zoning district in which they are listed if it can be demonstrated that the use, in the proposed location, is compatible with the District Characteristics, Purposes, Dimensional Regulations and Development Standards for the zone district in which the use is proposed, and the use is compatible with the zoning purposes of the district, the particular site, and the surrounding area. Uses stipulated in this Zoning Ordinance as requiring a Special Review Use Permit shall only be allowed with prior issuance of such permit by the Town Board as described below.

B. Procedures and Processing for a Special Review Use Permit.

1. Who may apply. Both the owner of the property on which the proposed use will be conducted and the operator of the use for which a Special Review Use Permit is required, or their authorized representative(s), shall be party to the application for a Special Review Use Permit.
2. Process. The application shall be submitted on forms provided by the Town and shall contain the following minimum information:
 - a. Name, address, and telephone number of the property owner and applicant.
 - b. Legal description of the property and street address.
 - c. Lot size, existing zoning, and tax schedule number.
 - d. Description of the proposed Special Review Use.
 - e. A Plot Plan of the property as described in Section 5.2 if the property is a single-family dwelling unit or a Site Development Plan as described in Section 5.3 for all other uses.
 - f. The names and addresses of all adjoining property owners of record; and
 - g. Justification as to why the requested Special Review Use should be approved.
3. Town Staff comment. Prior to the Planning Commission public hearing, the Town Planner shall request Town staff comment on the application. Comments received shall be submitted to the Planning Commission.
4. The Town Planner shall study the application and shall make a report of his findings to the Planning Commission.

5. The application shall be processed in the same manner as a request for initial zoning and rezoning set forth in this Article, except that approval by the Town Board shall be by resolution.
6. Fees: The application shall be signed by the property owner or his duly authorized agent and shall be accompanied by a nonrefundable fee as determined by the Town Board to cover costs related to the application.
7. An application shall not be considered accepted until all required information is submitted.

C. Transferable.

Special Review Use Permits allow a particular use for which it is granted to operate on the specific property listed in the permit in accordance with approved plans. A Special Review Use Permit may be transferred to any other person to operate the same use per the same terms of the permit, with approval by the Zoning Administrator, but may not be transferred to any other property or building.

D. Duration.

A Special Review Use Permit shall remain in full force and effect as long as the use for which the permit is granted continues or for the term specified on the permit.

E. Special Review Use Criteria, Conditions, and Modifications.

1. No approval of a Special Review Use shall be granted unless the Special Review Use conforms to the minimum development requirements and regulations of the applicable zone district. In reviewing the Special Review Use, the Planning Commission and Town Board shall consider the following review criteria, where applicable:
 - a. Is the use consistent with the intent and purpose of this Zoning Ordinance?
 - b. Is the use consistent with the intent of the zone district in which the applicant intends to locate such use?
 - c. Is the use compatible with other uses in the area? Will the impacts generated by the use be abated through the utilization of mitigation measures, such as increased setbacks, screening, or buffering?
 - d. Is the use consistent with the Town Comprehensive Plan and other approved plans?
 - e. Will the use create any adverse environmental influences on the surrounding area? For example: will the use generate excessive dust, odors, fumes, noise, glare, or vibration?
 - f. Will the use generate traffic hazards or congestion in the area? Will existing transportation systems be overburdened by the use? Are ingress and egress points appropriately and safely located?

- g. Have adequate water, sewer, drainage, and other utility facilities been provided?
 - h. Is the physical appearance of the site, including building orientation, scale, architectural treatment and landscaping, sensitive to other uses in the area?
 - i. Is the use reasonably related to the overall needs of the community?
 2. In approving an application for Special Review Use, the Town Board may impose conditions or modifications, which it deems reasonably necessary to secure the intent and purpose of this Zoning Ordinance.

F. Abandonment of Right.

Approval of a Special Review Use in accordance with this Section shall expire in one (1) year from date of approval unless a Plot Plan or Site Development Plan has been approved or if the rights and privileges granted thereby have not been exercised or utilized, or if construction work is involved, the work has actually not commenced on the premises. If, thereafter, any discontinuance of the exercise of any rights or privileges occurs for a continuous period of one (1) year, the Special Review Use shall be considered abandoned.

G. Revocation of Special Review Use Approval.

1. All conditions or modifications imposed by the Town Board shall be maintained in perpetuity with the Special Review Use. If at any time the conditions or modifications are not complied with by the applicant or are found to have been altered in scope, application, or design, the use shall be in violation of Special Review Use approval.
2. If and when any use is determined to be in violation of Special Review Use approval, the Zoning Administrator shall notify the applicant in writing of said violation and of a thirty (30) day period in which to rectify the violation. The notice shall state a time and place after the thirty (30) day period at which a revocation hearing will be held if the violation is not timely rectified.
3. Within thirty (30) days after notification of violation of Special Review Use approval, the applicant shall rectify the violation. Upon completion of any required changes, the applicant shall notify the Zoning Administrator in writing that said changes have been made.
4. Failure of the applicant to rectify said violations within thirty (30) days shall be cause for cancellation and revocation of the Special Review Use approved by the Town Board. A revocation hearing shall be conducted by the Town Board prior to any revocation. The revocation of the Special Review Use approval shall require the applicant to vacate the premises of or stop the use authorized by the Special Review Use approval. After revocation, the applicant may reapply for approval of a Special Review Use pursuant to the procedures outlined in this Section.

SECTION 5.6: Changes and Amendments

A. Authority.

The Board of Trustees may, from time to time, on its own motion, on motion of the Planning Commission, on motion of the Town Planner, or on petition by any property owner, after notice and public hearings as provided by law and in accordance with the procedures and requirements set forth in this Article, amend, supplement or change the Zoning Map or any provision of this Zoning Ordinance.

B. Submittal Requirements for Property Owner Petitions.

1. Petition. Any petition to establish or change zoning for a specific property shall be filed with the Town Clerk and shall be signed by the owners of one hundred percent (100%) of the property proposed for zoning, rezoning, or a Planned Development District designation, exclusive of public streets and alleys. Such petition shall furnish or provide at a minimum the following information:
 - a. A legal description of the property proposed for zoning.
 - b. A list of the names and addresses of all owners of property within the area proposed for zoning, together with a legal description of the property within such area owned by each such owner.
 - c. A statement of the present zoning of the area proposed for zoning.
 - d. A statement of the type of zoning sought by the petition.
 - e. A narrative summary of the existing uses within the area proposed for zoning.
 - f. A narrative summary of the proposed uses within the area proposed for zoning.
2. Required attachments. Such petition shall be accompanied by the attachments listed below. The number of copies of each shall be as determined from time to time by the Town Clerk or Town Planner.
 - a. A map prepared at a scale of one hundred (100) feet to one (1) inch or larger, showing the property proposed for zoning, its location, and the length and direction of each boundary thereof, the location and use of all buildings on such property and the principal use of all properties within one hundred (100) feet of the boundaries of such lands, disregarding intervening public streets and alleys.
 - b. A list of the names and addresses of the owners of the surface estate of all properties within one hundred (100) feet of any part of the area proposed for zoning, disregarding intervening public streets and alleys.
 - c. A statement that the petitioner has performed the records searches and other investigations necessary to comply with Section 24-65.5-103, C.R.S., regarding notice to mineral estate owners and that the petitioner is then fully

prepared to give notice of the public hearing on the petition immediately upon scheduling thereof. The petitioner shall attach a complete mailing list of the persons entitled to receive such notice to the statement required by this Paragraph.

- d. Application fee. Such petition shall also be accompanied by an application fee in an amount to be determined from time to time by resolution of the Board of Trustees and set forth in Appendix C to this Code, to defray the costs of processing and determining the petition.

C. Planning Commission Review.

Upon receipt of a complete property owner submittal, or on its own motion or request for the same by Board of Trustees, the Planning Commission shall review, evaluate, and investigate the proposed zoning. The Planning Commission may hold public hearings, solicit comment from interested persons and perform such other investigations as it deems appropriate, and shall hold a public hearing if so directed by the Board of Trustees. Upon completion of its investigation, it shall prepare and transmit its report and recommendations concerning the same to the Board of Trustees.

D. Board of Trustees Review.

1. Public hearing and Notice. Upon receipt of the report and recommendations of the Planning Commission, the Town Clerk shall schedule a public hearing on the proposed zoning, allowing sufficient time to permit notification to mineral estate owners as required by Section 24-65.5-103, C.R.S. 2. Notice of hearing. The petitioner shall cause written notice of the date, time, and place of the hearing, in the form prepared by the Town Clerk, to be given to all interested parties in the following manner:
 - a. Publication. Notice shall be published by the petitioner once in a newspaper of general circulation within the Town no later than fifteen (15) days prior to the date of the hearing.
 - b. Mailed notice to surface estate owners. Notice shall be mailed by the petitioner by first class mail, postage prepaid, to each surface estate owner of property located within one hundred (100) feet of any part of the property proposed for zoning, disregarding intervening public streets and alleys, not less than fifteen (15) days before the scheduled date of the hearing.
 - c. Mailed notice to mineral estate owners. Notice shall be mailed by the petitioner to the mineral estate owners entitled to receive the same, as provided by Section 24-65.5-103, C.R.S.
 - d. Posting. Notice shall be posted on the property proposed for zoning no later than fifteen (15) days before the hearing. The sign shall be prepared by the Town and posted by the petitioner on a street frontage so that it is weather-protected and legible from a distance of thirty (30) feet.

- e. Proof of notice. Not later than 12:00, p.m. on the Friday immediately preceding the date scheduled for the public hearing, the petitioner shall file with the Town Clerk the certificate of notice to mineral estate owners required by Section 24-65.5-103, C.R.S., and affidavits demonstrating timely publication, mailing to surface estate owners and posting of notice in accordance with the foregoing requirements.
3. Approval criteria. In determining the zoning, the Board of Trustees shall consider the following factors:
 - a. Whether the zoning is consistent with the intent and policies of the Comprehensive Plan.
 - b. Whether there have been material changes in the character or conditions of the neighborhood or in the Town generally, such that the requested zoning would be in the public interest.
 - c. Whether the proposed zoning will tend to preserve and promote property values in the neighborhood.
 - d. Whether development of the property in accordance with the proposed zoning will be compatible with the surrounding zoning and land uses.
 - e. Whether the property can be reasonably used and developed as presently zoned.
 - f. Whether the proposed zoning will adversely affect traffic circulation.
 - g. Whether the proposed zoning will adversely affect adjoining properties due to proposed building height or bulk, lack of screening or intrusions on privacy.
 - h. Whether the intensity of the proposed zoning can be accommodated given the characteristics of the soils, slopes and other potential hazards in a manner intended to protect the health, safety, and welfare of potential users.
 - i. Whether the property was properly zoned when its current zoning was established.
 - j. Whether denial of the proposed zoning would preclude any reasonable economic use of the property.
 - k. Whether any other zoning classification would afford any reasonable use of the property.
 4. Resubmittal after denial. If a property owner petition is denied, a period of one (1) year must elapse from the date of such denial before another property owner petition to establish the same or substantially similar zoning for the same property may be submitted.

SECTION 5.7: Variances

A. Variances.

1. The Board of Adjustment may authorize variances from the requirements of this Zoning Ordinance subject to terms and conditions fixed by the Board. A variance from the terms of this Zoning Ordinance shall be considered an extraordinary remedy, and the conditions set forth below are intended as limitations on the Board of Adjustment's power to authorize variances
2. The endorsement of the variance by adjacent landowners does not relieve the applicant of the burden of meeting all of the requirements set forth in this Section. No variance shall be authorized unless the Board of Adjustment finds all of the following:
 - a. The applicant would suffer hardship as a result of the application of this Zoning Ordinance, which hardship is not generally applicable to other lands or structures in the same zone district because of the unusual configuration of the applicant's property boundaries, because of unique circumstances related to the location of existing structures thereon, or because of the existence of exceptional topographic conditions thereon.
 - b. There are no design alternatives or alternative locations for structures that would obviate the need for the requested variance or would reduce the amount of the variance required.
 - c. The enforcement of the provisions of this Zoning Ordinance deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Zoning Ordinance
 - d. The need for the variance does not result from the intentional, reckless, or negligent actions of the applicant or his or her agent, a violation of any provision of this Code or a previously granted variance.
 - e. Reasonable protections are afforded adjacent properties.
 - f. The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.
 - g. The variance is the minimum variance that will make possible the reasonable use of the land or structure.
 - h. The granting of the variance will:
 - Observe the spirit of this Zoning Ordinance;
 - Secure the public safety and welfare;
 - Ensure that substantial justice is done; and
 - Observe common sense

- i. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance, and the Comprehensive Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation and punishable under Section 1.10 of this ordinance.
- j. Under no circumstances shall the Board grant a variance to allow a use not authorized in the district involved, or any use expressly or by implication prohibited by the terms of this Zoning Ordinance in said district. In addition, neither a nonconforming use of neighboring lands or structures in the same district, nor a permitted or nonconforming use of lands or structures in other districts shall be considered grounds for the issuance of a variance.
- k. Every variance shall run with the land.
- l. The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.
- m. A variance shall be effective for a period of one (1) year from the date it is granted by the Board. Failure to obtain a building permit for the structure for which the variance was granted prior to the expiration of said period will cause lapse of the variance. Requests for an extension of said period shall be presented to the Town Board in writing at least thirty (30) days prior to the scheduled expiration date. The Town Board may authorize up to one (1) additional year if cause exists for the extension and there would be no harm to the adjacent property owners or the community in general arising from the extension.

B. Application Requirements and Setting Hearings.

No matter shall be set for a hearing before the Board of Adjustment until the applicant:

- 1. Has been afforded a preapplication hearing with the Town Planner, if so requested by the applicant.
- 2. Submits five (5) copies, or as directed by the Town Clerk, of an application on the Town-provided form to the Town Clerk.
- 3. Pays the application fee in an amount determined from time to time by resolution of the Board of Trustees and set forth in Appendix C.
- 4. Meets in at least one (1) preapplication conference with the Zoning Administrator, which conference may result in amendments or corrections to the application.
- 5. Submits within thirty (30) days of the final preapplication conference, twelve (12) copies of the application, or such number of copies as directed by the Town Clerk or revised application as applicable, addressing the Zoning Administrator's comments made at the preapplication conference.

6. The official application form must contain the following:
 - a. Applicant's name, address, telephone number, and facsimile number.
 - b. Address of the property.
 - c. Legal description of the property.
 - d. Citation to or copy of the Section of this Ordinance from which the variance is being requested, or a copy of the Building Official's order, requirement, decision or determination from which an appeal is taken.
 - e. Reasons for filing an appeal or request for variance. Requests for variances must describe the evidence supporting each of the conditions required in order for a variance to be granted, as set forth above.
 - f. A list of the names and addresses of the owners of all properties within one hundred (100) feet of any part of the affected property, disregarding intervening public streets and alleys.
 - g. Any other information pertinent to the application, which addresses issues, raised during the review process, or which is deemed necessary by the applicant.
 - h. Notice of the hearing shall be given as provided in Section 5.3 of this Ordinance for hearings on zoning matters, except that notice shall not be published.

C. Hearing Procedures and Action.

1. All hearings before the Board of Adjustment shall be open to the public.
2. All evidence and testimony shall be presented publicly. The Board may take notice of, and may consider, any relevant facts within the personal knowledge of any member of the Board, which are publicly stated on the record.
3. The Board shall cause a record of its proceedings to be prepared, which shall include all documents and physical evidence considered in each case, together with minutes of the proceedings. Minutes or a written findings and order shall state the grounds for each decision, and shall indicate by name the maker and second of each motion and the vote on each motion. The record of proceedings shall be filed in the office of the Town Clerk.
4. For requests for variances, the Board shall make specific findings on the factors set forth above.
5. The concurring vote of four (4) members of the Board shall be necessary to reverse or modify any order, requirement, decision, or determination of the Town or to approve an application on any matter upon which the Board has been granted jurisdiction. Any decision of the Board shall be subject to review by a court of competent jurisdiction as provided by the Colorado Rules of Civil Procedure.

SECTION 5.8: Nonconforming Uses, Structures, and Lots

A. Purpose.

There may exist uses, structures, and lots of land, which were lawful prior to the adoption or amendment of this Zoning Ordinance, but which are or have become prohibited, restricted, or unlawful as a result of current provisions of this Zoning Ordinance. It is the intent of this Section to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is further intended that nonconforming uses and structures shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the zone district.

B. Nonconforming Uses.

1. Any use of a building, sign, or land lawfully existing at the time of the enactment of this Zoning Ordinance which does not conform to the regulations of the zoning district in which it is located or with the applicable development standards of this Ordinance is a non-conforming use.
2. The continuance, modification, expansion, improvement, or abandonment, of all nonconforming uses shall strictly comply with the regulations set forth below in this section, in addition to all other applicable regulations of this Zoning Ordinance and the Town's adopted building code.
3. The continuation of existing legal nonconforming uses may be continued in accordance with the provisions of this section.
4. The expansion of a use not permitted in the zoning district in which it is located shall be subject to the following conditions. Any expansion of a nonconforming use in a conforming structure requires a Special Review Use Permit from the Zoning Administrator and shall meet the following criteria:
 - a. All expansion of the nonconforming use in a conforming structure shall be confined to and conducted wholly within the structure or portion thereof, which is in existence as of the effective date of this Zoning Ordinance.
 - b. The total cumulative area of all expansions of the nonconforming use occurring after the effective date of this Zoning Ordinance shall not increase the gross floor area of the nonconforming use above that in existence prior to the effective date of this Zoning Ordinance, except for existing residential structures expanded within conforming setbacks not resulting in more units than permitted by the zoning district in which such residential use is located.
 - c. All new site improvements necessitated by an expansion shall comply with the development standards of the zoning district in which the use is located or governing the use whichever is more restrictive.
5. Expansion of a nonconforming use in a non-conforming structure shall not be permitted.

6. Change of a use from non-conforming to any use permitted in the applicable zoning district is allowed in accordance with the following conditions:
 - a. The change in use shall not create any additional nonconforming situations nor increase the extent of nonconformance.
 - b. Any new improvements, other than maintenance of existing facilities, necessitated by the change in use shall conform to all applicable regulations of the zoning district in which it is located. Existing site improvements, which do not conform to the applicable regulations of the zoning district, are not required to be brought into compliance except as required below or in other applicable parts of this Ordinance.
 - c. Any expansion involved with the change in use shall comply with the applicable regulations of this Zoning Ordinance.
7. New uses, which require a Special Review Use Permit shall be allowed only if, all proposed and existing improvements, other than existing nonconforming structures, comply with all applicable regulations and development standards of the zoning district in which the use is located as specified in this Zoning Ordinance.
8. Any use, which is not allowed in the zoning district in which it is located and which is discontinued for a period of six months or more shall be deemed abandoned and such nonconforming use shall not be renewed.

C. Nonconforming Structures.

1. All nonconforming structures shall comply with the provisions of the Town's adopted Building Code.
2. The continued use of any non-conforming structure shall be subject to the following conditions:
 - a. Continued use of a nonconforming structure is allowed if the structure is legally non-conforming as of the effective date of this Zoning Ordinance.
 - b. If use of a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the nonconformance and will not be permitted unless a variance is granted for the nonconforming structure.

D. Alteration, Repairs, or Replacement.

1. All interior remodeling or any alteration wholly within a non-conforming structure is allowed if the external configuration of the structure is not changed provided that: such alteration does not create any non conforming use or situations not increase the intensity of the non conformance as described above, and all other applicable regulations of this Zoning Ordinance.

2. Ordinary repairs and maintenance of a non-conforming structure shall be allowed and are encouraged.
3. Any non-conforming structure extensively damaged by sudden destruction beyond the control of the user or by fire may be reconstructed or replaced if such destruction does not exceed 50% of the total structure (as determined by the Building Official). Such reconstruction shall occur on the same lot and with the same external configuration, only if all other provisions of this Zoning Ordinance are met and appropriate variances are granted regarding the external configuration of the structure. Prior to the granting of said variance, it shall be demonstrated that reconstructing the structure in accordance with the provisions of this Zoning Ordinance would deprive the owner use of the property in a manner, which is equitable to other uses in the same zoning district.
4. Alterations or remodeling of a non-conforming structure, which changes the use of the non-conforming structure from an ancillary use to a use similar to the primary use, shall not be permitted unless a variance is obtained for the structure.

E. Non-conforming Site or Lot.

1. Any use in existence at the time of the effective date of this Zoning Ordinance on a lot which does not conform with the development standards of the zoning district in which it is located shall be allowed to be continued, provided the use is not discontinued for a period of six months or more in which case the use shall be deemed abandoned and such use shall not be renewed except in conformance with all applicable Foxfield regulations.
2. Non-conforming Lots of Record. Where an individual lot was held in separate ownership from adjoining properties or was platted prior to the effective date of this Zoning Ordinance in a recorded subdivision approved by the Town Board and has less area or width than required in other sections of this Zoning Ordinance, such lot may be occupied according to the permitted uses and other requirements set forth in the district in which the lot is located, provided that no lot area or lot width is reduced more than one-third (1/3) the zoning requirements otherwise specified by this Zoning Ordinance.

SECTION 5.9: Public Notice Requirements

A. Purpose.

All land use applications that require a public hearing before the Planning Commission, Town Board, or Board of Adjustment shall be subject to the requirements contained in this Section. It is intended to provide for adequate notification ensuring the opportunity for public participation of land use proposals within the Town.

B. Responsibility.

1. It is the responsibility of the applicant to meet these requirements prior to the established hearing date. The Planning Commission, Town Board, or Board of Adjustment may continue the hearing to a date certain and may keep the hearing open to take additional information to the point a final decision is made. No further notice of a continued hearing need be pursued by the applicant unless a period of six (6) weeks or more elapses between the hearing dates, before the same board. In situations where this time period has passed, the applicant shall be required to publish the "NOTICE OF PUBLIC HEARINGS" again.
2. These public notice requirements apply to all land within the jurisdiction of the Town.
3. No public hearing shall commence, nor testimony taken until these procedures are met by the applicant.

C. Public Notice Procedures.

1. At least fifteen (15) days prior to a public hearing, a notice shall be published at least one time in the legal notice section of a general circulation newspaper within the Town of Foxfield. A Publisher's Affidavit shall be submitted to the Zoning Administrator or designees prior to the hearing date to verify the publication of the required notice. The notice shall read as follow:

TOWN OF FOXFIELD
NOTICE OF PUBLIC HEARING
PROPOSED AMENDMENT TO _____

Notice is hereby given that the Town of Foxfield (name of board: Planning Commission or Board of Trustees) shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Foxfield Zoning Regulations.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at Parker Fire Protection District #2, 7320 South Parker Road, Foxfield, Colorado 80016, or at a place otherwise specified by the Town Clerk.
Further information is available by calling (303) 680-1544.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

2. At least fifteen (15) days prior to a public hearing, a written notice shall be sent by certified mail by the applicant to all Town property owners within seven hundred fifty (750) feet of the site for which the land use application is made.

Return receipts shall be submitted with a list of all area property owners to the Town Clerk's Office prior to the hearing date. The written notice shall contain the following information:

- a. The entire notice of public hearing outlined in subsection (2) above, including the legal description, and
 - b. Brief narrative outlining the proposed land use application.
3. 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 notice shall consist of at least one (1) sign facing an adjacent public right-of-way in a manner, which provides the most visibility to the public of the sign. These notices shall be in the form of signs measuring not less than three feet by four feet (3' x 4'); with lettering a minimum of three (3) inches high and on posts no less than four (4) feet above the ground. All lettering shall be clearly legible from the right-of-way the sign faces. These notices shall read:

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Town of Foxfield (name of board: Planning Commission or Board of Trustees) shall hold a public hearing concerning (type of application request), located on property described in Exhibit A, and generally located at (distance and direction of nearest major intersection) pursuant to the Town of Foxfield Zoning Regulations.

The public hearing shall be held before the (name of board) on (date), at the hour of (time), or as soon as possible thereafter as the agenda of the (name of board) permits, at Parker Fire Protection District #2, 7320 South Parker Road, Foxfield, Colorado 80016, or at a place otherwise specified by the Town Clerk.

Further information is available by calling (303) 680-1544.

ALL INTERESTED PERSONS MAY ATTEND.

EXHIBIT A (legal description)

- 4 For all other amendments to the Town of Foxfield Zoning Ordinance, notice shall be by publication only.
5. For any amendment to the Town of Foxfield Zoning Ordinance that requires hearings before the Planning Commission and the Board of Trustees, the Board of Trustees may determine, in its sole discretion, upon request of the applicant or upon its own motion, to combine the hearings of the Planning Commission and the Board of Trustees.

SECTION 5.10: Fees

A. Intent.

1. The intent of establishing fees is to cover the cost of processing of applications under this Zoning Ordinance. In certain instances, the Town of Foxfield will contract for the services listed below with a planning professional. Fees shall be established by resolution of the Town Board and include by way of example but are not limited to:

PRE-APPLICATION MEETINGS

SPECIAL REVIEW USE PERMIT

VARIANCES AND APPEALS

REZONING REQUESTS

ZONING ORDINANCE AMENDMENTS

PLANNED DEVELOPMENTS

SIGN PERMIT

B. Payment.

1. All applications for which there is a fee shall be accompanied by the appropriate fee to the Town Clerk. Applications, which are not accompanied by the appropriate fee, shall be considered incomplete and shall not be processed nor shall any permit be issued unless the appropriate fee accompanies the application. The applicant shall pay the Town the actual cost to the Town for engineering, planning, surveying, and legal services rendered in connection with the review of the development. The applicant, upon submission of the development proposal, must sign a cost reimbursement agreement.
2. The Town will send the applicant a statement for the actual costs incurred by the Town for the services described above on a monthly basis. The applicant shall pay the Town the amount due on the statement within fifteen (15) days of the date of issuance of such statement. In the event the applicant fails to pay the amount due on the statement within the time period described above, the Town shall immediately stop the review process for the development. The application will be deemed withdrawn if the statement is not paid in full within thirty (30) days of the date of issuance of the statement. When the application is deemed withdrawn. The Town will not consider another application from the applicant for development until all expenses owed to the Town are paid.