

RURAL RESIDENTIAL PROPERTY STANDARDS

A. PURPOSE AND INTENT

The Town hereby finds and determines that these Rural Residential Property standards are necessary to promote the health, safety, order, prosperity and welfare of the present and future inhabitants of the Town in order to retain and encourage the unique rural residential character of the Town of Foxfield, while at the same time preventing Blight And Property Degradation caused by certain conditions or uses of property enumerated herein

B. SCOPE

To enumerate specific conditions or use of property deemed to be “Nuisances”.

To provide for systematic control and abatement of Nuisance conditions.

To provide for the enforcement of the provisions of this ordinance.

C. GENERAL PROVISIONS

It shall be the policy of the Town to promote the health, safety, order, convenience, prosperity and welfare of the present and future inhabitants of the Town and, therefore, the Board of Trustees of the Town of Foxfield declares that any activity, use, or condition that represents a threat to the health, safety, order, prosperity and welfare of the public by virtue of its unsafe, dangerous or hazardous nature; or that is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment and use of property; or that contributes to Blight And Property Degradation, shall be deemed a Nuisance. Every Nuisance shall be deemed unlawful and shall be restrained, prevented, abated and enjoined.

D. DEFINITIONS

- 1) *Agent* means and includes any person acting on behalf of or in place of the owner.
- 2) *Authorized Inspector* means any police officer, building inspector, tri-county health officer, code enforcement officer or any other officer of the Town appointed by the Mayor to examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any nuisance.
- 3) *Blight And Property Degradation* means the condition of a property or group of properties that are so defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties; and the condition of the property would be offensive in the eyes of the public as compared to standards of maintenance of at least seventy-five percent of the properties in that community or neighborhood.
- 4) *Collector’s Item* means a motor Vehicle or Implement of Husbandry that is at least twenty-five years old, and is of historic or special interest. In order to be considered a Collector’s Item, a motor Vehicle must meet all criteria of “Collector’s Item” as defined in C.R.S. 42-12-101, *et seq.*, in addition to all other applicable statutes and ordinances.

- 5) *Fully Enclosed Structure* shall conform to all Town of Foxfield Zoning and Building regulations regarding principal or accessory structures on a residential lot. Tarps, portable, movable, or temporary storage, Trash or recycling containers are not allowed as means of enclosing outdoor storage in any residential zoning district.
- 6) *Garbage* means and includes any vegetable or animal refuse, food or food product, matter from a kitchen, offal, or carcass of a dead animal which if deposited within the town other than in a Garbage receptacle, tends to create a danger to public health, safety and welfare or to impair the local environment. The use in this subsection is not meant to prohibit properly maintained, odorless compost or manure piles.
- 7) *Hazard to Public Health, Safety and Welfare* shall include any activity so recognized by the laws and regulations of the United States, the State of Colorado, or the ordinances of the Town. Such hazards shall also include, but not be limited to, activities likely to cause foul or offensive odors, promote the growth or propagation of disease-carrying insects, pollute the air or ground waters of adjacent property, create loud or offensive sounds, cause drainage and runoff to occur in other than historical patterns, or dead trees or vegetation that constitute such a hazard.
- 8) *Implement of Husbandry* means every vehicle, farm tractor or machine that is designed, adapted, or used for agricultural purposes.
- 9) *Inoperable Vehicle* includes any Vehicle that: (i) would be required to be licensed if operated on a public highway, but does not display current, valid license plates; (ii) does not work, move or run; (iii) is not functioning; (iv) is not operable for the function for which it was designed; or (v) does not comply with the minimum safety requirements of the Colorado Motor Vehicle Law.
- 10) *Junk* shall include any old, used or secondhand materials of any kind including, without limitation, cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper, or other metal, furniture, refrigerators, freezers, all other appliances, the parts of Vehicles, apparatuses and contrivances and parts thereof which are no longer in use, any used building materials, boards or other lumber, cement blocks, bricks, or other second hand building materials or any discarded machinery, Vehicles, or any other article or thing commonly known and classified as junk.
- 11) *Noxious Weed* means an alien plant or parts thereof which is classified as a List A, List B, or List C Noxious Weed pursuant to Colorado Noxious Weed Act, 35-5.5-101- 119, C.R.S. (2003). "List A", includes rare Noxious Weed species that by law are subject to eradication wherever detected statewide in order to protect neighboring lands and the state as a whole. "List B", includes Noxious Weed species with discrete statewide distributions that by law are subject to eradication, containment, or suppression in portions of the state designated by the commissioner in order to stop the continued spread of these species. "List C" includes widespread and well-established noxious weed species for which control is recommended but not required by the State, although local governing bodies may require management.
- 12) *Nuisance* includes:
 - a) The conducting or maintaining of any activity in violation of *federal law, state statute* or *Town ordinance*;
 - b) Any unlawful pollution or contamination of any air, water or other substance or material;

- c) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the Town, the Tri-County Health Department, County of Arapahoe, or the State of Colorado, continues to exist or be conducted in violation of statute, ordinance or regulation of the Town, the County or the State;
 - d) Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the Public Health, Safety, and Welfare of the citizens of the Town, which contributes to Blight or Property Degradation, or which is indecent or offensive to the senses of an ordinary person, so as to interfere with the comfortable enjoyment of life or property. For the purposes of this subsection, an accumulation of activities, operations, conditions or things that might individually not arise to the level of a Nuisance may be deemed a Nuisance if, taken together, they would be indecent or offensive to the senses of the ordinary person; and
 - e) Any nuisance defined or declared as such by applicable statute or ordinance.
- 13) *Rural Residential Property* means any property located within a Rural Residential (RR) zoning district of the Town of Foxfield, including any building or structure located on such property.
- 14) *Trash* means that which is worthless or useless and includes but is not limited to any and every refuse, rubbish, Garbage, debris, waste material, paper, cartons, bottles, boxes, crates, barrels, plastic object, wooden object, wood (except stacked firewood and stacked construction materials), tree branches, yard trimmings, dead plant material, wood or upholstered furniture, or bedding, rubber, metals, tin or aluminum cans, metal furniture, chemical compound, petroleum product or compound, paint, automobile part or accessory, tire, wheel , food or food product, solvent, dye, beverage, offal composed of animal matter or vegetable matter or both, dirt, rock, pieces of concrete, bricks, glass, crockery, or other minerals or mineral wastes, Junk; or any noxious or offensive matter whatever. (Provided however, that such does not include earth and waste from building construction during the period in which a valid building permit issued by the city is applicable.)
- 15) *Vehicle* means a machine propelled by power other than human power designed to travel along the ground, in the air, or through water by use of wheels, treads, runners, slides, wings, or hulls and to transport persons or property, to pull non-self-propelled vehicles or machinery, and includes, ***but is not limited to:*** automobile, airplane, boat, bus, truck, trailer, motorcycle, motor home, recreational vehicle, camper, truck tractor, Implements of Husbandry, ***mobile machinery, and self-propelled construction equipment.***
- 16) *Weeds* mean any plant or vegetation which is not intentionally cultivated or is unsightly and economically useless and shall include without limitation Dandelion, Common Milkweed, Blue Mustard, Sandburs, Kochia, Redstem Filaree, Tumbleweeds and other similar plants and vegetation. The foregoing enumeration is not intended to be all-inclusive, but rather is intended to be indicative of those types of plants which are considered a Nuisance.

E. VIOLATIONS OF RURAL RESIDENTIAL PROPERTY STANDARDS

It shall be unlawful for any person owning, leasing, renting, occupying or having charge of possession of any property within the Town of Foxfield to maintain the property or to allow the property to be maintained in a manner that any of the following conditions are found to exist thereon for an

unreasonable period of time as determined by any police officer, building inspector, tri-county health officer, code enforcement office or any other officer of the Town, except as may be allowed by any other provision of law. Each prohibited condition shall be deemed a Nuisance and unlawful. The prohibited conditions include, but are not limited to:

1) **Outdoor Storage.**

- a) No person shall be permitted to store items or materials in a public Right-of-Way.
- b) The accumulation of Junk, Trash, Garbage, stale or odorous matter, including improperly maintained compost or manure piles that emit odor, or similar materials that constitute a threat to the health or safety of any person; or that contribute to Blight and Property Degradation, is prohibited.
- c) The outdoor storage or accumulation of the following items on private property, other than in a Fully Enclosed Structure, is PROHIBITED:
 - i. Attractive nuisances generally considered dangerous to children including abandoned, broken or neglected Vehicles, equipment, machinery, refrigerators and freezers, hazardous pools, or excavations related to construction sites.
 - ii. Tools, equipment, inventory and other supplies utilized in the operation of a business, or more than one (1) vehicle used in operation of a business, whether such business is a home occupation being conducted in accordance with the Town of Foxfield Zoning Ordinance, or is conducted off-site.
 - iii. Tools, equipment and other supplies utilized in construction or landscaping. However, homeowners who have a current, valid building permit are allowed to neatly store small quantities of required supplies during construction or remodeling.
 - iv. ***To park or store any*** unlicensed or Inoperable Vehicle. This subsection is not meant to prohibit outside storage of bona fide Collector's Items when stored in compliance with C.R.S. 42-12-101, *et seq.*, and other applicable ordinances.
 - v. ***To park or store*** any Vehicle, recreational vehicle, trailer, boat or other articles of personal property, not owned by the occupant of the property upon which it is parked, stored, or used, for longer than a period of 10 days.
 - vi. ***To park or store more than five (5) vehicles. This subsection (vi) shall not apply to vehicles parked or stored in a fully enclosed structure in compliance with Town of Foxfield regulations as may be applicable.***
 - v. ***To park or store*** commercial or industrial vehicles, except that one vehicle used in the operation of a business by an owner and or occupant of the property is permitted in accordance with the Town of Foxfield Zoning ***Ordinance applicable to*** Home Occupations.
 - vi. ***To park or store*** any vehicle with a gross weight greater than 36,000 pounds, ***recreational vehicles excluded.***

2) **Buildings, Structures and Premises.**

- a) Buildings or structures that are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or boarded up windows, or that are left in a state of partial construction or demolition, or disrepair.
- b) Buildings, structures or premises that are illuminated in such a manner that is offensive or interferes with the comfortable enjoyment of life or property of others, or which is otherwise a detriment to the health, safety or welfare of the inhabitants of the Town.

3) **Landscaping and Vegetation.**

- a) Noxious Weeds – The presence of any Noxious Weed classified as List A, List B, or List C species on the Colorado Noxious Weed List on any such lot or tract of land, including any public or private easement adjoining such lot or tract of land.
- b) Weeds, brush, and other vegetation grown in a rank or unsightly fashion. In addition to an owner’s property, adjoining rights-of-way along road sides, including ditches and berms, are to be maintained by each property owner, except where the Town maintains rights-of-way that are too difficult to maintain.
- c) Trees, shrubs and other vegetation which (i) are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or Hazard To Public Health, Safety and Welfare, or (ii) contribute to the Blight And Property Degradation.
- d) Vegetation likely to: (i) harbor animals or insects dangerous to public health; (ii) cause a detriment to neighboring property; (iii) contribute to conditions that cause Blight And Property Degradation; or (iv) grow into the public right of way such that it obstructs the view of drivers on public streets or private driveways, or blocks the free use of a public trail, sidewalk, street or other public easement.

4) **Fences and Gates.**

Fences, gates and similar structures that are sagging, leaning, missing boards, fallen, or otherwise in an unsafe condition; or constitute an unsightly appearance; or are left in a state of partial construction or disrepair.

- 5) **Animals.** Owning, possessing, or harboring any animal, including birds, which (i) howls, barks, meows, squawks, or makes other noises continuously and/or incessantly for a period of twenty (20) minutes which creates a noise disturbance across a residential real property line, or (ii) without being immediately restrained by its owner, barks at or displays threatening behavior to persons who are not trespassing or threatening to trespass. For the purpose of this subsection, the animal noise shall not be deemed a disturbance if a person is trespassing or threatening to trespass upon private property in or upon which the animal is situated or for any other legitimate cause which teased or provoked the animal.

6) **Miscellaneous.**

Any other condition or use of a property that gives rise to a reasonable determination by any police

officer, building inspector, health inspector, code enforcement office or any other officer of the Town that such condition or use represents a Hazard to Public Health Safety and Welfare by virtue of its unsafe, dangerous or hazardous nature; or that is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment and use of property; or contributes to blight or property degradation, shall be deemed a Nuisance.

F. INSPECTION OF PROPERTIES

- 1) Authorized Inspector. The Mayor shall have the power and authority to appoint and authorize any police officer, building inspector, code enforcement office or any other officer of the Town to inspect and examine any public or private property within the Town for the purpose of ascertaining the nature and existence of any Nuisance.
- 2) Right of entry - Generally. Whenever necessary to make an inspection to enforce any of the provisions of this Section, such inspector may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on him or her; provided, however, that if such building or premises is occupied, such inspector shall first present proper credentials and request entry; and if such building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner, occupant or other person or persons having charge or control of the building or premises, and upon locating the owner, occupant or other person or persons shall present proper credentials and request entry. If entry is refused, the Authorized Inspector shall give the owner or occupant, or if the owner or occupant cannot be located after a reasonable effort, he or she shall leave at the building or premises, a written notice of intention to inspect not sooner than twenty-four (24) hours after the time specified in the notice. The notice given to the owner or occupant or left on the premises shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a Municipal Judge of the Town, or by a judge of any other court having jurisdiction. The requirements of this Section shall not apply to public places or privately owned vacant land, which may be inspected by an Authorized Inspector at any time without notice.
- 3) Search warrants:
 - a) After the expiration of the twenty-four (24) hour period from the giving or leaving of such notice, the Authorized Inspector may appear before the Municipal Court of the Town and, upon a showing of probable cause by written affidavit, shall obtain a search warrant entitling him or her to enter the building or upon the premises.
 - b) Jurisdiction of the Municipal Court. Any Municipal Judge of the Municipal Court of the Town shall have power to issue search warrants upon a showing of probable cause as provided in subsections (F)(3)(a) and (F)(4) of this Section.
- 4) Probable cause for issuance of search warrant. For purposes of this Ordinance, a determination of *probable cause* will be based upon reasonableness, and if a valid public interest and reasonable suspicion of violation justifies the intrusion contemplated, then there is probable cause to issue a search warrant. The person applying for such warrant shall not be required to demonstrate specific knowledge of the condition of the particular structure or premises at issue in order to obtain a search warrant, but must show some factual or practical circumstances that would cause an ordinarily prudent person to act.

- 5) Right of entry - Emergencies. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this Section, an Authorized Inspector upon a presentation of proper credentials or identification, in the case of an occupied building or premises, or possession of the credentials in the case of an unoccupied building or premises, may enter into any building or upon any premises within the jurisdiction of the Town.
- a) In the emergency situation such person or his or her authorized representative may use such reasonable force as may be necessary to gain entry into the building or upon the premises.
 - b) For purposes of this subsection, an emergency situation includes any situation where there is imminent danger of loss of, or injury or damage to, life, limb or property. It is unlawful for any owner or occupant of the building or premises to deny entry to any authorized inspector or to resist reasonable force used by the authorized official acting pursuant to this Section.

G. ENFORCEMENT AND ABATEMENT OF NUISANCES

- 1) Enforcement. *No Complaint shall be necessary to enforce the provisions of this Ordinance.* Complaints of Nuisances shall be made verbally or in writing to any Town official or to the Town Clerk. Whenever possible, any complaint shall state the nature of such Nuisance, the location, including street address, name of owner, Agent or occupant of the building or lot, if known and the name and address of the complainant. However, the Town may in its discretion allow an anonymous complaint to be made if the Town determines the circumstances warrant such a complaint.
- 2) Abatement. The Town shall be authorized to abate any Nuisance described in this Section as follows:
 - a) Notice of abatement. An Authorized Inspector of the Town, upon the discovery of any Nuisance on private property in the Town, shall notify the owner or occupant of the property to remove and abate from the property the thing or things herein described as a Nuisance within the time specified in the notice. However, no notice to abate shall be required for Nuisances found on public property.
 - i. The time for abatement of a Nuisance posing an imminent danger of damage or injury to or loss of life, limb, property or health shall not exceed one (1) day.
 - ii. As to other Nuisances, the reasonable time for abatement shall not exceed seven (7) days unless it appears from the facts and circumstances that compliance could not reasonably be made within seven (7) days or that a good faith attempt at compliance is being made.
 - iii. If the owner or occupant shall fail to comply with the requirements for a period longer than that named in the notice, either
 - a. The Authorized Inspector may proceed to have the Nuisance described in the notice removed or abated from the property described in the notice without delay. The Authorized Inspector shall have the authority to call for any necessary assistance; or

- vii. A statement that if the owner or occupant fails to comply with directions contained in the written notice or file a written protest thereto in the time allowed, the Town may:
 - a. enter the property, abate the Nuisance described therein and assess the costs thereof to the owner of the property; or
 - b. bring an action in Municipal Court to have the Nuisance declared as such by the court and for an order enjoining the nuisance and authorizing its restraint, removal, termination or abatement.
 - c. Finally, the notice should state that if the cost of abatement is not paid, a lien may be placed on any property on which the abatement was performed.
- viii. If the notice does not substantially comply with this Ordinance, it shall not be grounds for invalidating the notice given.

3) Protest of notice of abatement.

- a) The owner, his Agent, or the occupant of the property subject to a notice of abatement, within the time stated in such notice for removal of the thing or things or abatement of the condition described therein, may protest the findings of the Authorized Inspector with respect to any matter stated in the notice, by filing a written notice of protest with the Municipal Court. The Municipal Court shall deliver a copy of the protest to the Authorized Inspector who issued the notice. Upon receipt of a notice of protest, the Authorized Inspector shall file with the Municipal Court of the Town the notice to abate and the written notice of protest.
- b) Within twenty-one (21) days after receipt of the protest by the Town, the Municipal Court shall schedule and conduct a hearing on the protest. At the hearing, the protesting party and representatives of the Town shall appear in person. Both parties may be represented by legal counsel. The parties shall have the right to present evidence and arguments, to confront and cross-examine any witness, and to oppose any testimony or statement relied upon by an adverse party. The Municipal Court may receive and consider any evidence that has probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- c) Once the Municipal Court has scheduled a hearing on the protest, written notice of such hearing shall be mailed to the protesting party and given to the Authorized Inspector who signed the notice of abatement. Such notice of hearing shall be mailed to the protesting party and given to the Authorized Inspector not less than seven (7) days prior to the scheduled hearing.
- d) Upon the filing of a written protest as provided herein, the period of time for removal of the thing or things or abatement of the condition described in the original notice of abatement shall be extended until final disposition of the protest by the Municipal Court, plus the amount of time granted in the original notice, or as otherwise ordered by the Municipal Court.

- 4) Assessment and collection of costs of abatement. The author of the nuisance, the property owner or occupant shall be liable for the actual cost of abatement, plus fifteen percent (15%) of the abatement cost for inspection, and any other additional administrative costs. If the cost of the abatement is not paid, the Town may also assess and file a lien against any property on which the abatement was performed.

H. PENALTY

1. Violations of this Ordinance shall be punishable by a fine not to exceed four hundred ninety-nine dollars (\$499.00). Each day such violation continues shall be considered a separate offense. In addition, the Town may seek restitution of all costs associated with any search warrant and enforcement actions in the event a violation is found, abatement and/or prosecution of a Nuisance, including, but not limited to, the actual costs of said any search warrant and enforcement actions in the event a violation is found, abatement and/or prosecution, and any other actual costs incurred by the Town.
2. The Town may elect to file a summons and complaint without first seeking to abate an alleged nuisance condition for violations under Section E subsection 3 of this Ordinance regarding Landscaping and Vegetation.

I. OTHER REMEDIES

No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal or equitable remedy therefrom, including injunctive relief, of any person for injury or damage arising from any violation of this Ordinance or from other law.