

Trustee Bill No. 05
Series of 2013
Town of Foxfield

Introduced by

Trustee Dave Goddard

**A BILL FOR AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER
16 OF THE TOWN OF FOXFIELD MUNICIPAL CODE TO ADD A NEW
SECTION 16-4-70 CONCERNING THE CULTIVATION OF MARIJUANA
IN RESIDENTIAL STRUCTURES FOR PERSONAL USE**

WHEREAS, Colorado voters approved an amendment to the State Constitution, Article XVIII, Section 16 of the Colorado Constitution that makes the personal use, possession and limited home growing of marijuana for adults twenty-one years of age or older legal under Colorado law;

WHEREAS, under Article XVIII, Section 16(3)(a) of the Colorado Constitution, any person who is twenty-one years of age or older may possess, grow, process or transport no more than six marijuana plants, with three or fewer being mature, provided that the growing takes place in an enclosed, locked space, is not conducted publicly or openly, and is not made available for sale; and

WHEREAS, the Board of Trustees has carefully considered the provisions of Article XVIII, Section 16 of the Colorado Constitution, and the impact of marijuana cultivation for personal use in residential structures on the health, safety and welfare of the Town and the inhabitants thereof, and has determined, as an exercise of its local land use authority, to regulate such marijuana cultivation in residential structures in a manner consistent with the Town's existing land use regulations.

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

Section 1. The Foxfield Municipal Code is amended by the addition thereto of a new Section 16-4-70, which is to read as follows:

Sec. 16-4-70. Growing of marijuana in residential structures for personal use

(a) Purpose. This Section is intended to apply to the growing of marijuana in residential structures for personal use to the extent authorized by Article XVIII, Section 16(3)(b) of the Colorado Constitution.

(b) Generally. Any person, for purposes of this Section and consistent with Article XVIII, Section 16(3)(b) of the Colorado Constitution, who is twenty-one (21) years of age or older that is cultivating marijuana plants for their own use, may possess, grow, process or transport no more than six (6) marijuana plants, with three (3) or fewer being mature, subject to the requirements that follow.

(1) Such possessing, growing, processing or transporting of marijuana plants for personal use must be in full compliance with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution.

(2) Such marijuana plants are possessed, grown, or processed within the primary residence of the person possessing, growing or processing the marijuana plants for personal use, as defined by Paragraph (8) below.

(3) The possession, growing and processing of such marijuana plants must not be perceptible from the exterior of the primary residence, including, but not limited to:

- a. common visual observation, including any form of signage;
- b. unusual odors, smells, fragrances, or other olfactory stimulus;
- c. light pollution, glare, or brightness that disturbs the repose of another; and
- d. undue vehicular or foot traffic, including excess parking within the residential zone.

(4) Such marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.

(5) Such cultivation, production, growing and processing of marijuana plants shall be limited to the following space limitations within a primary residence:

- a. Within a single-family dwelling unit (Group R-3 as defined by the International Building Code): A secure, defined, contiguous 150 square foot area within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
- b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): A secure, defined, contiguous 100 square foot area within the primary residence of the person possessing, growing or processing the marijuana plants for personal use.
- c. Such possession, growing and processing of marijuana plants shall not occur in any accessory structure.

(6) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted Town building and life/safety codes, as the

same may be amended from time to time.

(7) Such possession, growing and processing of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the Town.

(8) For purposes of this ordinance, "primary residence" means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

(9) For purposes of this ordinance, a "secure area" means an area within the primary residence accessible only to the person possessing, growing or processing the marijuana plants for personal use. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess marijuana.

(10) The possession, growing and processing of marijuana plants in a residential structure pursuant to this Section is and shall be deemed consent by the person possessing, growing or processing the marijuana plants for personal use, upon reasonable notice, for the Town to inspect the premises to assure compliance with the provisions of this Section.

Section 2. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the Town of Foxfield, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

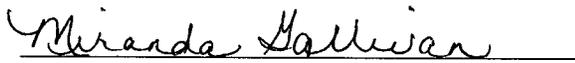
Section 4. This ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 05 Series of 2013, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this 7th day of February A.D. 2013.



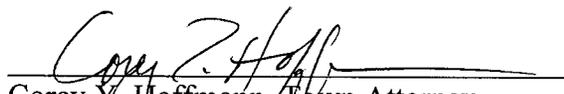
Lisa Jones, Mayor

ATTEST:



Miranda Gallivan, Town Clerk

Town Seal



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

