

ORDINANCE NO. 147

AN ORDINANCE BY THE BOARD OF TRUSTEES OF THE TOWN OF FLAGLER TO AMEND AND MODIFY THE ZONING ORDINANCE OF THE TOWN OF FLAGLER CONCERNING THE LOCATION AND REGULATION OF FENCES, HEDGES, AND WALLS IN ALL ZONED DISTRICTS.

Whereas, the Town of Flagler, (hereinafter referred to as the "Town"), located in the County of Kit Carson and the State of Colorado, is the body corporate operating as a statutory town pursuant to the general statutes of the State of Colorado; and

Whereas, in May, 1966, the Board of Trustees of the Town of Flagler, hereinafter referred to as the "Board" did pass Ordinance No. 86, also referred to as the "Zoning Ordinance", which ordinance did establish four classes of zoning districts; and

Whereas, Article IX, Section 1 of the Zoning Ordinance and Colorado Revised Statutes, 31-23-301 through 31-23-305 give to the Board the authority to amend its zoning ordinances and regulations and proscribes the procedure for such amendments; and

Whereas, the Board has determined that the residents of the Town would benefit from an amendment of the zoning ordinance so as to address the placement and regulation of fences, hedge, and walls within the Town; and

IT IS THEREFORE ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FLAGLER, COLORADO:

SECTION I: ADDITION TO ARTICLE IV, SUPPLEMENTAL REGULATIONS.

Section 5, pertaining to Fences, Hedges, and Walls shall be added to Article IV, as follows:

"SECTION 5. FENCES, HEDGES, AND WALLS. Fences, hedges, and walls may be permitted in the yard areas of any district of the Town of Flagler subject to the following conditions and requirements:

- (a) All fences, hedges, and walls are subject to the applicable sections of any Ordinance or Code of the Town of Flagler.

(b) No fence, hedge, or wall may extend beyond or across a property line unless with the joint agreement of the abutting property owners. It shall be the responsibility of the property owner to locate all property lines prior to the placement of a fence, hedge, or wall.

(c) No fence, hedge, or wall shall be placed upon public property, including any easement granted to the Town of Flagler, without the written consent of the Town, or its designated agent or employee.

(d) No fence shall be constructed of barbed wire, sharp-pointed materials, be electrically charged, or be visibly displeasing or objectionable to the general public as determined by the Board.

(e) Fences, hedges, or walls shall not exceed three feet in height when such fences are located within the required front yard area. Further, fences, hedges, or walls shall not exceed three feet in height when located in areas that would restrict the sight of an automobile driver or bicyclist when turning on streets or entering or exiting an alley. Side and backyard fences shall not exceed fifteen feet in height unless such fence creates the visual safety problem described herein. The height shall be measured at the finished grade on the side of the fence nearest the street, alley, or abutting property.

SECTION II: NONCONFORMING USE.

The following language shall also be included in Article IV, Section 5:

"Any such fence, hedge, or wall which was constructed prior to the adoption of this Ordinance shall be deemed a nonconforming use and allowed to remain subject to the provisions of Article VI of the Zoning Ordinance unless the Town through its designated employees or agents determines that the placement of the fence, hedge, or wall constitutes a safety problem or nuisance, restricts the vision of automobile drivers or bicyclists turning on a public street, turning into or out of an alley, or if the placement of the fence, hedge, or wall interferes with a Town policy or proper exercise of the Town police power. In such case the Town shall give written notice to the owner of the fence, hedge, or wall notifying the person served to remove the fence, hedge, or wall for the reasons given. Such notice shall direct that the fence be removed within thirty (30) days of the notice.

SECTION III: ABATEMENT AND PENALTY.

The following language shall also be included in Article IV, Section 5:

"Should any fence, hedge, or wall be found within the Town contrary to the provisions of this Ordinance or should an owner refuse to remove a fence, hedge, or wall upon proper notice by the Town, the Town shall cause any such fence, hedge, or wall to be removed, trimmed, or otherwise altered to meet the requirements of this ordinance, and the expense of such removal shall be recovered under the abatement procedures of the Town through the Town of Flagler Municipal Court.

SECTION IV: AMENDMENT OF ARTICLE VII, SECTION 1. BUILDING PERMITS.

Article VII, Section 1(a), pertaining to Building Permits shall be amended to state as follows:

(a) No building or fence, hedge, or wall shall be erected, moved, grown, or structurally altered unless a permit therefor has been issued by the Building Inspector, and no permit shall be issued unless the building or structure proposed is in full conformance with this ordinance, except in those instances where the permit has been granted for a variance by the Board of Adjustment.

SECTION V: SEPARABILITY.

If any one or more sections or parts of this Ordinance shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, it being the intention that the various provisions hereof are severable.

SECTION VI: ENFORCEMENT DATE.

The Board of Trustees of the Town of Flagler finds that potential safety hazards or nuisances may be created by the construction of fences, hedges, or walls on public property absent appropriate zoning as set forth above. Accordingly the Town Board finds and determines that an emergency exists requiring the immediate passage of this ordinance for the preservation of the public health, safety, morals, and welfare of the citizens of the Town of Flagler. Therefore, this ordinance shall become immediately effective upon adoption by the Town Board.

Adopted and Approved this 10 day of October, 2000.

Signed James E. Hannebaum
JAMES HANNEBAUM, Mayor

(S E A L)

Attest:

Dolly Mae Sharpe
DOLLY M. SHARP, Town Clerk