

**ORDINANCE NO. 728-16**

**AN ORDINANCE PROVIDING FOR THE REGULATION OF OFF-HIGHWAY VEHICLES WITHIN THE MUNICIPAL LIMITS OF THE TOWN OF FOWLER, COLORADO**

**WHEREAS**, Colorado House Bill 16-1030 amending C.R.S. §33-14.5-101 et seq. has been passed by the Colorado legislature and signed by the governor; and

**WHEREAS**, the Board of Trustees previously adopted Fowler Municipal Code Chapter 10.20 which provides for use of off-highway vehicles in the town of Fowler; and

**WHEREAS**, it is necessary to significantly amend Fowler Municipal Code Chapter 10.20 in order to conform with the amendments to C.R.S. §33-14.5.101 et Seq. and allow off-highway vehicles in the Town of Fowler to cross state highways.

**BE IT ORDAINED** by the Town of Fowler Board of Trustees as follows.

1. **Definitions**
2. As used in this ordinance, unless the context otherwise requires:
  - a. "Off-highway vehicle" means any self-propelled vehicle which is designed to travel on wheels or tracks in contact with the ground, which is designed primarily for use off of the public highways, and which is generally and commonly used to transport persons for recreational purposes. "Off-highway vehicle" does not include the following:
    - i. vehicles designed and used primarily for travel on, over, or in the water;
    - ii. snowmobiles;
    - iii. military vehicles;
    - iv. golf carts;
    - v. vehicles designed and used to carry individuals with disabilities;
    - vi. vehicles designed and used specifically for agricultural, logging, or mining purposes; or
    - vii. Vehicles registered pursuant to article 3 of title 42, C.R.S.
3. **Repeal.** Upon the effective date of this Ordinance, Fowler Municipal Code Chapter 10.20 is repealed.
4. The operation of off-highway vehicles is authorized on all streets and public rights-of-ways within the municipal boundaries of the town of Fowler.

5. No streets or public rights-of-ways within the municipal boundaries of Fowler are designated “open” as provided for in C.R.S. Section 33-14.5-108.
6. Crossing Roads, Highways, and Railroad Tracks Or Driving on State Highway.
  - a. No person shall drive on a state highway while operating an off-highway vehicle within the jurisdiction of the town of Fowler except where the state has designated the highway as “open” pursuant to C.R.S. Section 33-14.5-108 or when crossing a state highway as permitted in this ordinance
  - b. A person shall not cross a highway while driving an off-highway vehicle unless the crossing is made in accordance with the following.
    - i. The crossing must occur at an at-grade crossing to continue using the off-highway vehicle on the other side.
    - ii. The crossing must be made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.
    - iii. The off-highway vehicle must be brought to a complete stop before crossing the shoulder or, if none, the roadway before proceeding.
    - iv. The driver must yield the right-of-way to all motor vehicle traffic on the roadway that constitutes an immediate hazard to the crossing.
    - v. A driver of an off-highway vehicle must cross a divided highway at an intersection of the highway with another road or highway.

## **7. Colorado Driver’s License And Insurance Required**

- a. Each person who operates an off-highway vehicle within the municipal limits of Fowler shall have in his or her possession a current, valid Colorado driver’s license and be in full compliance with any limitations on the license imposed by Colorado law or by action of a court.
- b. No person shall allow another to operate an off-highway vehicle in the town of Fowler who does not have in his or her possession a current, valid Colorado driver’s license.
- c. No person shall operate an off-highway vehicle in the town of Fowler who does not have liability insurance that covers the off-highway vehicle.
- d. No driver’s license or liability insurance is required under the following circumstances:
  - i. where the town of Fowler or the state of Colorado has designated a highway, street, or public right-of-way within the municipal limits of the

town of Fowler as “open” under C.R.S. Section 33-14.5-108 and such designation is in full force and effect on the date the off-highway vehicle is operated;

- ii. when crossing a state highway or railroad tracks;
- iii. when traversing a bridge or culvert;
- iv. during special off-highway vehicle events lawfully approved by the Town of Fowler;
- v. during emergency conditions declared by the State of Colorado, Otero County or the Town of Fowler;
- vi. when using an off-highway vehicle for agricultural purposes;
- vii. when a public utility or a cooperative electric association, or any agent thereof designated specifically for the purpose of meter reading or repair, is using an off-highway vehicle for business purposes.

#### **8. Safety Equipment Required.**

- a. No off-highway vehicle shall be operated within the town of Fowler unless it is equipped with the following:
    - i. At least one lighted head lamp and one lighted tail lamp, each having the minimum candlepower prescribed by regulation of the Colorado Division of Parks and Wildlife while being operated between the hours of sunset and sunrise;
    - ii. Brakes and a muffler and spark arrester.
9. The town of Fowler shall not require any municipal permit for an off-highway vehicle.
10. It is the intent of the Board of Trustees of the Town of Fowler that this Ordinance be consistent with C.R.S. 33-14.5-101 *et seq.*
11. **Penalty.** Any person convicted of violating this ordinance may be fined an amount not to exceed two thousand six hundred fifty dollars.
12. **Effective Date.** Upon adoption, the Town Clerk shall submit this Ordinance to the regional office of the Colorado Department of Transportation with a cover letter requesting approval of the Ordinance. Pursuant to C.R.S. §33-14.5-110 (2016), This ordinance shall be effective as of July 1, 2016 unless an objection is received from the Colorado Department of Transportation on or before 5 p.m. June 30, 2016.
13. **Conflicts.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed or amended to the extent necessary to conform with this ordinance.

14. **Severability**. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court, such decision shall not affect the validity of the remaining portions of this ordinance.

**PASSED, ADOPTED** and ordered published the 25th day of April 2016.

**TOWN OF FOWLER**

DATED this 25th day of April 2016.

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By: Charles R. Hitchcock, mayor

**ATTEST:**

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Kelly Lotrich, Town Clerk