

ORDINANCE NO. 732-17

AN ORDINANCE AMENDING IN ITS ENTIRETY FOWLER MUNICIPAL CODE CHAPTER 17.28.10.

WHEREAS, the Fowler Municipal Code Chapter 17.28, titled “D” Business and Commercial District, located along Cranston Avenue, also known as U.S. Highway 50, and along part of Colorado 167 is a Mixed Use Commercial-Highway District;

WHEREAS, the Fowler Municipal Code lists uses by right and uses by review by reference to other sections of the municipal code; and

WHEREAS, it is desirable to specifically list uses by right and uses by review within Chapter 17.28 to promote clarity; and

WHEREAS, the Board of Trustees desires to modify the Fowler Municipal Code to provide for changes in uses by right and uses by review to modernize this section and add additional uses; and

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

1. Fowler Municipal Code Section 17.28.010 is amended in its entirety as set forth below.

17.28.010 MU-C-H Mixed Use Commercial-Highway District.

- A. Intent. An area zoned “D” Business and Commercial is intended for mixed uses and a setting for development of a wide range of community and regional retail uses, offices and personal and business services. Secondly, it can accommodate a wide range of other uses including multi-family housing and mixed use dwelling units. The District is intended to integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods.

17.28.11 Uses by Right. Permitted principal uses in the MUJ-C-H District are as follows.

A. *Accessory/Miscellaneous Uses:*

- i. Accessory buildings,
- ii. Accessory uses.

B. *Residential Uses:*

- i. Single Family dwellings,
- ii. Group homes,
- iii. Multiple family dwellings.

C. Institutional/Civic/Public Uses:

- i. Church or place of worship and assembly,
- ii. Parks and open spaces,
- iii. Public facilities, without business offices or repair and storage facilities,
- iv. Transit facilities without repair or storage.

D. Commercial/Retail Uses:

- i. Bed and breakfasts,
- ii. Boarding and rooming houses,
- iii. Car wash,
- iv. Child care centers,
- v. Convenience retail stores with or without fuel sales,
- vi. Equipment rental establishments (without outdoor storage),
- vii. Food catering,
- viii. Funeral homes,
- ix. Gasoline stations,
- x. Health and membership clubs,
- xi. Libraries,
- xii. Limited indoor recreation facilities,
- xiii. Lodging establishments,
- xiv. Long term care facilities,
- xv. Mixed use dwellings units,
- xvi. Motor vehicle service and repair (minor repair),
- xvii. Open-air farmers' markets,
- xviii. Personal and business service shops,
- xix. Plant nurseries and greenhouses,

- xx. Print shops,
- xxi. Professional offices, financial services and clinics,
- xxii. Restaurants, with or without drive-through facilities,
- xxiii. Schools,
- xxiv. Large retail establishments,
- xxv. Small grocery stores,
- xxvi. Supermarkets,
- xxvii. Tourist facilities,
- xxviii. Veterinary small animal clinics.

E. *Industrial uses:*

- i. Workshop and custom small industry uses.

17.28.12 Uses by Review. A use by review is any of the following uses which are permitted only upon issuance of a special use permit by the planning commission.

- A. Bed and Breakfast;
- B. Church;
- C. Condominium;
- D. Day Care;
- E. Home for the developmentally disabled;
- F. Home occupations;
- G. Hospital;
- H. Medical clinic;
- I. Planned unit development;
- J. Hotels;
- K. Hospitals;
- L. Institutions of an educational, philanthropic or eleemosynary nature;

- M. Private clubs, fraternities, lodges, excepting those of which the chief activity is a service customarily carried on as a business;
- N. Indoor industrial hemp storage and processing, pursuant to a valid Colorado Department of Agriculture Registration, within a building designed and constructed for commercial use and not for residential use.

- i. Definitions

- 1. “*Processing*” in subsection “N” means a series of mechanical or chemical operations performed on hemp in order to change or preserve it or to achieve a particular result.
 - 2. “*Industrial hemp*” means a plant of the genus cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry weight basis.
- ii. A special use permit for this use shall be specifically conditioned so that as a condition of issuance and retention of the special use permit the possessor of the property must:
 - 1. conform with Fowler Municipal Code Section 17.50.010(2); and
 - 2. eliminate the smell or odor of industrial hemp, or unusual smells or odors generated by or connected to such storage or processing and not generally found in a residential environment, so that such odors cannot be detected by a person with a normal sense of smell from a minimum distance of ten (10) feet of the building’s exterior or at the property’s boundaries, whichever distance is less, except during periods while a door is open for the purpose of transferring or transporting industrial hemp not to exceed 15 minutes per period; and
 - 3. install an activated carbon air filtration system in the building(s) being used prior to commencement of hemp storage or processing, adequate to remove hemp and hemp processing odor to the extent required to meet the requirements of section 17.28.12(N)(ii)(2) above, certify the installation to the Town and permit the Town to inspect the system following installation and from time to time thereafter following reasonable notice from the Town; and

4. operate the activated carbon air filtration system during hemp storage and hemp processing to the extent required to meet the requirements of section 17.28.12(N)(ii)(2).

17.28.13 Prohibited Uses. A prohibited use is any of the following uses that are not permitted.

- A. Blacksmith shop;
- B. Bottling works;
- C. Fuel yard;
- D. Carting, express, hauling and storage yard;
- E. Ice plant or storage house;
- F. Livery stable;
- G. Machine shop;
- H. Storage warehouse except as specifically allowed as a use by review;
- I. Any kind of manufacturing or treatment other than the manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises;
- J. Any type of storage, processing or manufacture of any product which is or may become noxious by reason of odor, health, sanitation, dust, smoke, or for any other reason.
- K. 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.
- L. 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 10th day of April 2017.

TOWN OF FOWLER

DATED this 10th day of April 2017.

By: Charles R. Hitchcock, mayor

ATTEST:

Kelly Lotrich, Town Clerk