

ORDINANCE NO. 655-10

AN ORDINANCE ESTABLISHING A USE BY REVIEW PROCEDURE AND PROVIDING A PROCEDURE FOR APPROVAL OF HOME OCCUPATIONS

WHEREAS, the Town of Fowler has the power to regulate businesses under C.R.S. section 31-15-501 et seq. and

WHEREAS, the Town of Fowler has the power to zone the town into various districts pursuant to C.R.S. section 31-23-301 et seq. and

WHEREAS, it is necessary to provide a procedure to determine special uses within the town including the location of home businesses.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Fowler as follows:

Fowler Municipal Code Chapter 17.50 is hereby amended in its entirety as set forth below.

17.50.010 Use by Review; Special Use Permit

1. Definitions.

- a. "Use by Review" in this chapter means any use permitted only upon issuance of a Special Use Permit by the Planning Commission.

2. Special Use Permit

- a. Before granting a Special Use Permit, the Planning Commission shall find in writing, based on evidence and testimony, that all of the following conditions do in fact exist:
 - i. The requested use is a use listed as a Use by Review in the district in which the parcel is located.
 - ii. The granting of the Special Use Permit will not substantially modify the Land Use Plan or the town Master Plan or the intent, purpose and spirit of this ordinance.
 - iii. The Special use proposal incorporates reasonable means to create an environment harmonious with that of the surrounding properties.
 - iv. The Special Use will not adversely affect the public health, safety or welfare.

3. Finality; Appeal

- a. The findings and decisions of the Planning Commission shall be final. Appeals to the District Court shall be made within thirty (30) days from the date of the action by the Planning Commission.

17.50.20.1 Home Occupations

1. Definitions.

- a. "Home Occupation" in this section shall mean any use for gain or support in a residential zone conducted on the parcel and carried on by the inhabitants there, and no others, which use is clearly incidental and secondary to the use of the parcel for residential purposes and which does not change the character thereof.

2. Home Occupations shall be a use by review for R-1, R-2 and R-3 Districts.

3. Specific Repeal.

- a. Town of Fowler Municipal Code Section 17.38.070 titled "Review – Permit Issuance" is hereby repealed upon adoption of this ordinance.

Repeal and Amendment. Existing ordinances are hereby amended or repealed to the extent necessary in order to conform with this ordinance.

Severability. If any provision of this Ordinance or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Emergency Declaration. The Board of Trustees finds and determines that this ordinance is necessary for the immediate preservation of public property, health, peace, or safety. Accordingly, this ordinance shall take effect immediately upon publication.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED THIS 26TH
DAY OF JULY, 2010.**

TOWN OF FOWER

Patrick Christensen, Jr.
Mayor

ATTEST:

Shawn Pagnotta
Town Clerk