



MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: August 15, 2019

RE: Off-Highway Vehicles

DISCUSSION:

Colorado Revised Statute 33-14.5-108 prohibits the use of off-highway vehicles on streets, roads, and highways. A suggestion was made to revise the Town code to allow the use of off-highway vehicles within the Town of Foxfield.

Staff researched other Cities and Towns that allow the use of off-highway vehicles within their jurisdictions and learned that there are several important issues regarding the use of the off-highway vehicles within the Town that are important to address in our Code. Attached for discussion, is a draft of suggested Code language to add to allow off-highway vehicle use with the Town of Foxfield. In addition, Colorado Revised Statutes 33-14.5-108 is attached for your reference.

ATTACHMENTS:

Exhibit A – Draft of Off Highway Vehicle Code
Exhibit B - 2016 Colorado Revised Statutes Title 33 - Parks and Wildlife Parks Article 14.5 - Off-Highway Vehicles § 33-14.5-108.

OFF HIGHWAY VEHICLES

DEFINITIONS:

As used in this chapter, unless the context otherwise requires:

OFF-HIGHWAY VEHICLE: 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 vehicles include all-terrain vehicles (ATVs) and "go carts". Off-highway vehicles do not include the following:

- A. Vehicles designed and used primarily for travel on, over, or in the water;
- B. Snowmobiles;
- C. Military vehicles;
- D. Golf carts;
- E. Vehicles designed and used to carry individuals with disabilities;
- F. Vehicles designed and used specifically for agricultural, logging, or mining purposes; or
- G. Vehicles registered pursuant to title 42, article 3 of the Colorado Revised Statutes.

OFF-HIGHWAY VEHICLE ROUTE: Any road, street, alley, or right-of-way within the Municipal limits of the Town of Foxfield designated open by the Town of Foxfield Board of Trustees for off-highway vehicle route but does not include Arapahoe Road and Parker Road.

OWNER: Any person, other than a lien holder, having a property interest in an off-highway vehicle and entitled to the use and possession thereof.

DESIGNATION OF OPEN STREETS AND OFF-HIGHWAY VEHICLE ROUTES:

- A. Pursuant to Colorado Revised Statutes 33-14.5-108(1)(a), each Town of Foxfield Municipal street, alley, and right-of-way is designated as open for use by off-highway vehicles excluding Arapahoe Road and Parker Road.
- B. Pursuant to Colorado Revised Statutes section 33-14.5-108(1)(f), each Town of Foxfield Municipal street, alley, and right-of-way, excluding Arapahoe Road and Parker Road, is designated as an off-highway vehicle route to permit the operation of off-highway vehicles on Municipal street, alleys, and rights-of-way.

DRIVING ON STATE HIGHWAY PROHIBITED:

- A. No person shall cross a State highway or drive on a State highway while operating an off-highway vehicle within the jurisdiction of the Town of Foxfield.

OPERATION OF OFF-HIGHWAY VEHICLES:

- A. All Town of Foxfield public streets, roads, or alleys shall be open to off-highway vehicles. The following regulations and restrictions shall apply to off-highway vehicles being driven on Town streets, roads, and alleys:
 - 1. No person shall operate an off-highway vehicle while carrying any person or riding in any position that interferes with the operation or control of an off-highway vehicle or the view of the operator.
 - 2. No person under the age of ten (10) years may operate an off-highway vehicle on public streets, roads, or alleys of the Town of Foxfield.
 - 3. No person ten (10) years of age or older may operate an off-highway vehicle on a public street, road, or alley within the Town of Foxfield, unless:
 - a. The person has in his possession a valid driver's license issued by the State of Colorado or another state; or
 - b. The person is accompanied by and is under the immediate supervision of a person who has in his or her possession a valid driver's license issued by the State of Colorado or another state, or is covered by liability insurance. "Under immediate supervision" shall mean that, at a minimum the operator is within direct visual contact of the licensed supervisor.

COLORADO REGISTRATION REQUIRED:

- A. Within the Town of Foxfield, no person shall operate any off-highway vehicle unless such off-highway vehicle has a current valid registration issued by the Colorado Division of Parks and Wildlife and is numbered by the Colorado Division of Parks and Wildlife unless the vehicle is exempt as provided in this chapter or under Colorado law.
- B. No Colorado registration under this chapter is required for any:
 - 1. Off-highway vehicle owned by any agency of the United States or another state or a political subdivision thereof when such ownership is clearly displayed on such vehicle;

2. Off-highway vehicle owned by a resident of another state or country if such off-highway vehicle is covered by a valid license or registration of such other state or country and such off-highway vehicle has not been within this State for more than thirty (30) consecutive days;
3. Off-highway vehicle used strictly for agricultural purposes;
4. Off-highway vehicle used strictly on private property;
5. Off-highway vehicle operated in an organized competitive or noncompetitive event on publicly or privately owned or leased land; except that this exemption shall not apply unless the agency exercising jurisdiction over such land specifically authorizes the organized competitive or noncompetitive event;
6. Off-highway vehicle used by a dealer or manufacturer, or an authorized designee thereof, for off-highway vehicle operator education or safety programs.

C. The Town of Foxfield shall not require any Municipal registration for an off-highway vehicle.

COLORADO OFF-HIGHWAY VEHICLE PERMIT REQUIRED:

- A. No person shall operate an off-highway vehicle that does not have a current, valid off-highway vehicle permit issued by the Colorado Division of Parks and Wildlife and displayed as required by the Colorado Division of Parks and Wildlife unless the off-highway vehicle is not required to be registered or not required to be permitted under this chapter or Colorado law.
- B. The following nonresident off-highway vehicles are exempt from the permit requirement:
 1. Vehicles owned by the United States or another state or political subdivision thereof if such ownership is clearly displayed on such vehicles;
 2. Vehicles operated in an organized competitive or noncompetitive event on publicly or privately owned or leased land; except that this exemption shall not apply unless the agency exercising jurisdiction over such land specifically authorizes the organized competitive or noncompetitive event.

C. The Town of Foxfield shall not require any Municipal permit for an off-highway vehicle.

SAFETY EQUIPMENT REQUIRED:

- A. No off-highway vehicle shall be operated within the Town of Foxfield unless it is equipped with the following:

1. At least one (1) lighted head lamp and one (1) 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;
2. Brakes, a muffler, and spark arrester.

PENALTY:

Any person convicted of violating this chapter may be fined fifty dollars (\$50.00) for a first offense and up to an amount not to exceed five hundred dollars (\$500.00) for each violation which occurs within a one (1) year span thereafter.

2016 Colorado Revised Statutes

Title 33 - Parks and Wildlife

Parks

Article 14.5 - Off-Highway Vehicles

§ 33-14.5-108. Off-highway vehicle operation prohibited on streets, roads, and highways

(1) No off-highway vehicle may be operated on the public streets, roads, or highways of this state except in the following cases:

(a) When a street, road, or highway is designated open by the state or any agency or political subdivision thereof;

(b) When crossing streets or when crossing roads, highways, or railroad tracks in accordance with section 33-14.5-108.5;

(c) When traversing a bridge or culvert;

(d) During special off-highway vehicle events lawfully conducted pursuant to the authority granted to local political subdivisions in this article;

(e) During emergency conditions declared by the proper state or local authority;

(f) When local political subdivisions have authorized by ordinance or resolution the establishment of off-highway vehicle routes to permit the operation of off-highway vehicles on city streets or county roads, but no street or road which is part of the state highway system may be so designated;

(g) When using an off-highway vehicle for agricultural purposes;

(h) When authorized under subsection (3) of this section; and

(i) When a public utility, as defined in section 40-1-103 (1), C.R.S., or a cooperative electric association, as defined in section 40-9.5-102, C.R.S., or any agent thereof designated specifically for the purpose of meter reading or repair, is using an off-highway vehicle for business purposes.

(2) Any person who violates subsection (1) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars.

(3) (a) Except as otherwise provided in paragraph (d) of this subsection (3), it is unlawful for a person to operate a motor vehicle on any federal public land, trail, or road unless the federal public land, trail, or road is signed or otherwise authorized for such use. A peace officer shall not enforce this paragraph (a) within an administrative unit of federal public land until the controlling land management agency identifies whether a route is available for motorized travel by maps, route markers, or signs that are available to the

public and provide information to determine whether the route is authorized. Except for violations occurring within a federal wilderness area, a person who violates this paragraph (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred dollars. A person who violates this paragraph (a) within a federal wilderness area is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of two hundred dollars.

(b) A person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of one hundred fifty dollars if the person, without authorization, takes either of the following actions with regard to a sign located on federal public land that affects whether motor vehicle travel is or purports to be authorized:

(I) Removes, defaces, or destroys such a sign that was installed by the controlling land management agency; or

(II) Installs such a sign.

(c) A peace officer may enforce this subsection (3).

(d) (I) The prohibition and penalties expressed in paragraphs (a) and (b) of this subsection (3) do not apply to a peace officer in the performance of his or her official duties, a person acting at the direction of a peace officer, or a person otherwise authorized to operate a motor vehicle on the federal public land, trail, or road by legal right or by permission of the controlling land management agency, including administrative and emergency access, facility maintenance, ski area operations, oil and gas operations, logging operations, and motor vehicle use that is authorized under permits, including for special events, recreational uses, firewood gathering, and livestock operations and activities.

(II) Nothing in this subsection (3) affects any authority that the parks and wildlife commission has pursuant to law other than this subsection (3) to regulate motor vehicle travel on lands subject to the commission's jurisdiction.