



116 S. Main St.  
Fountain  
Colorado  
80817  
719/322-2000  
FAX: 719/322-2001

**CITY COUNCIL AGENDA  
FEBRUARY 11, 2014 – 6:00 P.M.  
116 SOUTH MAIN STREET**

- 1) Call to Order**
- 2) Pledge of Allegiance**
- 3) Roll Call**
- 4) Special Presentations & Declarations:**
  - **Presentation on Teen Court (Sgt. Green)**
- 5) City Council Agenda Requests**
- 6) Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Please sign up with the City Clerk prior to the meeting. Council may not be able to provide an immediate answer, but will direct staff to follow-up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 7) Consent Agenda**

Note: All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council.

  - A.** Approval of the January 21, 2014 City Council Worksession Minutes
  - B.** Approval of the January 28, 2014 City Council Meeting Minutes
  - C.** Appointment of Curtis Mitchell, Ronald Woolsey, Michael Fink, Pat McDivitt, Nick Zaiger and Justin Moore to their Respective Appointments as Members of the District 10 Water Users Association, Lower Fountain Water Quality Association, Pikes Peak Regional Water Authority, Venetucci Well Project Joint Operating Committee, Venetucci Well Project Management Committee, Widefield Aquifer Recharge Association, Southern Delivery System Construction Coordination Team, Pikes Peak Area Council of Governments Water Quality Management Committee, Arkansas River Flow Management Committee, Municipal Energy Agency of Nebraska Risk Management Committee, Fountain Mutual Metropolitan District, Green Legacies, Fountain Mutual Irrigation Company, Chilcott Mutual Ditch Company, Fountain Valley Authority and the Goldfield Joint Tank Authority and to Authorize the Appropriate City Officials to Execute the Appropriate Documents

- D. Appointment of Abdul Razzaq and Approval of Resolution 14-007, A Resolution Appointing an Alternate to the Municipal Energy Agency of Nebraska's Management Committee and Board of Directors

**8) Old Business**

- A. Second Reading of Ordinance No. 1616, An Ordinance Repealing And Reordaining Chapter 15.16 (Fire Code) Of The Fountain Municipal Code, And Adopting By Reference The 2012 Edition Of The International Fire Code With Appendices And Amendments (Al Ziegler/Darin Anstine)

**9) New Business**

- A. Consideration of Items Removed from the Consent Agenda
- B. Resolution 14-006, A Resolution Approving First Amendment To Contract For Legal Services Of December 9, 2003 By And Between The City Of Fountain, A Colorado Home Rule Municipal Corporation, And Alpern Myers Stuart LLC, Attorneys (Scott Trainor)
- C. **Public Hearing** and Resolution 14-008, A Resolution Approving a Modification to a Condition of Approval for a Conditional Use to Permit a Child Care Facility in the Planned Unit Development District (PUD), Located on the Southeast Corner of Marksheffel Road and Peaceful Valley Road. (Dave Smedsrud)
- D. **Public Hearing** and First Reading of Ordinance No.1617, An Ordinance Approving the Mesa Ridge Overall Development Plan Amendment No. 4, Located Northeast of Sneffels Street and Mesa Ridge Parkway, and Hereinafter More Specifically Described in Exhibit "A" and Exhibit "B (Dave Smedsrud)
- E. Resolution 14-009, A Resolution Approving The Lighten The Load Agreement Between The City Of Fountain, Colorado Through Its Electric, Water And Wastewater Utility Enterprise And The Pikes Peak Community Action Agency, And Certifying This Agreement As The City Of Fountain's Alternative Energy Assistance Program Under The Low-Income Energy Assistance Act (Denise Sulski)
- F. Resolution 14-010, A Resolution Approving The Lighten The Load Agreement Between The City Of Fountain, Colorado Through Its Electric, Water And Wastewater Utility Enterprise, And The Salvation Army Of The Fountain Valley And Certifying This Agreement As The City Of Fountain's Alternative Energy Assistance Program Under The Low-Income Energy Assistance Act (Denise Sulski)

**10) Correspondence, Comments and Ex-Officio Reports**

**11) Announcement of Executive Sessions**

In accordance with the City Charter and the Colorado Open Meetings Act, the City Council open session is to determine whether it will hold a Closed Executive Session. A Closed Executive Session may be held upon an affirmative vote of two-thirds of the quorum present. If consent to the closed Executive Session is not given, the items may be discussed in open session or withdrawn from consideration.

**12) Adjourn**

**NEXT REGULAR COUNCIL MEETING  
February 25, 2014**



# Regular City Council Meeting

**Consent – 7A**  
*Worksession Meeting Minutes 1/21/14*

**February 11, 2014**

## Summary Information

**Title:**

Approval of the January 21, 2014 City Council Worksession Meeting Minutes

Initiator : City Clerk

Presenter: Silvia Mascarenas, City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The attached minutes were compiled as the result of the January 21, 2014 City Council Worksession Meeting Minutes

Attachments: January 21, 2014 City Council Worksession Meeting Minutes

## Background Information

N/A

## Recommendation

Approve the January 21, 2014 City Council Worksession Meeting Minutes

## Proposed Motion

Motion to approve shall be included under the consent agenda.

S.T.

CM Review

**CITY COUNCIL FIRE CODE WORKSESSION  
JANUARY 21, 2014**

**(1) Call to Order**

Mayor Ortega called the meeting to order at 6:00 P.M.

**(2) Roll Call**

Roll call found the following members present:

Mayor Ortega

Mayor Pro Tem Coke

Council Member Lauer

Council Member Thompson

Council Member Geick

Council Member St. Louis

Council Member Thomas

**(3) 2012 Fire Code Discussion**

Fire Chief Anstine gave a brief history of the contact with the Home Builders Association (HBA) noting their request for amendments to the fire code. He reviewed nine section items from the Fire Code to which the Fire Department felt needed to be amended to accommodate the needs of the City of Fountain.

Marla Novack, HBA representative stated she has met with the Fire Department on most of the items that Chief Anstine is requesting amendments to, however; she noted there have been other changes that they have not agreed to.

Chief Anstine reported on the requested fire code amendments under **102.5** Application of residential code; **307.4.3** Portable outdoor fireplaces; **503.2**. Specifications of fire apparatus access roads; **505.1**. Address Identification; **903.2.3** Group E, automatic sprinkler systems; **903.2.9.2**. Bulk storage of tires; **903.2.11.3** Buildings over 55 feet or more in height requiring sprinkler systems; and **903.4** Sprinkler system supervision and alarms.

There was also discussion on fire code items **5606.4** Storage in Group R and buildings designed under the *International Residential Code*; **5606.4.1** Black powder; **5606.4.2** Smokeless propellants; and **5606.4.3** Small arms primers.

Council Member Thompson asked if any items within the code rely on an interpretation by the Fire Chief, what recourse would a citizen have if they do not agree.

Chief Anstine reported the Board of Adjustment would hear any disagreements.

Mayor Ortega noted that the decisions of the Council on this item may be amended at any time. He stated this worksession was to further educate Council on the Fire Code and was not requested due to lack of trust of the Fire Chief.

It was the consensus of City Council to allow all amendments requested by Fire Chief Anstine. Amendments are attached hereto as exhibit A.

There being no further business, Mayor Ortega declared the worksession adjourned at 8:32 P.M.

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City Clerk

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Mayor

## *EXHIBIT A*

*1-HBA requested a change to the following which would be an additional amendment to the Fountain Fire Code not in the current purposed amendments:*

### SECTION 102 – APPLICABILITY

[A] **102.5** Application of residential code. Where structures are designed and constructed in accordance with the International Residential Code, the provisions of this code shall apply as follows:

1. Construction and design provisions: Provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premise identification, fire apparatus access and water supplies. ~~Where interior or exterior systems or devices are installed, construction permits required by section 105.7 of this code shall also apply.~~
2. ~~Administrative, Operational, and Maintenance provisions of this code shall apply.~~

*2-HBA disagrees with deleting this exception.*

**307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer’s instructions and shall not be operated within ~~15 feet~~ **10 feet** of a structure or combustible material.

~~Exception: Portable outdoor fireplaces used at one- and two-family dwellings.~~ Deleted

*The Fire Department is making this change from 15 FT to 10 FT this is to accommodate residential backyard setbacks.*

*3-HBA requested a change to the following which would be an additional amendment to the Fountain Fire Code not in the current purposed amendments:*

503.2. Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8 and *Appendix D*.

**503.2.1** Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet, ~~exclusive of shoulders~~, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

**D103.1** – Delete the same ~~exclusive of shoulders~~

**D105.2** – Delete the same ~~exclusive of shoulders~~

***4-The HBA disagrees with this amendment.***

**505.1. Address Identification.** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers **or alphabetical letters.** Numbers shall be a minimum of **five (5) inches** (127 mm) high with a minimum stroke width of one half (0.5) inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other means of signage shall be used to identify the structure.

***5-The HBA disagrees with this amendment.***

***The HBA wants the group “E” fire area to remain 12,000 SQ Ft and to delete the occupancy load requirement all together. They questioned why the exception was deleted from the model code. Comment – 2009 IFC is 12,000 square foot and there is no occupancy load requirement. There was also a comment on number 3 that statute this amendment would require sprinklers in basements when the 2009 IFC does not – number 3 is not an amendment to the 2012 IFC. They are concerned over deleting the exception.***

**903.2.3** Group E. An automatic sprinkler system shall be provided throughout all buildings that contain a Group E occupancy where one of the following conditions exist:

1. Throughout all Group E fire areas greater than **6,000- 12,000** square feet in area.
2. ***Where the Group E fire area has an occupancy load of 150 300 or more students.***
3. Where the Group E Occupancy fire area is located on a floor other than the level of exit discharge.

Exception: **An automatic sprinkler system is not required in any area below the lowest level of exit discharge serving that area where every classroom throughout the building has at least one exterior exit door at ground level.** Deleted

***Number 1: The Fire Department has deleted this amendment changing it back to current Group “E” fire area of 12,000 SQ FT to be consistent with the Group “A” occupancies.***

***Number 2: The Fire Department has change this back to current Group “E” amended (2003 Fountain Amendments) occupancy load of 300.***

***Number 3: Number 3 is not an amendment, it was simply moved from #2 to #3, sprinklers in school basements has been a requirement since the 1997 UFC.***

***6- The HBA disagrees with us on this amendment.***

**903.2.9.2.** Bulk storage of tires. Buildings and structures where the area for the storage of tires exceeds ~~4,000-6,000~~ cubic feet shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

***7- The HBA disagrees with us on this amendment.***

**903.2.11.3** Buildings over 55 feet or more in height. An automatic sprinkler system shall be installed throughout buildings with a floor level ~~having an occupant load of 30 or more Deleted~~ **15 or more** that is located 55 feet or more above the lowest level of fire department vehicle access.

***The Fire Department has removed the deletion and changed it to Occupancy Load of 15.***

***8- The HBA disagrees with us on this amendment.***

***HBA would like to change #2 back to 20 sprinkler heads***

**903.4 Sprinkler system supervision and alarms.** All valves controlling the water supply for *automatic sprinkler systems*, pumps, tanks, water levels and temperatures, critical air pressures and water-flow switches on all sprinkler systems shall be electrically supervised by a *listed* fire alarm control unit.

**Exceptions:**

1. *Automatic sprinkler systems* protecting one- and two-family *dwelling*s.
2. Limited area systems serving fewer than ***10 sprinklers***.
3. *Automatic sprinkler systems* installed in accordance with NFPA 13R where a common supply main is used to supply both domestic water and the *automatic sprinkler system*, and a separate shutoff valve for the *automatic sprinkler system* is not provided.
4. Jockey pump control valves that are sealed or locked in the open position.
5. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.
6. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.
7. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed or locked in the open position.

**9-HBA will disagree with this:**

**5606.4 Storage in Group R and buildings designed under the International Residential Code.**

The storage of small arms ammunition in Group R occupancies, *one & two family dwellings, and townhomes* shall comply with sections 5606.4.1 and 5606.4.2.

**5606.4.1 Black powder.** Black powder for personal use in quantities not exceeding 20 pounds (9 kg) shall be stored in original containers in occupancies limited to Group R-3. Quantities exceeding 20 pounds (9 kg) shall not be stored in any Group R occupancy *or residential occupancies including one & two family dwellings, and townhomes (NFPA 495 Chapter 14).*

**5606.4.2 Smokeless propellants.** Smokeless propellants for personal use in quantities not exceeding 20 pounds (9 kg) shall be stored in original containers in occupancies limited to Group R-3. Smokeless propellants in quantities exceeding 20 pounds (9 kg) but not exceeding 50 pounds (23 kg) and kept in a wooden box or cabinet having walls of at least 1 inch (25 mm) nominal thickness shall be allowed to be stored in occupancies limited to Group R-3. Quantities exceeding these amounts shall not be stored in any Group R occupancy *or residential occupancies including one & two family dwellings, and townhomes (NFPA 495 Chapter 14).*

5606.4.3 Small arms primers. Not more than 10,000 small arms primers shall be stored in any *Group R occupancy or residential occupancies including one & two family dwellings, and townhomes (NFPA 495 Chapter 14).*



# Regular City Council Meeting

## Consent – 7B

Meeting Minutes 1/28/14

### February 11, 2014

#### Summary Information

**Title:**

Approval of the January 28, 2014 City Council Meeting Minutes

Initiator : City Clerk

Presenter: Silvia Mascarenas, City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The attached minutes were compiled as the result of the January 28, 2014 City Council Meeting Minutes

Attachments: January 28, 2014 City Council Meeting Minutes

#### Background Information

N/A

#### Recommendation

Approve the January 28, 2014 City Council Meeting Minutes

#### Proposed Motion

Motion to approve shall be included under the consent agenda.

CM Review

**CITY COUNCIL MEETING**  
**January 28, 2014**

**1) Call to Order**

Mayor Ortega called the meeting to order at 6:00 P.M.

**2) Pledge of Allegiance**

The Pledge of Allegiance was recited.

**3) Roll Call**

Roll call found the following members present:

Mayor Ortega

Mayor Pro Tem Coke

Council Member Lauer

Council Member Gieck

Council Member Thompson

Council Member Thomas

Council Member St. Louis

**4) Special Presentations & Declarations:**

City Manager Trainor contacted a representative from Mindmixer, Mr. Brent Bjorkman. Mr. Bjorkman gave Council a presentation of the history and functions of Mindmixer. He noted the requirement of transparency and the ability to get a better understanding of the wants and needs of the community.

Council Member Thomas asked who would monitor inappropriate comments or pictures.

Mr. Bjorkman reported that there is a word filter and other users can flag a comment or picture as inappropriate. The city can then determine if the post will be removed. Citizen can also be blocked from using this program.

Council Member Thompson asked if citizens could vote on a survey more than once.

Mr. Bjorkman stated that the program is set up to prevent a citizen from voting more than once on each survey.

City Manager Trainor stated he would obtain more information from other vendors.

**5) City Council Agenda Requests**

There were no Council agenda requests.

Mayor Ortega requested item 9B to be heard prior to Old business items. It was the consensus of Council to hear 9B prior to the Old Business items.

**6) Public to be Heard**

Fran Carrick, Shumway Road, asked about the status of the Fountain Valley Baseball Association requests. She suggested combining the baseball with other youth sports and creating a city park and recreation department.

Mayor Ortega stated the City is working on trying to coordinate an all-encompassing youth sports program. Ms. Carrick offered to volunteer.

Ken Lippincott, Roaring Spring, read a smart meter proposal into the record. He reported that he has distributed a copy to the Council.

Donna LaChey, REA Road, reported that she had come to City Council for support of the Public Safety needs 3 years ago and since, nothing has been accomplished. She stated that an increase of 1% sales tax and increase the property tax to 13 mills would be the appropriate amount to sustain the growth of the city in respect to public safety. She requested a ballot issue be drafted and approved no later than May 2014. She reported the public needs to be educated on the needs of the Fire and Police Departments as well as the need to de-TABOR. She requested Council direct staff to form a committee for this purpose.

**7) Consent Agenda**

- A. Approval of the January 14, 2014 City Council Meeting Minutes**
- B. Appoint Mayor Ortega and Council Member Lauer to the Fountain Creek Watershed/ Flood Control/Greenway District Board of Directors**

City Clerk Mascarenas stated there has been a correction to the January 14<sup>th</sup> City Council minutes to reflect the correct request titles for the executive sessions.

Council Member Coke made a motion to approve the consent agenda as amended, seconded by Council Member Thomas. All members voted yes (7-0); the motion carried.

***9B. A Proclamation Declaring The Week Of January 28, 2013 Through February 2, 2014 As "Buckle Up For Safety And Lives" Week***

Dr. Young addressed the Council stating the facts about saving lives through the use of seat belts and stressed awareness.

Mayor Ortega read the proclamation into the record as a motion to approve, seconded by Council Member Thomas. All members voted yes (7-0); the motion carried.

**8) Old Business****A. Discussion on Recycle Bins**

City Manager Trainor reviewed proposals for the use of paper recycling bins. He stated Waste Connection created an agreement with the Fountain Valley News that will reduce the cost to the city for the service to \$100.00 a month.

It was the consensus of the Council to move forward with a contract for services.

**B. Resolution 14-004, A Resolution Authorizing the Withdrawal of a Petition for Annexation to the City of Fountain, Colorado for Property Known as Giffin Addition, Located on the Northwest Corner of Link Road and Squirrel Creek Road**

Community Services Director Smedsrud reported this property recently closed to new owners and the new owners do not want to annex this property at this time, therefore, he is requesting to withdraw the petition by resolution.

Council Member Coke made a motion to approve Resolution 14-004, seconded by Council Member Lauer. All members voted yes (7-0); the motion carried.

**9) New Business****A. Consideration of Items Removed from the Consent Agenda**

There were no items removed.

**C. Resolution 14-003, A Resolution Approving an Option Agreement Regarding a Golf Course Formerly Known as the Appletree Golf Course and Authorization for the Mayor to Sign the Agreement**

Community Services Director Smedsrud reported the option agreement before Council is a culmination of negotiations. The major highlights of the agreement are as follows:

Owner will donate the golf course parcel and improvements to the City at no cost and "as is" with the stipulation that the City must complete the remaining improvements to restore the golf course to an operating condition for public use. This would include refurbishment of the club house; construction of site improvements; provision of access; and completion of golf course improvements; Owner will donate Parcel to City at no cost if the Overall Development Plan (ODP) is amended to allow for an additional 24 residential units on other portions of the Owner's property; Owner will pay the City \$1 million dollars to assist with the development of the course. Up to \$100,000 may be used by the City to defray due diligence costs. The remainder will be advanced to the City at closing.

City must create a business model, identify partners, including a partner to operate the golf course, secure long-term water ownership or leasing rights, secure off-site land rights, perform studies and inspections, approve a district service plan which would be prepared and approved by a County-run election, and confirm all other matters pertaining to the golf course during the due diligence period, prior to December 1, 2014; City will be responsible for mowing of a 50-foot strip of land next to homes and roads; mosquito control fogging; and weed reduction during the option period. Owner will pay for mosquito larvicide up to \$5,000 per year.

City has first right of refusal to purchase parcels N and P for a period of 2, these two parcels will be included only if purchased by the City during this time.

It is anticipated a Special District will be organized to own and operate the golf course. This would require the approval of a service plan by El Paso County and a special district election to include taxable land in the vicinity of the golf course. The District would have bonding authority and a mill levy to cover debt and ongoing maintenance of the golf course. City can terminate the agreement on or before the December 1, 2014 feasibility objection deadline if the City elects not to proceed with the donation.

City will consider approval of an ODP amendment for Parcels C, D and if supported by a traffic study that does not require prior construction of Mesa Ridge Parkway and the northerly extension of Sandtrap Drive to connect to Peaceful Valley Road.

The projected re-opening of the golf course would be in the spring of 2015.

City Manager Trainor advised Council that the only obligation the City has is legal fees associated with this project. There are no other monetary ties. The Metropolitan District will be the entity responsible.

Community Services Director Smedsrud asked for approval and allowing some modifications to the agreement as suggested by City Attorney Ziegler.

Council Member St. Louis made a motion to approve resolution 14-003, seconded by Council Member Thomas. All members voted yes (7-0); the motion carried.

Mayor Ortega declared the meeting in recess at 7:50 P.M.

Mayor Ortega declared the meeting back in session at 7:55 P.M.

**D. Discussion on Strengthening City Ordinances Regarding Animal Care**

Council Member St. Louis requested to table this item for further research.

**E. Public Hearing for a Retail Liquor License for TFET Enterprises, S-Corp. dba Mountain Post Liquors located at 6336 Hwy 85/87**

Mayor Ortega opened the public hearing.

City Clerk Mascarenas reported that TFET Enterprises has submitted all of the required paperwork and survey results to the City Clerk's office. She reported this application has been submitted to the Police Department. She reviewed the survey findings and noted that copies of the results have been submitted to the City Council and applicant and the property has been posted 10 days prior to tonight's hearing.

Vince Lyndon, Attorney for TFET, reported that the applicant has the required training and reviewed the investments made by the applicant for this establishment.

Mayor Ortega closed the public hearing.

Council Member St. Louis made a motion to approve the liquor license with findings being met, seconded by Council Member Geick. All members voted yes (7-0); the motion carried.

**F. Resolution No. 14-005, A Resolution Of The City Council Of The City Of Fountain, Colorado approving An Intergovernmental Agreement Between The City Of Fountain And The South Academy Station Metropolitan District No. 5 Regarding Security Services**

City Attorney Ziegler reported that at the January 14, 2014 meeting Council approved the Amended and Restated Service Plan for South Academy Station Metropolitan District No. 5. One of the purposes of the District is to issue bonds to finance the development of the South Academy Highlands Project where a new Walmart and Sam's will be located. The resolution approves an Intergovernmental Agreement between Fountain and the District for the funding of police services relating to the project and such other services in the sum of \$2,500,000 as the District is authorized by law to fund.

Council Member Geick made a motion to approve resolution 14-005, seconded by Council Member Lauer. All members voted yes (7-0); the motion carried.

**G. Approve and Award the Change Order #3 to the January 26, 2010 Engineering Services Agreement Contract with Nolte/NV5 for the Alley and Remote Parking Design for the 101 North Main Street Project in the amount not to exceed \$14,620.00.**

Water Resource Engineer Fink reported this Change Order was presented to Council as a Consent Agenda Topic at the December 10, 2013 City Council Meeting. Council and the public questioned several aspects of the Parking Lot design and of the 101 North Main Street Project. Questions as to the total cost of the Project, the number and amount of Change Orders to this Contract and to other Contracts associated with this Project and any ramifications as to the cost and effect of stopping the Customer Services Center Construction were posed. Council tabled the

Agenda Topic and instructed Staff to address these questions and comments prior to further action. Staff and Council have met during the past six weeks to explain and discuss these concerns.

Council Member Thompson stated that she would like God's Pantry to be notified very soon as to the changes to the parking lot.

Council Member St. Louis made a motion to approve change order #3, seconded by Council Member Gieck. All members voted yes (7-0); the motion carried.

#### **10) Correspondence, Comments and Ex-Officio Reports**

City Manager reminded Council of the upcoming Chamber of Commerce dinner on February 15<sup>th</sup>.

Community Services Director Smedsrud reported on his presentations to High School students.

Utility Director Mitchell stated he has received 7 proposals for a power supplier and will meet with the applicants next week. He also reported on the upcoming open house meetings scheduled to discuss water rate increases.

Council Member Lauer thanked staff for the Fire Code worksession. He also reported on his attendance at the Fountain Creek Watershed meeting. He will also be attending the Community Action Committee with PPACG and a planned ride along with Code Enforcement.

Council Member Thompson reported that Fountain Valley Senior Center will not be purchasing the Fountain Valley Shopping Center. She reported on her attendance at the neighborhood watch meeting, Fountain Library/ Fountain Place program and the sustainability meeting.

Council Member Coke requested to attend a Southern Delivery System tour.

Council Member Gieck thanked Mr. Fink and Mr. Mitchell for their efforts. He reported on his attendance at the neighborhood watch meeting and thanked Council for the approval vote on the Appletree item.

Council Member St. Louis reported on her attendance at the Fountain Valley Foundation noting they would like to set up a resource to help pay utility bills for needy families. She also reported that the Fountain Valley CAN would like to partner with the city for the next health fair. She stated the relay for life kick-off is this coming Friday and the next sustainability meeting will be February 12, 2014.

Mayor Ortega reported on his attendance at the Mayor's caucus and discussions regarding grant funding. He noted discussions with the storm water task force and Mayor Bach. He requested a letter to the rail road stating the city's displeasure with the work that was done on Ohio Avenue.

**11) Announcement of Executive Sessions**

There were no executive sessions requested.

**12) Adjourn**

There being no further business Mayor Ortega declared the meeting adjourned at 8:43 P.M.

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City Clerk

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Mayor



# Regular City Council Meeting

**Consent – 7C**

**February 11, 2014**

### Summary Information

**Title:**

Appointment of Curtis Mitchell, Ronald Woolsey, Michael Fink, Pat McDivitt, Nick Zaiger and Justin Moore to their Respective Appointments as Members of the District 10 Water Users Association, Lower Fountain Water Quality Association, Pikes Peak Regional Water Authority, Venetucci Well Project Joint Operating Committee, Venetucci Well Project Management Committee, Widefield Aquifer Recharge Association, Southern Delivery System Construction Coordination Team, Pikes Peak Area Council of Governments Water Quality Management Committee, Arkansas River Flow Management Committee, Municipal Energy Agency of Nebraska Risk Management Committee, Fountain Mutual Metropolitan District, Green Legacies, Fountain Mutual Irrigation Company, Chilcott Mutual Ditch Company, Fountain Valley Authority and the Goldfield Joint Tank Authority and to Authorize the Appropriate City Officials to Execute the Appropriate Documents.

Initiator: Curtis Mitchell, P.E.

Council Action

Presenter: Curtis Mitchell, Utilities Director

Council Information

Legal Review:  Yes  No

Report to Council

**Summary Overview and List of Attachments:**

The purpose of this action item is for the Council to Approve the Appointments of Curtis Mitchell, Ronald Woolsey, Michael Fink, Pat McDivitt, Nick Zaiger and Justin Moore to their Respective Appointments of the aforementioned Associations and Committees.

Attachments: Appointments & Terms Table

### Background Information

The City of Fountain is a Member of the District 10 Water Users Association, Lower Fountain Water Quality Association, Pikes Peak Regional Water Authority, Venetucci Well Project Joint Operating Committee, Venetucci Well Project Management Committee, Widefield Aquifer Recharge Association, Southern Delivery System Construction Coordination Team, Pikes Peak Area Council of Governments Water Quality Management Committee, Arkansas River Flow Management Committee, Municipal Energy Agency of Nebraska Risk Management Committee, Fountain Mutual Metropolitan District, Green Legacies, Fountain Mutual Irrigation Company, Chilcott Mutual Ditch Company, Fountain Valley Authority and the Goldfield Joint Tank Authority . Governance of the Associations and Committees is provided by a Voting Board.

All Board and Committee appointments are for one year terms, ending December 31, 2014, except where noted. The following individuals have established reputations with these Associations and Committees and can provide continuity and consistency of representation for these very important functions. Staff recommends the appointments as follows:

- District 10 Water Users Association. Ronald Woolsey and Michael Fink as Voting Members.
- Lower Fountain Water Quality Assn: Ronald Woolsey as the Voting Member and Michael Fink as the Alternate.
- Pikes Peak Regional Water Authority: Curtis Mitchell as the Voting Member and Michael Fink as the Alternate. No term limit.
- Venetucci Well Project: Michael Fink as the Voting Member and Ronald Woolsey as the Alternate on the Management Committee and Ronald Woolsey as the Voting Member and Justin Moore as the Alternate on the Joint Operating Committee.
- Widefield Aquifer Recharge Association: Ronald Woolsey as the Voting Member and Michael Fink as the Alternate.

- SDS Construction Coordinating Team: Curtis Mitchell and Michael Fink as Voting Members, Pat McDivitt and Ronald Woolsey as the Alternates.
- Pikes Peak Area Council of Governments Water Quality Management Committee: Michael Fink as Voting Member and Ronald Woolsey as the Alternate.
- Arkansas River Flow Management Committee: Michael Fink as the Voting Member, and Curtis Mitchell as the Alternate.
- Municipal Energy Agency of Nebraska Risk Management Committee – Curtis Mitchell as Voting Member. No term limit.
- Fountain Mutual Metropolitan District –Curtis Mitchell as Voting Member.
- Green Legacies – Curtis Mitchell as Voting Member. No term limit.
- Fountain Mutual Irrigation Company – Ron Woolsey as Voting Member.
- Chilcott Mutual Ditch Company – Mike Fink as Voting Member.
- Fountain Valley Authority – Curtis Mitchell as Voting Member.
- Goldfield Joint Tank Authority- Ronald Woolsey as the Voting Member and Nick Zaiger as the Alternate.

### *Recommendation*

The Utilities staff recommends the Approval of Appointments to their Respective Associations and Committees listed.

### *Proposed Motion*

“I recommend the approval of Appointments to their Respective Associations and Committees.”

*S.T.*

CM Review

## Fountain Utilities Association & Committee Appointments & Terms

<b>Association / Committee</b>	<b>Voting Member(s)</b>	<b>Alternate Member(s)</b>	<b>Term</b>
District 10 Water Users Association	Ronald Woolsey Michael Fink		Jan. 1, 2014- Dec. 31, 2014
Lower Fountain Water Quality Association	Ronald Woolsey	Michael Fink	Jan. 1, 2014- Dec. 31, 2014
Pikes Peak Regional Water Authority	Curtis Mitchell	Michael Fink	No Term Limit
Venetucci Well Project Joint Operating Committee	Ronald Woolsey	Justin Moore	Jan. 1, 2014- Dec. 31, 2014
Venetucci Well Project Management Committee	Michael Fink	Ronald Woolsey	Jan. 1, 2014- Dec. 31, 2014
Widefield Aquifer Recharge Association	Ronald Woolsey	Michael Fink	Jan. 1, 2014- Dec. 31, 2014
Southern Delivery System Construction Coordination Team	Curtis Mitchell Michael Fink	Ronald Woolsey Patrick McDivitt	Jan. 1, 2014- Dec. 31, 2014
Pikes Peak Area Council of Governments Water Quality Management Committee	Michael Fink	Ronald Woolsey	Jan. 1, 2014- Dec. 31, 2014
Arkansas River Flow Management Committee	Michael Fink	Curtis Mitchell	Jan. 1, 2014- Dec. 31, 2014
Municipal Energy Agency of Nebraska Risk Management Committee	Curtis Mitchell		No Term Limit
Fountain Mutual Metropolitan District	Curtis Mitchell		Jan. 1, 2014- Dec. 31, 2014
Green Legacies	Curtis Mitchell		No Term Limit
Fountain Mutual Irrigation Company	Ronald Woolsey		Jan. 1, 2014- Dec. 31, 2014
Chilcott Mutual Ditch Company	Michael Fink		Jan. 1, 2014- Dec. 31, 2014
Fountain Valley Authority	Curtis Mitchell		Jan. 1, 2014- Dec. 31, 2014
Goldfield Joint Tank Authority	Ron Woolsey	Nick Zaiger	Jan. 1, 2014- Dec. 31, 2014



# Regular City Council Meeting

## Consent – 7D

MEAN appointments

### February 11, 2014

#### Summary Information

**Title:**

Appointment of Abdul Razzaq and Approval of Resolution 14-007, A Resolution Appointing an Alternate to the Municipal Energy Agency of Nebraska’s Management Committee and Board of Directors.

Initiator: Curtis Mitchell, P.E.

Presenter: Curtis Mitchell, Utilities Director

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The purpose of this action item is for the Council to approve the appointment of an alternate to the Municipal Energy Agency of Nebraska (“MEAN”) Management Committee and Board of Directors.

Attachments: Resolution 14-007

#### Background Information

As a wholesale power customer of the Municipal Energy Agency of Nebraska (“MEAN”), the City of Fountain has a voice in MEAN management affairs and policy making decisions.

Tom Black has retired and is no longer serving as an alternate on the MEAN Management Committee and Board of Directors.

The attached Resolution would appoint Abdul Razzaq, Planning and Engineering Manager, as the Alternate Representative on the MEAN Management Committee.

Additionally, the attached Resolution would appoint Abdul Razzaq as the Alternate Director to represent the City of Fountain on the MEAN Board of Directors. The term of the appointment last for three (3) years.

#### Recommendation

Staff recommends Appointing Abdul Razzaq as the Alternate on the MEAN Management Committee and Board of Directors and Approval of Resolution 14-007.

#### Proposed Motion

“I recommend Appointing Abdul Razzaq as the Alternate on the MEAN Management Committee and Board of Directors and Approval of Resolution 14-007.”

*S.T.*

CM Review



**RESOLUTION 14-007**

**A RESOLUTION APPOINTING AN ALTERNATE TO THE MANAGEMENT COMMITTEE AND BOARD OF DIRECTORS OF THE MUNICIPAL ENERGY AGENCY OF NEBRASKA**

WHEREAS, the City of Fountain, State of Colorado, acting by and through its Utility Enterprise, is a party to the Electrical Resource Pooling Agreement (“ERPA”) and, pursuant to the terms of the ERPA, it is the responsibility of the City of Fountain to designate a representative and alternate representative to the Municipal Energy Agency of Nebraska (“MEAN”) Management Committee provided for under the terms of said Agreement; and

WHEREAS, pursuant to the terms of the ERPA and/or other MEAN organizational documents, the City of Fountain has been assigned an alternate representative on the MEAN Management Committee and an alternate director position on the MEAN Board of Directors and the City Council of the City of Fountain wishes to reconfirm said appointments.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, State of Colorado, that:

1. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Abdul Razzaq as alternate representative to the MEAN Management Committee and alternate director to the MEAN Board of Directors.

\_\_\_\_\_  
Gabriel P. Ortega, Mayor

ATTEST:

\_\_\_\_\_  
Silvia Mascarenas, City Clerk

**CERTIFICATIONS:**

This is to certify that the City Council of the City of Fountain, Colorado, acting by and through its Utility Enterprise, duly appointed Curtis Mitchell to serve as director to represent the City of

Fountain on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et. seq. (1987).

*This is to certify that the appointments set out above were approved by the City Council of the City of Fountain, State of Colorado, at their meeting on February 26, 2013.*

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*Silvia Mascarenas, City Clerk*

(SEAL)



# Regular City Council Meeting

## Old Business –8A

Adoption of the 2012 Fire Code

### February 11, 2014

#### Summary Information

**Title:**

Second Reading of Ordinance 1616 An Ordinance Repealing And Reordaining Chapter 15.16 (Fire Code) Of The Fountain Municipal Code, And Adopting By Reference The 2012 Edition Of The International Fire Code With Appendices And Amendments.

Initiator : Fire Chief Anstine

Presenter: Fire Chief Anstine / City Attorney Al Zeigler

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

Attachments: Ordinance 1616

#### Background Information

The fire department is currently operating under the 2003 International Fire Code. The fire department should update and move to the current 2012 fire code. The fire department presented the fire code ordinance for first reading on December 17<sup>th</sup>, 2013. The City Council passed the ordinance on first reading and directed the fire department to have a work shop and invite citizens and businesses to attend. The work shop was held on January 21<sup>st</sup>, 2014. The fire department sent letters to businesses, placed ads in the local newspaper, and posted notices at City Hall and all the fire stations describing the intent of adopting the 2012 fire codes. The HBA, (Home Builders Association), was the only organization that had concerns with the amendments to fire code. Four meetings were held with the HBA to discuss these concerns and several changes were made. The Fire Code Ordinance, as presented today, is what the fire department believes is reasonable and necessary for the preservation of life and property in the City of Fountain.

#### Recommendation

Staff recommends approval of Ordinance 1616 on second reading.

#### Proposed Motion

S.T.  
CM Review

## ORDINANCE NO. 1616

AN ORDINANCE REPEALING AND REORDAINING CHAPTER 15.16 (FIRE CODE) OF THE FOUNTAIN MUNICIPAL CODE, AND ADOPTING BY REFERENCE THE 2012 EDITION OF THE *INTERNATIONAL FIRE CODE* WITH APPENDICES AND AMENDMENTS.

WHEREAS, Section 6.2 of the Home Rule Charter of the City of Fountain, Colorado provides that the City Council, with regard to those legislative enactments which are of a permanent nature, shall be by ordinance; and

WHEREAS, the City Council is committed to providing for the protection of the public health and safety; regulating the storage, use and handling of dangerous and hazardous materials substances and devices; the operation, installation, construction, location, safeguarding, and maintenance of adequate means of egress not provided for by other codes in the City of Fountain, Colorado through the enactment of an appropriate fire code to be administered and enforced through the City of Fountain Fire Department; and

WHEREAS, pursuant to Chapter 15.16 of the Fountain Municipal Code the City of Fountain adopted the International Fire Code, 2012 Edition, including Appendix chapters A, B, C, D, E, F, G, H, I, and J.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

**Section 1.** Chapter 15.16 (Fire Code) of Title 15 (Public Safety) of the City of Fountain Municipal Code is hereby repealed and reordained to read as follows:

### Title 15

### FIRE

### Chapter 15.16

### FIRE CODE

15.16.010: SHORT TITLE: This Chapter may be known and cited as the Fire Code.

15.16.020: ADOPTION OF THE 2012 EDITION OF THE *INTERNATIONAL FIRE CODE* INCLUDING APPENDICES: Pursuant to Part 2 of Article 16 of Title 31, Colorado Revised Statutes and pursuant to the Charter of the City of Fountain, there is hereby adopted by reference the *International Fire Code*, 2012 edition, of the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL, 60478-5795 and Appendices A, B, C, D, E, F, G, H, I, and J as set forth therein and any secondary codes referred to therein. The above codes are adopted as if set out at length, subject to modifications, additions, or deletions as set forth in Chapter 15.16 of the Fountain Municipal Code. Any reference to this Chapter, Chapter 15.16 of

the Fountain Municipal Code, the *International Fire Code*, or the City of Fountain Fire Code, the Fire Code, or this code, unless the context requires otherwise, shall include the *International Fire Code*, all appendices adopted herein and modifications, additions or deletions as set forth herein.

15.16.030: COPIES ON FILE: Copies of the 2012 *International Fire Code* and appendices and copies of all amendments or modifications thereto are on file in the Office of the City Clerk, and may be inspected during regular business hours. The City Clerk shall delegate responsibility to maintain a reasonable supply of copies of the 2012 *International Fire Code*, amendments and modifications thereto, available for purchase by the public from the Pikes Peak Regional Building Department.

15.16.040: APPLICATION OF PROVISIONS: The 2012 *International Fire Code* hereby adopted shall apply to every building, structure or asset, either within or outside the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate.

15.16.050: INTERPRETATION OF PROVISIONS: This part shall be so interpreted and construed as to effectuate its general purpose to make uniform the local fire regulations contained herein. Article and section headings of this part and of the adopted *International Fire Code* shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or extent of the provisions of any article or section thereof.

15.16.060: DEFINITIONS: As used in this chapter the following words are defined as follows:

- A. Wherever the word “jurisdiction” or “authority having jurisdiction” is used in the *International Fire Code*, it shall be held to mean the City of Fountain.
- B. Wherever the term “counsel” is used in the *International Fire Code*, it shall be held to mean the attorney for the City of Fountain.
- C. Wherever the term “Department of Fire Prevention” or “Fire Prevention Division” is used in the *International Fire Code*, it shall also be held to mean the member(s) of the Fountain Fire Department that have been designated to perform those duties.
- D. Where the term “Chief” is used in the *International Fire Code*, it shall mean the Fire Chief of the City of Fountain Fire Department.
- E. Where the term “Code Official” or “Fire Code Official” is used in the *International Fire Code*, it shall mean the Fire Chief of the City of Fountain Fire Department or a member of the Fountain Fire Department designated by the Fire Chief to perform those duties.
- F. Where the term “Board of Appeals” is used in the *International Fire Code*, it shall mean the Board of Adjustment of the City of Fountain.
- G. Where the term “Administrator” is used it shall mean the City Manager of the City of Fountain.

15.16.070: AMENDMENTS TO THE *INTERNATIONAL FIRE CODE*:

The *International Fire Code* and Appendices herein adopted are adopted subject to the following modifications, additions, or deletions as hereinafter set forth:

- A. Preface. Under the “Code Development Committee Responsibilities (letter designations in front of section numbers)” in the first paragraph, add the following after the last sentence: “As such, any section within this code which references a companion code, it shall be the responsibility of the code body responsible for said code. In addition, where the *International Fire Code* is referenced in other codes, the Fire Chief shall be the designated “Code Official”. The Fire Chief is the “Code Official” responsible for the administration and enforcement of all provisions of the Fire Code.

Chapter 1

- A. Section 101.1. Amend Section 101.1 by inserting the following: “The City of Fountain” in place of NAME OF JURISDICTION.
- B. Section 101.2.1. Appendices. Delete Section 101.2.1 and replace with the following: “101.2.1 Appendices. In conjunction with the adoption of the 2012 International Fire Code, the City of Fountain also adopts Appendixes A, B, C, D, E, F, G, H, I, and J as amended, as part of the provisions and requirements of this code.”
- C. Section 102.7 Amend the last line of section 102.7 to read as follows: “Section 102.7.1 through 102.7.3.”
- D. Section 102.7.3 Add a new Section 102.7.3 to read as follows: “102.7.3 NFPA Standards. Applicable NFPA standards shall be the current most updated edition as of January 1<sup>st</sup> following the NFPA’s effective date for the standard.”
- E. Section 103.1. Delete Section 103.1 and replace with a new section to read as follows: “103.1 General. The Department of Fire Prevention, also known as the Fire Prevention Division established within the City of Fountain Fire Department under the direction of the Fire Chief shall consist of Fire Department Personnel assigned thereto by the Fire Chief. The function of the Fire Prevention Division shall be the implementation, administration, and enforcement of the provisions of this code.”
- F. Section 103.4.2. Add a new Section 103.4.2 to read as follows: “Section 103.4.2. Actions, liability and legal defense. The Colorado Governmental Immunity Act, Article 10 of Title 24 Colorado Revised Statutes, shall apply to the actions, liability and legal defense of any Fire Code Official, officer or employee charged with the enforcement of this code.”

- G. Section 104.1. Delete Section 104.1 and substitute with the following: “Section 104.1 General. The Fire Code Official is hereby authorized to enforce provisions of this code and shall have the authority to render interpretations of this code and to adopt policies, procedures, rules, and regulations in order to clarify the application of its provisions. This includes making and enforcing supplemental regulations. Such interpretations, policies, procedures, rules, regulations and supplemental regulations shall be in compliance with the intent and purpose of this code. The Fire Chief has final authority in determining the application of this code and resolving any conflicts that may arise from enforcement of this code.”
- H. Section 104.1.1. Add a new Section 104.1.1 to read as follows: “104.1.1. The Fire Code Official is hereby authorized to enforce the provisions of this fire code and all Federal, State, and Local laws pertaining to fires, the prevention of fire, the suppression or extinguishment of fires, life safety, and hazardous materials which the Fire Code Official is authorized to enforce. The Fire Code Official shall see that provisions of applicable Federal, State, and Local laws including provisions of this code are enforced. The Fire Code Official shall have the powers of a peace officer in performing their duties related to the enforcement of these laws and the fire code within the City Limits of Fountain.”
- I. Section 104.6. Delete the second sentence in Section 104.6 and substitute with the following: “Such official records shall be retained for not less than seven (7) years or as long as such related records are required for existing structures, unless otherwise provided for by other regulations.”
- J. Section 104.10. Delete Section 104.10 and substitute with the following: “Section 104.10. Fire Investigations. The Fire Code Official, designated fire investigators, or others designated by the Fire Chief are authorized to and shall investigate promptly the cause, origin and circumstances of each and every fire, explosion, or other hazardous conditions occurring in the City of Fountain involving loss of life or injury to a person or the destruction or damage to property or hazardous condition posing a danger to life or property and they shall pursue the investigation to its conclusion. Information that constitutes trade secrets or medical privacy information or other information legally exempt from disclosure shall not be made part of the public record except as directed by a court of law.”
- K. Section 104.10.1. Delete Section 104.10.1 and substitute with the following: “Section 104.10.1. Fire Investigator Authority. Designated fire investigators employed by the fire department are peace officers while engaged in the performance of his or her duties. Fire investigators have the primary authority to enforce all laws of the State of Colorado and ordinances of the City of Fountain relating to the prevention of fires and the suppression of arson. Fire investigators shall have the authority to enforce, within the city, all Federal, State and Local laws pertaining to fire, explosions, life safety and hazardous materials which the Fire Code Official is authorized to enforce. The Fire investigator shall see that the provisions of applicable laws are enforced. All Primary fire

investigators are vested with the usual power and authority of peace officers as related to these matters.”

- L. Section 104.10.2. Add new Section 104.10.2. “Section 104.10.2. Assistance from other agencies. The Fire Code Official or fire investigator shall have the authority to request assistance from other agencies including law enforcement. Police and other enforcement agencies shall have the authority to render necessary assistance to the fire investigation upon request of the Fire Code Official or fire investigator. The designated City of Fountain Fire Investigator shall remain in charge of the investigation until its conclusion.”
- M. Section 105.1.4. Add a new Section 105.1.4 to read as follows: “105.1.4. Liability. The permittee shall indemnify the City, its officers, agents, and employees against any claim or liability arising from or based on the violation of this code or any other applicable law or regulation caused by any actions or omissions of the permittee arising out of the exercise of the activity authorized by the permit.”
- N. Section 105.3.5.1. Add a new Section 105.3.5.1 to read as follows: “105.3.5.1 Work without permit. Whenever any activity requiring a permit commenced without the permit, a special investigation shall be conducted by the Fire Prevention Division and a citation shall be issued in accordance with section 109 of this code.”
- O. Section 105.4.1.2 Add new Section 105.4.1.2 to read as follows: “105.4.1.2. Required construction document submittals. Adequately prepared construction documents, as per *International Fire Code* Section 202 “Construction Documents”, are required to be submitted for Fire Department review and approvals prior to any construction activity in section 105.7 and for the following:
- Construction projects
  - Development/site plans
  - Fire sprinkler systems
  - Fire standpipe systems
  - Fire suppression systems
  - Fire pumps & related equipment
  - Fire alarm/detection systems
  - Fixed fire protection systems
  - Fixed fire kitchen hood protection systems
  - Hazardous materials
  - Compressed gas storage
  - High-pile storage
  - Smoke control systems”
- P. Section 105.6. Delete Section 105.6 and substitute with the following: “105.6. Required Operational Permits. The Fire Code Official is authorized to issue permits. The following subsections shall require an operational permit to be issued by the Fire Code Official to conduct these types of operations within the City of Fountain: 105.6.2 (Amusement Buildings), 105.6.8 (Compressed Gases), 105.6.10 (Cryogenic

Fluids), 105.6.14 (Explosives), 105.6.16 (Flammable and Combustible Liquids), 105.6.19 (Fumigation & thermal insecticide fogging), 105.6.20 (Hazardous Materials), 105.6.21 (HPM facilities), 105.6.22 (High-Piled Storage), 105.6.27 (Liquid Petroleum Gases), 105.6.30 (Open Burning), 106.31 (Open flames & torches), 105.6.36 (Pyrotechnic special effects), and 105.6.42 (Storage of scrap tires & tire byproducts).

The following subsections do not require operational permit however, their operations shall be reviewed as part of the construction permit review or development review process: 105.6.1 (Aerosol products), 105.6.3 (Aviation facilities), 105.6.5 (Cellulose nitrate film), 105.6.6 (Combustible dust producing operations), 105.6.7 (Combustible fibers), 105.6.9 (Covered mall buildings), 105.6.12 (Dry cleaning plants), 105.6.18 (Fruit & crop ripening), 105.6.25 (Lumber yards & woodworking plants), 105.6.28 (Magnesium), 105.6.33 (Organic coatings), 105.6.37 (Pyroxylin plastics), 105.6.40 (Rooftop heliports), and 105.6.44 (Tire rebuilding plants).

The following subsections do not require an operational permit however, they do require a temporary use permit issued through the City of Fountain Planning Department: 105.6.4 (Carnivals & fairs), 105.6.13 (Exhibits & trade shows), and 105.6.43 (Temporary membrane structures & tents).”

- Q. Section 105.6.1. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- R. Section 105.6.3. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- S. Section 105.6.4. Delete the words “An operational permit is required” and replace with “A temporary use permit is required.”
- T. Section 105.6.5. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- U. Section 105.6.6. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- V. Section 105.6.7. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- W. Section 105.6.9. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- X. Section 105.6.11. Delete Section 105.6.11 and substitute with the following: “Section 105.6.11 Cutting & welding. See section 105.6.23. Hot work operations.”
- Y. Section 105.6.12. Delete the words “An operational permit is required” and replace with “A construction review is required.”

- Z. Section 105.6.13. Delete the words “An operational permit is required” and replace with “A temporary use permit is required.”
- AA. Section 105.6.15. Delete the words “An operational permit is required” and replace with “A Water Department permit is required.”
- BB. Section 105.6.17. Delete Section 105.6.17 and substitute with the following: “105.6.17. Floor finishing. Operational permit is not required.”
- CC. Section 105.6.18. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- DD. Section 105.6.23, subsection 2. Delete subsection 2 and substitute with the following: “2. Use of portable hot work equipment inside an occupied structure.”
- EE. Section 105.6.23, subsection 6. Delete subsection 6 and substitute with the following: “6. All organizations that employ welding, cutting, open torches and other hot work operations and equipment shall have a hot work permit program. This program allows supervisors to issue hot work permits to their employees and to ensure that basic safety measures are being taken during hot work operations. Supervisors shall ensure compliance with the requirements of Chapter 35 of this code and NFPA 51B and issue a permit to the employee. These permits shall only be issued to their employees or hot work operations under their supervision. Organizations utilizing a hot work permit program do not need an operational permit.”
- FF. Section 105.6.24. Delete Section 105.6.24 and substitute with the following: “105.6.24. Industrial ovens. Operational permit is not required.”
- GG. Section 105.6.25. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- HH. Section 105.6.26. Delete Section 105.6.26 and substitute with the following: “105.6.26. Liquid or gas fueled vehicles in assemble buildings. Operational permit is not required.”
- II. Section 105.6.28. Delete the words “An operational permit is required” and replace with “A construction review is required.”

- JJ. Section 105.6.29. Delete Section 105.6.29 and substitute with the following: “105.6.29. Combustible storage. Operational permit is not required.”
- KK. Section 105.6.32. Delete Section 105.6.32 and substitute with the following: “105.6.32. Open flames & candles. Operational permit is not required.”
- LL. Section 105.6.33. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- MM. Section 105.6.34. Delete Section 105.6.34 and substitute with the following: “105.6.34. Places of assemble. Operational permit is not required.”
- NN. Section 105.6.35. Delete Section 105.6.35 and substitute with the following: “105.6.35. Private fire hydrants. Operational permit is not required.”
- OO. Section 105.6.36. Delete Section 105.6.36 and substitute with the following: “105.6.36 pyrotechnic special effects material and display fireworks. An operational permit is required for use and handling of pyrotechnic special effects material. A hazardous materials construction permit is required for the construction or installation of buildings for manufacturing, storage, use, and handling of fireworks or pyrotechnics special effects material, within the scope of Chapter 33. A temporary activity operational permit is required for the storage, handling, use of explosive material used in fireworks displays or for pyrotechnic special effect activities or flame effects before a proximate audience within the scope of Chapter 33.”
- PP. Section 105.6.37. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- QQ. Section 105.6.38. Delete Section 105.6.38 and substitute with the following: “105.6.38. Refrigeration equipment. Operational permit is not required.”
- RR. Section 105.6.39. Delete Section 105.6.39 and substitute with the following: “105.6.39. Repair garages and motor fuel dispensing facilities. Operational permit is not required.”
- SS. Section 105.6.40. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- TT. Section 105.6.41. Delete Section 105.6.41 and substitute with the following: “105.6.41. Spraying & dipping. Operational permit is not required.”
- UU. Section 105.6.42. Delete Section 105.6.42 and substitute the following: “105.6.42 Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2500 cubic feet of total volume of scrap tires and for storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct, or maintain

indoor storage of tires and tire by products that exceeds 1,000 cubic feet of total volume of tires.”

- VV. Section 105.6.43. Delete the words “An operational permit is required” and replace with “A temporary use permit is required.”
- WW. Section 105.6.44. Delete the words “An operational permit is required” and replace with “A construction review is required.”
- XX. Section 105.6.45. Delete Section 105.6.45 and substitute with the following: “105.6.45. Waste handling. Operational permit is not required.”
- YY. Section 105.6.46. Delete Section 105.6.46 and substitute with the following: “105.6.46. Wood products. Operational permit is not required.”
- ZZ. Section 105.7.11.1. Add new Section 105.7.3.1 to read as follows: “107.7.11.1 LP gas cylinder exchange facilities. A construction permit is required to install, maintain or store portable LP-gas containers awaiting use, resale or part of a cylinder exchange program (LP-gas cage installations) where a single container, cylinder or tank is more than 125 gallons (473.2 L) water capacity or the aggregate capacity of containers is more than 125 gallons water capacity.”
- AAA. Section 105.7.16. Amend Section 105.7.16 Temporary Membrane Structures and Tents to read as follows: “105.7.16. Temporary Membrane Structures and Tents. A construction permit is required to erect or operate an air-supported temporary membrane structure, canopy or a tent having an area of 2,400 square feet or greater.”
- BBB. Section 105.7.16. Delete the exceptions.
- CCC. Section 105.7.17. Add a new section 105.7.17 to read as follows: “105.7.17. Other permits not otherwise listed. A construction permit may be required for activities, installations, or operations not otherwise specifically listed in this code that the Fire Code Official determines creates a substantial risk or hazard. *Exception: 1 & 2 family dwellings and townhomes.*”
- DDD. Section 105.7.18. Add a new Section 105.7.18 to read as follows: “105.7.18. Construction Projects. The City of Fountain Fire Department shall review and approve all commercial construction plans for projects located within the City of Fountain prior to the Regional Building Department issuing a building permit. This includes and is not limited to commercial remodels, tenant finishes, shells and residential buildings with three or more dwelling units.”
- EEE. Section 105.7.19. Add a new Section 105.7.19 to read as follows: “105.7.19. Development. The City of Fountain Fire Department shall review and approve all development plans for new development within the City of Fountain prior to the approval of a final site plan, development plan, or plat by the City.

- FFF. Section 106.2.1. Delete Section 106.2.1 and replace with new section 106.2.1 to read as follows: “106.2.1 Inspection requests. It shall be the duty of the person doing the work authorized by a permit to notify the Fire Code Official that such work is ready for inspection. The Fire Code Official is authorized to require that every request for inspection be filed not less than three working days before such inspection is desired. Such requests may be in writing or by telephone at the option of the Fire Code Official. The Fire Code Official will attempt to schedule the desired inspection within a 24 hour period of the request however, this can not be guaranteed. It shall be the duty of the person requesting any required inspections to provide access to and means for proper inspection of such work.”
- GGG. Section 106.2.3. Add new Section 106.2.3 to read as follows: “Section 106.2.3. Construction permits inspections. The City of Fountain Fire Department shall inspect or cause to be inspected every construction project that the City of Fountain Fire Department has approved a permit for prior to the issuance of a certificate of occupancy by the Regional Building Department.”
- HHH. Section 107.2.1. Delete Section 107.2.1 and replace with new section 107.2.1 to read as follows: “107.2.1. Test and inspection reports. Required test and inspection records shall be available for inspection by the fire code official at all times, or such records as designated by the Fire Code Official shall be filed with the Fire Code Official. Records of all system inspections, tests and maintenance required by referenced standards shall be completed after each inspection, tests, and maintenance performed and shall be maintained on the premise for a minimum of three years and a copy of such record shall be forwarded to the Fire Code Official immediately following the work performed.”
- III. Section 108.1. Delete Section 108.1 and substitute with the following: “108.1 Board of Appeals Established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and hereby created a board for the purpose of hearing appeals. The Board shall be known as the “Board of Adjustment” and appointed per the Fountain Municipal Code. Where the term “Board of Appeals” is used in the *International Fire Code*, it shall mean the Board of Adjustment of the City of Fountain as set forth in Chapter 2.15 of the Fountain Municipal Code. When hearing issues relative to this code the Board of Adjustment shall operate in accordance with Appendix A of this Code.”
- JJJ. Section 108.2. Delete Section 108.2 and substitute with the following: “Section 108.2. Appeals Process. All appeals shall be made in writing to the Fire Chief. An appeal to the Fire Chief’s decision shall be made in writing with the City of Fountain Clerks Office within thirty (30) days of the chief’s decision.”
- KKK. Section 108.3. Delete Section 108.3.

- LLL. Section 109.4. Amend Section 109.4 by inserting the following: “Misdemeanor” in place of SPECIFY OFFENCE, “One Thousand” in place of AMOUNT, and “One Year” in place of NUMBER OF DAYS.
- MMM. Section 111.4. Delete Section 111.4 and replace with the following: “111.4 Failure to comply. Any person who shall continue to work after being served with a stop work order and/or persons operating or maintaining an occupancy, premises or vehicle subject to this code who allow a hazard to exist and/or fail to take immediate action to abate a hazard on such occupancy, premises or vehicle when ordered or notified to do so by the Fire Chief may be cited for a violation of section 15-.16.080 of this Chapter.”
- NNN. Section 113.2 Amend Section 113.2 to read as follows: “113.2 Schedule of permit fees. A fee for each permit shall be paid as required, in accordance with the schedule established by City of Fountain ordinances or codes.”

### Chapter 3

- A. Section 307.1.2. Add a new Section 307.1.2 to read as follows: “307.1.2. Burn restrictions and burn bans. The Fire Code Official is authorized to issue a burn restriction or burn ban as deemed necessary when local conditions make recreational fires, open burning, other open flame or similar activities hazardous or objectionable.”
- B. Section 307.2.2. Add a new Section 307.2.2 to read as follows. “307.2.2. Air Quality Permits. Air quality permits may be required by the State of Colorado Department of Health Air Quality Program for any type of open burning listed in Section 307. It is the responsibility of the permit holder to contact the State of Colorado Department of Health to determine if an Air Quality Permit is required.”
- C. Section 307.4.1.1. Add a new Section 307.4.1.1 to read as follows: “Section 307.4.1.1 Bonfires. Bonfires include recreational and ceremonial fires that exceed the dimensional limits of a recreational fire or are conducted on public property shall require a burn permit.”
- D. Section 307.4.2. Delete Section 307.4.2 and substitute with the following: “Section 307.4.2 Recreational Fires. Recreational fires do not require a burn permit. Recreational Fires are fires conducted on private property and are enclosed in a permanently constructed fire pit made of non-combustible material such as brick, metal container, or fire ring with dimensions of the pit to be less than 3 ft in diameter and 2 ft in height. All materials burned in the fire pit must fit inside the dimensional confines of the fire pit and shall not be permitted to extend above or outside of the fire pit. Recreational fires shall not be conducted within 15 ft of a structure or combustible materials. Conditions which could cause a fire to spread to within 15 feet of a structure shall be eliminated prior to ignition. Burning of trash, rubbish and yard debris (leaves, weeds & grass clippings) is prohibited. All recreational burning shall comply with the administrative supplemental rules of the City of Fountain Fire Department.”

- E. Section 307.4.3. Delete the exception to Section 307.4.3.
- F. Section 307.5. Amend Section 307.5 to read as follows: “Section 307.5 Attendance. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended by a person 18 years of age or older, who must not be impaired or under the influence of an intoxicating substance until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. A resource to immediately contact the Fire Department such as a Regular or Mobile Telephone shall be available on site.
- G. Section 311.1.1. Amend Section 311.1.1 by adding an additional sentence to read as follows: “These situations will be referred to the Building Department in accordance with the 2011 Pikes Peak Regional Building Code Section RBC 112, and to the City Code Enforcement Division for appropriate action.”
- H. Section 315.3.3. Delete Section 315.3.3 and substitute the following: “315.3.3 Equipment rooms. Where a mechanical room is of sufficient size to allow for storage, it *will be permitted under the following guidelines:*
- Storage of any type must remain a minimum of 5 feet away from any type of mechanical appliance, or its listed clearance, whichever is greater.
  - Allowance of storage does not conflict with any other code(s).
  - No hazardous materials, flammable or combustible liquids, flammable solids or other highly dangerous substances shall be stored in any mechanical room.”
- I. Section 315.4. Add sentence to Section 315.4 to read as follows: “Outside storage of combustible materials shall not be located within 6 ft of a building.”

#### Chapter 4

- A. Section 401.1. Delete the exception from Section 401.1.
- B. Section 403.2. Delete first part of first sentence that states “In other than Group A or E occupancies.”
- C. Section 403.2.2. Add a new Section 403.2.2 to read as follows: “403.2.2. Inspections. Public assemblies and events shall be inspected as required by the Fire Chief.”
- D. Section 404.2. Amend Section 404.2 number 1 last line to read as follows: “occupancy load less than 1000.”
- E. Section 404.3.2. Amend Section 404.3.2, number 4, part 4.9 to read as follows: “4.9. Hose valve/standpipe stations.”

- F. Section 405.6 Delete Section 405.6 and replace with the following: “405.6. Notification. Prior notification of emergency evacuation drills shall be given to the fire code official”
- G. Section 405.10. Add a new Section 405.10 to read as follows: “405.10. Drill participation. When fire and evacuation drills are conducted, all persons who are subject to the fire drill requirements shall participate in the drill.”
- H. Section 407.2 Amend Section 407.2 to read as follows: “407.2 Material safety data sheets. Material Safety Data Sheets (MSDS) for all hazardous materials shall be either readily available on the premises as a paper copy, or where approved, shall be permitted to be readily retrievable by electronic access. Approved electronic access shall be as follows:
  - 1. Media shall be USB Flash Drive.
  - 2. Format shall be Microsoft Word 2000 or newer document, PDF, or other approved format.

Where a Knox Box is located at a facility, one USB device shall be stored in the Knox Box and one device shall be located in an approved location(s). All devices and content shall be maintained.”

## Chapter 5

- A. Section 503.1. Amend Section 503.1 to read as follows: “503.1. Where required. Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 5.3.1.3 and Appendix D.”
- B. Section 503.2. Amend Section 503.2. to read as follows: “503.2. Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8 and Appendix D.”
- C. Section 503.2.1. Amend Section 503.2.1 by deleting the words “Exclusive of Shoulders”
- D. Section 503.3.1. Add new Section 503.3.1 to read as follows: “503.3.1. Markings shall be provided and maintained in accordance with section D103.6.”
- E. Section 503.4. Amend Section 503.4 to read as follows: “503.4. Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1, Appendix “D” and any area marked as a fire lane as described in Section 503.3 shall be maintained at all times.”
- F. Amend Section 505.1. to read as follows: “505.1. Address Identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible

from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers. Numbers shall be a minimum of five (5) inches (127 mm) high with a minimum stroke width of one half (0.5) inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other means of signage shall be used to identify the structure.”

- G. Add a new Section 505.1.1 to read as follows: “505.1.1. Suite Numbers. Any area occupied by tenants of a mall or shopping center, the main entrance to which is from the inside of the mall or shopping center, or any area used for other than single-unit or multi-unit residential occupancy that abuts a public courtyard or other public space shall be identified by numbers that are a minimum of four (4) inches in height with no less than one half (1/2) inch stroke so as to be plainly visible and legible from a distance of at least fifty (50) feet from the main entrance to the area.”
- H. Add a new Section 505.1.2 to read as follows: “505.1.2. Addressing of Rear Doors. The rear entrance or access doors of all malls, strip center, commercial center buildings, and other areas with multi-tenant spaces shall be identified with the appropriate address number and business name. The address numbers and/or letters shall be at least four inches high with a minimum stroke width of 0.5 inch. The Fire Authority Having Jurisdiction may require the installation of address numbers/letters on other locations to prevent confusion in the event of an emergency.”
- I. Section 506.1. Amend Section 506.1 to read as follows: “506.1. Where required. In existing buildings where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes or where a monitored fire alarm system, fire sprinkler system, any other fire suppression systems or elevators exist in the building, a Knox™ box listed in accordance with UL 1037 shall be installed in an approved location unless otherwise authorized by the Fire Chief. Knox™ boxes shall be installed on all new businesses in existing buildings as required by the Fire Chief. Knox™ boxes shall be installed on all new commercial buildings built in the City of Fountain. Keys necessary to gain access to the building as required by the fire code official shall be contained in the Knox box.”
- J. Section 507.3. Amend Section 507.3 by adding a sentence to read as follows: “Reference Appendix B Fire-Flow Requirements for Buildings for requirements.”
- K. Section 507.4. Amend Section 507.4 by adding a second paragraph to read as follows: “On new construction sites, it will be the responsibility of the owner, general contractor, or site manager to have the private fire hydrant systems flow tested prior to requesting the fire department’s final inspections of the project. At no time shall any City of Fountain Fire Department personnel conduct fire flow testing of private hydrants. If this test occurs without fire department personnel or City of Fountain Water Department personnel on site, it will be deemed unacceptable by the inspector.

No fire finals are to be approved without acceptable fire flow tests of the applicable hydrant assemblies.”

- L. Section 507.5. Amend Section 507.5 by adding a sentence to read as follows: *“Reference Appendix C Fire Hydrant Locations and Distribution for requirements.”*
- M. Section 507.5.1. Amend Section 507.5.1 by deleting the distance of “400 feet” and replacing with “300 feet”.
- N. Section 507.5.1. Exceptions: Amend exception 1 by deleting the distance of “600 feet” and replacing with “500 feet”.
- O. Section 507.5.4.1. Add new Section 507.5.4.1 to read as follows: “Section 507.5.4.1. It shall be unlawful for any person, firm, corporation, private or public agency to deny or delay access by the fire department to any water source that can be used for the suppression of fire or other emergency to include refilling of fire apparatus during or immediately after a fire or other emergency event that requires the use of water.”
- P. Section 507.5.5.1. Add a new Section 507.5.5.1 to read as follows: “507.5.5.1. Vehicle parking around fire hydrants. Vehicles are to be kept clear of hydrants at all times. A minimum of 15 feet in all directions, as measured laterally along the road edge, shall be maintained in the front of all hydrants.”

## Chapter 6

- A. Section 603.3.2.1. Delete the exception from Section 603.3.2.1 and substitute with the following: “Exception: The aggregated capacity limit shall be permitted to be increased to 2000 gallons of Class II or Class III combustible liquid for storage in protected above ground tanks complying with section 5704.2.9.7, when all of the following conditions are met:
  - 1. The entire 2000 gallon quantity shall be stored in above ground tanks with spill containment.
  - 2. The 2000 gallon capacity shall be stored in multiple tanks with a maximum capacity of 660 gallons for each tank.
  - 3. The tanks shall be located in a room protected with an automatic sprinkler system complying with section 903.3.1.1.”
- B. Section 603.8. Delete “residential type” from this section.
- C. Section 603.8.1. Delete Section 603.8.1 and substitute the following: “603.8.1. Residential Incinerators. The use of residential incinerators is prohibited.”
- D. Section 605.5.1. Delete Section 605.5.1 and substitute the following: “605.5.1. Power Supply. Extension cords shall be plugged directly into an approved receptacle. Extension

cords shall only serve one portable appliance. Extension cords shall be unplugged from the power source when not in use.”

- E. Section 609.3.3.3. Delete the last sentence of Section 609.3.3.3 and substitute with the following: “Such records shall be completed after each inspection or cleaning and maintained on the premise for a minimum of three years and a copy of such record shall be forwarded to the fire code official immediately following the inspection or cleaning.”

## Chapter 9

- A. Section 901.1. Add a second sentence to read as follows: “901.1. Scope. The Fire Code Official shall have the primary authority to regulate and enforce the provisions of this chapter in agreement with the Building Official.”
- B. Section 901.2. Renumber existing Section 901.2 as Section 901.2.1.
- C. Section 901.2.1. Renumber existing Section 901.2.1 as Section 901.2.2.
- D. Section 901.2. Add a new Section 901.2 to read as follows: “901.2. Approved contractors. All sprinkler systems shall be installed, repaired, inspected, tagged, and maintained by a Colorado State and Pikes Peak Regional Building Department (PPRBD) FSC-A licensed fire sprinkler contractor. All multi-purpose residential fire sprinkler systems in one-and two-family dwellings shall be installed, repaired, inspected, tagged and maintained by a Colorado State and PPRBD FSC-M licensed fire sprinkler contractor. All fire extinguishers shall be repaired, inspected, tagged, and maintained by a PPRBD FSC-B, -C, or -D licensed contractor or as approved by the City of Fountain Code Official on an annual basis. Fixed fire protection systems shall be installed, repaired, inspected, tagged, and maintained by a Colorado State and PPRBD FSC-B licensed fire suppression contractor in accordance with manufacturers’ specifications. These specifications shall be followed in order to maintain specific listings. Fire alarm contractors performing installation, inspection, testing and/or maintenance of any fire alarm system shall be NICET level II and approved by the City of Fountain Fire Department. Fountain Fire Department, approved Fire alarm contractors shall be registered with the Fountain Fire Prevention Division. Construction documents for fire protection systems shall be submitted, reviewed, approved and a permit issued prior to system installation. An approved set of plans and permit shall be on site during any fire protection system installation.”
- E. Section 901.3.1. Add a new Section 901.3.1 to read as follows: “901.3.1 Relocations and additions to fire sprinkler systems in existing facilities.
  1. Any additions or remodeling to existing commercial sprinkler systems that involve 20 sprinkler heads or less shall require a permit through the Fire Prevention Division.
  2. Any additions or remodeling to existing commercial sprinkler systems that involve 20 sprinkler heads or less will require a letter from a State of Colorado

and PPRBD licensed sprinkler contractor addressed to the City of Fountain Fire Prevention Division. This letter shall be on the sprinkler contractor's letterhead and include the following information:

- a. All work performed will be completed by the licensed sprinkler contractor indicated on the letterhead.
  - b. The hydraulic supply to the system in this area will be sufficient and that no hydraulic overloading exists.
  - c. The system will be installed in accordance with all applicable local and national standards (e.g. International Building Code and NFPA 13).
  - d. The scope of the work being conducted including the building name and address as well as interior area location.
  - e. The number of heads being relocated and/or installed.
  - f. A time schedule of the work being performed, giving start and completion dates.
3. This does not apply to spray booths, NFPA 13D, and 13R systems, special hazard systems, or other special stipulations previously mandated and required by the Fire Prevention Division.
  4. All systems with more than 20 heads shall include all of the information set forth in E.1. and E.2. and must conform to all local and state standards including plan submittal, permits, and other requirements."

- F. 901.4.2.1. Add a new Section 904.2.1 to read as follows: "901.4.2.1. Exceptions. In buildings that do not require any other fire protection system by this code, the International Building Code or NFPA 101 the Life Safety Code, the building has a KNOX Box and the total square footage of the building is less than 6,000 square feet; a non-standard fire alarm system shall be authorized. The non-standard fire alarm system shall be approved by the City of Fountain Fire Department and may have only one phone line and may be attached to an existing burglar alarm system."
- G. 901.6.2. Delete Section 901.6.2 and substitute with the following: "901.6.2. Records. Records of all system inspections, tests and maintenance required by referenced standards shall be completed after each inspection, tests, and maintenance performed and shall be maintained on the premise for a minimum of three years and a copy of such record shall be forwarded to the fire code official immediately following the work performed."
- H. Section 901.11. Add a new Section 901.11 to read as follows: "901.11. Clear space around fire protection equipment. A three (3) foot clear space shall be maintained in front of, to the side of, and around, as applicable, fire sprinkler riser assemblies, to include all control valves, hose valves, fire alarm control panels, fire alarm annunciators, and power supply panels. This clear space shall include an unobstructed path of travel to the fire protection system appurtenances."
- I. Section 903.2.3. Delete section 903.2.3 including the exception and substitute the following: "903.2.3 Group E. An automatic sprinkler system shall be provided

throughout all buildings that contain a Group E occupancy where one of the following conditions exist:

1. Where the Group E Occupancy exceeds 12,000 square feet;
2. Where the Group E fire area has an occupancy load of 300 or more students;  
or
3. Where the Group E Occupancy fire area is located on a floor other than the level of exit discharge. (Exception Deleted)”

- J. Section 903.2.9.2. Delete Section 903.2.9.2 and substitute the following: “903.2.9.2. Bulk storage of tires. Buildings and structures where the area for the storage of tires exceeds 6,000 cubic feet shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”
- K. Section 903.2.11.3. Delete Section 903.2.11.3 and substitute with the following: “903.11.3 Buildings over 55 feet or more in height. An automatic sprinkler system shall be installed through out buildings with a floor level having an occupant load of 15 or more that is located 55 feet or more above the lowest level of fire department vehicle access.”
- L. Section 903.3.1.4. Add a new Section 903.3.1.4 to read as follows: “903.3.1.4 Antifreeze Systems. Antifreeze systems shall be prohibited for use in NFPA 13D systems and prohibited for use in dwelling units or sleeping areas of NFPA 13R systems.”
- M. Section 903.4.2.1. Add a new Section 903.4.2.1 to read as follows: “903.4.2.1. Waterflow alarm systems. Waterflow alarm systems shall be provided with a minimum of one interior audible and visual waterflow alarm appliance, and one pull station located in a normally occupied location. Additional initiating and/or notification devices may be required by the Fire Code Official. These systems shall also include an exterior audible and visual waterflow alarm appliance located within 10 feet of the FDC. Exterior audible and visual alarms shall have a sign below that states “Fire Alarm – When Alarm Sounds Call 911”. In buildings with multiple separate tenants being served by the same automatic sprinkler system at least one interior audible and visual alarm appliance shall be placed in each tenant space.  
Exceptions:
1. NFPA 13 R systems only require one interior audio and visual water flow alarm appliance, pull stations are not required.
  2. Apartment buildings with a common exterior breezeway need not be provided with a pull station.”
- N. Section 904.11.2. Amend Section 904.11.2 to read as follows: “904.11.2. System Interconnection. The actuation of the fire extinguishing system shall automatically shut down the fuel and/or electrical power supply to the cooking equipment and any electrical receptacles which are capable of supplying an ignition source under the

hood. Any receptacles that could be used to power appliances located under the hood shall also be shut down. The fuel and electrical supply reset shall be manual.”

- O. Section 904.11.6.4. Add a new Section 904.11.6.4 to read as follows: “904.11.6.4. Ventilation System Interconnection. Upon activation of the fire suppression systems, the exhaust for the hood shall remain on.
  
- P. Section 905.3.1. Amend Section 905.3.1 to read as follows: “905.3.1. Building height. Class I automatic wet standpipe system shall be installed throughout buildings where the floor level of the highest story is located more than 30 feet above the lowest level of the Fire Department vehicle access, or where the floor level of the lowest story is located more than 30 feet below the highest level of fire department vehicle access.  
Exception:
  - 1. Class I manual dry standpipes are allowed in open parking garages that are subject to freezing temperatures.
  - 2. In determining the lowest level of fire department vehicle access, it shall not be required to consider:
    - 2.1. Recessed loading docks for four vehicles or less, and
    - 2.2. Conditions where topography makes access from the fire department vehicle to the building impractical or impossible.”
  
- Q. Section 905.3.4. Amend Section 905.3.4 to read as follows: “905.3.4. Stages. Stages greater than 1,000 square feet in area shall be equipped with a Class I wet standpipe system with 2½ inch hose connections on each side of the stage.”
  
- R. Section 905.3.4.1. Delete Section 905.3.4.1 in its entirety.
  
- S. Section 905.5. Delete entire Section 905.5 through 905.5.3.
  
- T. Section 906.1.1. Add new Section 906.1.1 to read as follows: “Section 906.1.1. Minimum Required Rating. Fire extinguishers shall be multi class A-B-C dry chemical extinguishers with a minimum rating of 2-A; 20-B; C. Exception: Special hazard extinguishers shall be used in place of dry chemical extinguishers where a special hazard exists. Only K-class extinguishers shall be used in commercial kitchens. *Cold Fire* extinguishers may be used in place of dry chemical extinguishers on approval of the fire code official.”
  
- U. Section 907.2.2. Section 907.2.2 delete item 1 and substitute with the following: “1. The combined Group B occupant load of all floors 300 or more.”
  
- V. Section 907.2.3.1. Add new Section 907.2.3.1 to read as follows: “907.2.3.1. Monitoring. Group E occupancies with an occupancy load of less than 50 persons shall NOT be required to be equipped with a monitored fire alarm system.”
  
- W. Section 907.2.4. Section 902.4 delete item 2 and substitute with the following: “2. The Group F occupancy has combined occupancy load of 500 or more.”

- X. Section 907.2.6.4 Add new Section 907.2.6.4 to read as follows: “Section 907.2.6.4. Exceptions. All exceptions listed in 907.2.6 through 907.2.6.3.3 shall be referenced and listed on the cover sheet of the plan submittal and shall be authorized by the fire code official.”
- Y. Section 907.2.8.3. Amend Section 907.2.8.3 to read as follows: “907.2.8.3. Smoke Alarms. Single- and multiple-station smoke alarms shall be installed in accordance with Section 907.2.11. Smoke alarms provided in guest rooms may be annunciated at the fire alarm control panel as supervisory only.”
- Z. Section 907.2.11.2. Amend Section 907.2.11.2 to read as follows: “907.2.11.2. Groups R-2, R-3, R-4, I-1, Single or multiple station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4, I-1, of the occupancy load at all of the following locations:
1. On the ceiling outside of each separate sleeping area in the immediate vicinity of bedrooms.
  2. In each room used for sleeping purposes.  
Exception: Single & multiple-station smoke alarms are not required in Group I-1 where smoke detectors are provided in sleeping rooms as part of an automatic detection system.
  3. In each story within a dwelling unit including the basements but not including crawl spaces and uninhabitable attics.
  4. Single and multiple station alarms shall only be mounted on ceilings. Wall mounting of these devices shall be prohibited.”
- AA. 907.2.11.4.1. Add a new section 907.2.11.4.1 to read as follows: “907.2.11.4. 1. Labeling: Labeling of powered supply circuits shall comply with the provisions of NFPA 70 and NFPA 72.”
- BB. Section 907.4.2.4. Amend Section 907.4.2.4 to read as follows: “907.4.2.4. Signs. Where fire alarm systems are not monitored by a supervising station, an approved permanent sign shall be installed adjacent to each manual fire alarm box that reads: FIRE ALARM – WHEN ALARM SOUNDS – CALL 911.”
- CC. Section 907.6. Amend Section 907.6 to read as follows: “907.6 Installation. A fire alarm system shall be installed in accordance with Sections 906.6.1 through 907.6.7 and NFPA 72.”
- DD. Section 907.6.5. Amend Section 907.6.5 by deleting exception #2.
- EE. Section 907.6.5.3. Add new section 907.6.5.3 to read as follows: “Section 907.6.5.3. All new Fire Alarm Systems installed in the City of Fountain shall be monitored by an approved Central Station Service complying with NFPA 72 (Exception: Where specifically not required by other provisions of this code). All Installation shall be

certificated. An approved Central Station Service complying with NFPA 72 shall monitor all existing Fire Alarm Systems in sprinkled buildings with more than 20 sprinkler heads. Installation shall be certificated. All existing Proprietary Supervising Station Systems shall comply with NFPA 72. Proprietary Supervising Station Systems shall be approved by the Fire Chief. All existing Remote Supervising Station Systems shall comply with NFPA 72. Location of the Remote Supervising Station shall be approved by the City of Fountain Fire Chief. Remote Supervising Stations monitoring Fire Alarm Systems in the City of Fountain shall be located within El Paso County, Colorado. Remote Supervising Station Systems shall be approved by the Fire Chief. All Commercial Fire Alarm Systems are required to be monitored unless otherwise permitted by the Fire Chief. Local Alarm Systems require approval of the Fire Chief.”

- FF. 907.6.7. Add a new section 907.6.7 to read as follows: “907.6.7 Signal Silence. The operation of the signal silence at the fire alarm control panel shall only deactivate the horns from sounding. The strobes shall continue to flash in the signal silence mode. This section shall apply to all new installations and existing fire alarm systems.”
- GG. Section 907.7.2.1. Add new Section 906.7.2.1 to read as follows: “Section 907.7.2.1. A copy of the alarm system monitoring contract and alarm system maintenance contract shall be available for inspection by the fire code official during the acceptance testing. The alarm system shall be on line and monitored at the completion of the acceptance test.”
- HH. Section 907.7.3.1. Add new Section 907.7.3.1 to read as follows: “Section 907.7.3.1. A map showing the location of all initiating devices and addressable identification corresponding with the fire alarm control panel shall be located at the fire alarm control panel or other approved location.”
- II. Section 907.8.5. Section 908.9.5 delete the last sentence and substitute with the following: “A written record shall be maintained on the premises and the annual inspection report shall be copied and forwarded to the fire code official.”
- JJ. Section 912.1.1. Add a new section 912.1.1 to read as follows “912.1.1 Fire Department Connections (FDC’s). Unless approved by the Fire Code Official, dead end mains shall not be used when all of the following are located on a single tap main:
- 1) Automatic fire sprinkler systems.
  - 2) Fire hydrants supporting the Fire Department Connection.
- KK. Section 912.1.2. Add a new Section 912.1.2 to read as follows: “912.1.2 Inlets. There shall be a minimum of a Siamese connection with one 2 ½” connection for every 250 gallons per minute (GPM) of sprinkler demand. Exception: As allowed by NFPA 13R or 13D.”

- LL. Section 912.1.3. Add a new Section 912.1.3 to read as follows: “912.1.3. Multiple FDC’s. When demand of sprinkler system exceeds 1500 gallons per minute (GPM) additional FDC’s shall be provided and located as specified by the fire code official. Multiple FDC’s shall be of equal capacity.”
- MM. Section 912.4.1. Add a new Section 912.4.1 to read as follows: “912.4.1. Signage specifics. Fire department connections and the horn/strobes shall be provided with adequate signage posted as needed to properly indicate the exact device type and exact area(s) served, along with a no parking signage and shall be approved by the Fire Chief.”
- NN. Section 912.4.2. Add a new Section 912.4.2 to read as follows: “912.4.2 Indicating device. A listed water flow horn/strobe indicating device shall be located within 10 feet of the fire department connection, signage shall state “Fire Alarm – When Alarm Sounds Call 911”, and shall be highly visible.”

## Chapter 10

- A. [B] Section 1007.8.1. Amend Section 1007.8.1 by deleting the second sentence. RBC 302.4.14.
- B. [B] 1029.4 Amend Section 1029.4 by adding the following after the second sentence: “The force required for normal operations shall not exceed 30 lbs.” RBC 302.4.16.
- C. [B] Section 1029.6. Add a new Section 1025.5.3 to read as follows: “1029.6. Horizontal projections. Emergency escape openings below horizontal projections. Emergency escape openings shall not be located below decks, porches, cantilevers and similar horizontal projections.  
Exception provided one of the following applies:
- a. The minimum horizontal area of 9 square feet (0.84 m<sup>2</sup>) is provided clear of the projection and the horizontal projection of the operable portion of the egress window and ladder or steps, if required, remain clear of the projection.
  - b. The vertical distance between the top edge of the window well and the bottom of the projection is at least 36 inches (610 mm).
- D. Section 1030.4.1. Add a new Section 1030.4.1 to read as follows: “1030.4.2. Additional Exit Signs. The Fire Code Official may require additional exit signage as follows. On any door leading directly to the exterior that can be used as an exit. Additional exit signs are not required to be illuminated.”

## Chapter 11

- A. Section 1101.1. Amend Section 1101.1 to read as follows: “1101.1. Scope. The provisions of this chapter shall apply to buildings constructed prior to the adoption of this code and are undergoing alterations, remodel, or occupancy re-classification changes.”
- B. Section 1101.4.4. Add a new Section 116.4.4 to read as follows: “1101.4.4. Variance. The authority having jurisdiction (AHJ) may issue a variance to any of the provisions of chapter 46 where in is not practical or poses an undue hardship. Granting of a variance shall be based on showing of good cause and a request shall be made in writing from the building owner.”

### Chapter 23

- A. Section 2303.2. Delete Section 2303.2 and replace with the following: “2303.2. Emergency disconnect switches. Approved, clearly identified, and readily accessible emergency disconnect switches shall be provided at approved locations to stop the transfer of fuel to the fuel dispensers in the event of a fuel spill or other emergency.

Two emergency disconnect switches for exterior fuel dispensers shall be required as follows:

1. Exterior: Shall be located within 100 feet of, but not less than 20 feet from, the fuel dispensers. Provide a mushroom style switch that is readily accessible and must cut off power to all dispensers and pumps.
2. Interior: Shall be located at the Attendant duty location. Provide a palm-type switch button which will shut off the flow of fuel and cut off power to all dispensers and pumps.
3. Emergency disconnect switches shall shut-off the power in conformance with the National Electrical Code (National Fire Protection Association (NFPA-70) and NFPA-30A.
4. Emergency controls shall be of a type which is only manually resettable. For interior fuel-dispensing operations, the emergency disconnect switch shall be installed at an approved location.”

- B. Section 2303.2.1. Add a new Section 2303.2.1 to read as follows: “2303.2.1. Emergency disconnect switch signage. Signs shall be provided in approved locations and of the legible size:
  1. Interior: At least 1 inch in height and 1/8 inch stroke Red on White background.
  2. Exterior: At least 2 inches in height and 1/4 inch stroke Red on White background.”

Chapter 28

- A. Section 2803.5.3. Delete Section 2803.5.3 and replace with the following: “2803.5.3. Smoking. Smoking is prohibited in lumberyards and woodworking facilities, except in fire department approved and designated areas. Owner or occupant shall post “No Smoking” signs conspicuously throughout the facility. Also see *International Fire Code* Section 310 Smoking.”
- B. Section 2804.3. Amend Section 2804.3 to read as follows: “2804.3. Portable fire extinguishers. Portable fire extinguishers shall be provided within 50 feet of travel distance to any machine producing shavings or sawdust. Extinguishers shall be provided in accordance with Section 906 for extra-high hazards.”

Chapter 31

- A. Section 3103.2. Amend Section 3103.2 to read as follows, and delete all exceptions: “3103.2. Approval Required. Individual or multiple tents, canopies and membrane structures having individual or contiguous area in excess of 1000 square feet shall not be erected, operated or maintained for any purpose without first obtaining a temporary use permit and approval from the City Planning Department. Tents, canopies and membrane structures in excess 2400 square feet require a construction permit from the fire code official.”

Chapter 32

- A. Table 3206.2. Amend Table 3206.2 to read as follows:

TABLE 3206.2 (Formerly Chapter 23)

COMMODITY CLASS	SIZE OF HIGH-PILE STORAGE AREA <sup>a</sup> (SQUARE FEET) (SEE SECTIONS 2306.2 & 2306.4)	ALL STORAGE AREAS (See Sections 2306, 2307 and 2308) <sup>b</sup>					SOLID-PILED STORAGE, SHELF STORAGE & PALLETIZED STORAGE (SEE SECTION 2307.3)		
		Automatic fire-extinguishing system (SEE SECTION 2306.4)	Fire detection system (SEE SECTION 2306.5)	Building Access (SEE SECTION 2306.6)	Smoke & heat removal (SEE SECTION 2306.7)	Draft curtains <sup>i</sup> (SEE SECTIONS 2306.7 and 910.3.4)	Maximum pile dimension <sup>c</sup> (feet)	Maximum permissible storage height <sup>d</sup> (feet)	Maximum pile volume (cubic feet)
I - IV	0- 500	Not Required <sup>a</sup>	Not Required	Not Required <sup>e</sup>	Not Required	Not Required	Not Required	Not Required	Not Required
	501- 2,500	Not Required <sup>a</sup>	Yes <sup>h</sup>	Not Required <sup>e</sup>	Not Required	Not Required	100	40	100,000
	2,501-12,000	Yes	Not Required	Not Required <sup>e</sup>	Not Required	Not Required	100	40	400,000
	12,001-20,000	Yes	Not Required	Yes	Yes	Not Required	100	40	400,000
	20,001-500,000	Yes	Not Required	Yes	Yes	Not Required	100	40	400,000
	Greater than 500,000 <sup>b</sup>	Yes	Not Required	Yes	Yes	Not Required	100	40	400,000
	0-500	Not Required <sup>a</sup>	Not Required	Not Required <sup>e</sup>	Not Required	Not Required	50	Not Required	Not Required

HIGH - HAZARD	501-2,500	Yes	Not Required	Not Required <sup>e</sup>	Not Required	Not Required	50	30	75,000
	2,501-300,000	Yes	Not Required	Yes	Yes	Not Required	50	30	75,000
	300,001-500,000 f, g	Yes	Not Required	Yes	Yes	Not Required	50	30	75,000

<sup>a</sup> When automatic sprinklers are required for reasons other than those in Chapter 32, the portion of the sprinkler system protecting the high-pile storage area shall be designed and installed in accordance with Sections 3207 and 3208.

<sup>b</sup> For aisles, see Section 3206.9

<sup>c</sup> Piles shall be separated by aisles complying with Section 3206.9.

<sup>d</sup> For storage in excess of the height indicated, special fire protection shall be provided in accordance with Note <sup>g</sup> when required by the fire marshal. See also Chapters 51 and 57 for special limitations for aerosols and flammable and combustible liquids.

<sup>e</sup> Section 503 shall apply for fire apparatus access.

<sup>f</sup> Special fire protection provisions including, but not limited to, fire protection of exposed steel columns; increased sprinkler density; additional in-rack sprinklers, with-out associated reductions in ceiling sprinkler density; or additional fire department hose connections shall be provided when required by the fire marshal.

<sup>g</sup> High-piled storage areas shall not exceed 500,000 square feet. A 2-hour fire-wall constructed in accordance with the *International Building Code* shall be used to divide high-pile storage exceeding 500,000 square feet in area.

<sup>h</sup> Not required when an automatic fire-extinguishing system is designed and installed to protect the high-piled storage area in accordance with Sections 3207 and 3208.

<sup>i</sup> Draft curtains are permitted ONLY in non-fire sprinkled structures as per Section 3206.7. and 910.3.4.

<sup>j</sup> Not required when storage areas are protected by early suppression fast response (ESFR) sprinkler systems installed in accordance with NFPA 13.

- B. Amend Section 3206.6.1.3 to read as follows: “3206.6.1.3. Locking Devices. Only approved locking devices shall be used. All doors required by Section 3206.1 shall be keyed the same and master keys to doors shall be provided in the required on-site Knox™ box.”

### Chapter 33

- A. Add a new Definition 3302.2 to read as follows: “3302.2. Temporary Fire Access Road. Temporary access roads shall be an all weather surface comprised of either the first lift of asphalt or concrete/compacted gravel to a thickness capable of supporting the imposed loads of fire department apparatus. A 20 foot minimum width shall be maintained. Adequate street signs and fire lane signs shall be installed where applicable. Temporary access roads must be maintained in accordance with this section. Temporary roads serving as fire lanes shall not be in place more than 6 months without special approval from the fire department.”
- B. Section 3310.1.1. Add a new Section 3310.1.1 to read as follows: “3310.1.1. Minimum specifications for temporary roads. Temporary access roads shall be an all weather surface comprised of either the first lift of asphalt or concrete/compacted gravel to a thickness capable of supporting the imposed loads of fire department apparatus. A 20 foot minimum width shall be maintained. Adequate street signs and fire lane signs shall be installed where applicable and addresses shall be provided for all buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

- a. Any damage made to the temporary access roadway shall be repaired within 5 working days weather permitting and shall be completed prior to finishing of the roadway to its final/permanent state.
  - b. Fire apparatus access roads shall not be obstructed in any manner, including parking of any vehicles.
  - c. Temporary roads serving as fire lanes shall not be in place more than 6 months without special approval from the fire department.”
- C. Section 3312.1. Delete section 3312.1 and replace with the following: “3312.1. Water Supply. All water mains and fire hydrants shall be installed and operational prior to the arrival of combustible materials on the site.”

#### Chapter 34

- A. Section 3405.8. Add a new Section 3405.8 to read as follows: “Section 3405.8. Outside Commercial Display of Tires. Commercial display of tires in racks shall be at least 3 feet from buildings. Display of tires stacked on end shall be not more than 6 feet in height and shall be at least 3 feet from buildings. Tires for outside commercial display shall comply with section 3405.”
- B. Section 3409.2. Add a new Section 3409.2 to read as follows: “3409.2. Bulk storage of tires. Buildings and structures where the area for the storage of tires exceeds 6,000 cubic feet shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.”

#### Chapter 50

- A. Section 5003.1.5. Add a new Section 5003.1.5 to read as follows: “5003.1.5 Information required. A report shall be submitted to the building official and fire official identifying the maximum expected quantities of hazardous materials to be stored, used in a closed system and used in an open system, and subdivided to separately address hazardous materials classification categories based on IFC Tables 5003.1.1(1) through 5003.1.1(4). The methods of protection from such hazards, including but not limited to control areas, fire protection systems and group H occupancies shall be indicated in the report and on the construction documents. The report shall be prepared by a qualified, competent person, firm or corporation approved by the building and fire official and provided without charge to the enforcing agency. For buildings and structures with an occupancy in Group H, separate floor plans shall be submitted identifying the location of anticipated contents and processes so as to reflect the nature of each occupied portion of every building and structure. Hazardous material information shall be reported using an approved electronic format, if available, and/or in accordance with the provisions of Appendix H.”

- B. Section 5003.4. Amend Section 5003.43 to read as follows: “5003.4. Material safety data sheets. Material safety data sheets shall be readily available on the premises for hazardous materials regulated by the chapter and shall be in accordance with the provisions of Section 407. When a hazardous substance is developed in a laboratory, available information shall be documented.”
- C. Section 5004.2.1. Amend Section 5004.2.1 to read as follows: “5004.2.1. Spill control for hazardous material liquids. Rooms, buildings or areas used for storage of hazardous material liquids in individual vessels having a capacity of more than 50 gallons, or in which the aggregate capacity of multiple vessels exceeds 100 gallons, shall be provided with spill control to prevent the flow of liquids to adjoining areas. Floors in indoor locations and similar surfaces in outdoor locations shall be constructed to contain a spill from the largest single vessel by one of the following methods:
1. Liquid-tight sloped or recessed floors in indoor locations or similar areas in outdoor locations.
  2. Liquid-tight floors in indoor locations or similar areas in outdoor locations provided with liquid-tight raised or recessed sills or dikes.
  3. Sumps and collection systems.
  4. Other approved engineered systems.

Except for surfacing, the floors, sills, dikes, sumps and collection systems shall be constructed of noncombustible material, and the liquid-tight seal shall be compatible with the material stored. When liquid-tight sills or dikes are provided, they are not required at perimeter openings having an open-grate trench across the opening that connects to an approved collection system.”

- D. Section 5004.2.2. Amend Section 5004.2.2 to read as follows: “5004.2.2. Secondary containment for hazardous material liquids and solids. Where required by Table 5004.2.2 buildings, rooms or areas used for the storage of hazardous materials liquids or solids shall be provided with secondary containment in accordance with this section when the capacity of an individual vessel or the aggregate capacity of multiple vessels exceeds the following:
1. Liquids: Capacity of an individual vessel exceeds 50 gallons (114 L) or the aggregate capacity of multiple vessels exceeds 100 gallons (208 L); and
  2. Solids: Capacity of an individual vessel exceeds 400 pounds (136.1 kg) or the aggregate capacity of multiple vessels exceeds 750 pounds (249.5 kg).”

## Chapter 56

- A. Section 5601.1.3. Delete Exception 4.

- B. Section 5601.2.2. Amend Section 5601.2.2 to read as follows: “No person shall construct a retail display nor offer for sale explosives, explosive materials, or fireworks within the City of Fountain.”
- C. Section 5606.4 Amend section 5606.4 to read as follows: “5606.4 Storage in Group R and buildings designed under the International Residential Code. The storage of small arms ammunition in Group R occupancies, one & two family dwellings, and townhomes shall comply with sections 5606.4.1 and 5606.4.2.”
- D. Section 5606.4.1 Add the following after Group R occupancies: “or residential occupancies including one & two family dwellings, and townhomes”
- E. Section 5606.4.2 Add the following sentence to the end of Section 5606.4.2: “Quantities exceeding these amounts shall not be stored in any Group R occupancy or residential occupancies including one & two family dwellings, and townhomes.”
- F. Section 5606.4.3 change Group R - 3 occupancies to: “Group R occupancy or residential occupancies including one & two family dwellings, and townhomes.
- G. Section 5609. Delete Section 5609 in its entirety.

#### Chapter 58

- A. Section 5803.1.7. Add a new Section 5803.1.7 to read as follows: “5803.1.7. Location. Portable or manifold cylinders located inside of a building shall be stored in a well-ventilated, dry location at least 20 (6.1m) feet from combustible material and at least 10 (1m) feet from elevators, stairways, corridors, exits or in areas normally used, or intended to be used, as a means of egress.”

#### Chapter 80

- A. NFPA add the following sentence to the section titled NFPA: “Applicable NFPA standards shall be the current most updated edition as of January first the year following their adoption.”

#### Appendix A

- A. Appendix A. Delete entire Appendix A and replace with the following: “Appendix A, Board of Appeals:
- B. Section A101 Board of Appeals Established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and hereby created a board for the purpose of hearing appeals. The Board shall be the Board of Adjustment as established pursuant Chapter 2.15 of the Fountain Municipal Code. Where the term “Board of Appeals” is used in the *International Fire Code*, it shall mean the Board of Adjustment of the City of Fountain.

When hearing issues relative to this code the Board of Adjustment shall operate in accordance with Appendix A of this Code and Chapter 2.15 of the Fountain Municipal Code.

- C. Section A102 Scope. The Board of Appeals/Adjustments shall be authorized to hear evidence from the appellants and the fire code official pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.
- D. Section A103 Decisions. Every decision shall be promptly filed in writing in the office of the Fire Code Official and shall be open to public inspection. A certified copy shall be sent by mail or otherwise delivered to the appellant. A copy shall be publicly posted at each of the fire stations for a period of 2 weeks after filing.
- E. Section A104 Adoption. Appendix A is adopted by reference as amended.

#### Appendix B

- A. Section B101.1 Amend Section B101.1 by adding a sentence to read as follows:  
“Appendix B is adopted by reference.”

#### Appendix C

- A. Section C101.1 Amend Section C101.1 by adding a sentence to read as follows:  
“Appendix C and amendments are adopted by reference.”
- B. Section C105.1. Amend Section C105.1 to read as follows: “Residential areas with one and two family dwellings with a square footage of less than 7000 sq. ft. shall have a hydrant spacing of 500 feet driving distance or less. The maximum distance from any point on the street to a fire hydrant shall be 250 feet or less. For one and two family residences in excess of 7000 sq ft. the average fire hydrant spacing and number of fire hydrants shall not exceed that listed in table C105.1. Maximum set back of residential structures from fire apparatus access or from the street shall be less than 50 feet or as otherwise approved by the Fire Chief.”
- C. Section C105.2. Add new Section C105.2 to read as follows: “In Commercial areas the maximum average hydrant spacing shall be 300 ft or less. The maximum distance from any point on the street to a fire hydrant shall be 250 feet or less in commercial areas regardless of fire flow. For a commercial building to receive credit for a fire hydrant it shall be 350 ft or less driving distance from the building. Maximum set back of commercial structures from fire department access roads or the street shall be 75 feet or as otherwise approved by the Fire Chief. ”
- D. Section C105.3. Add new Section C105.3 to read as follows: “Maximum distance from a public street frontage to a fire hydrant shall be less than 25 feet from the curb or the edge of the pavement. Maximum distance to any fire hydrant from a fire apparatus access road edge shall be less than 40 feet.”

- E. Section C105.4. Add new Section C105.4 to read as follows: “Dead ends. A fire hydrant is required in each dead end or cul-de-sac.”

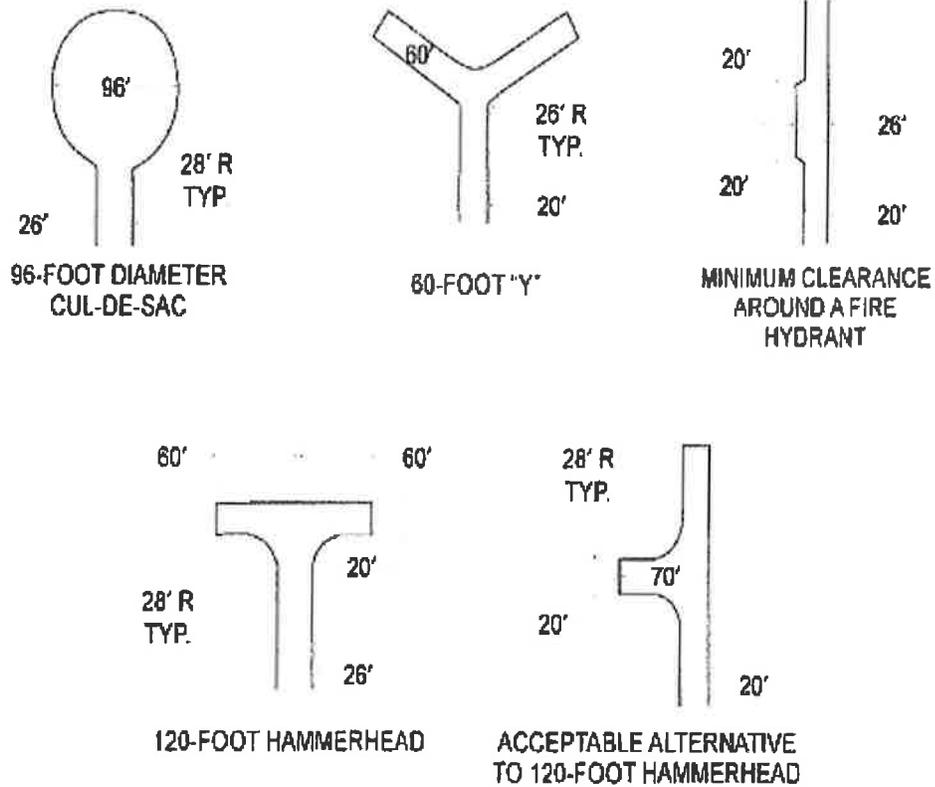
Appendix D

- A. Section D101.1 Amend Section D101.1 by adding a sentence to read as follows: “Appendix D and amendments are adopted by reference.”
- B. Section D102.1. Amend Section D102.1 to read as follows: “D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 80,000 pounds (34,050 kg) with a minimum single axle weight of 28,000 pounds. Alternative methods such as brick pavers, road base, and gravel, ect. may be considered on a case by case basis. A state of Colorado Certified Civil Engineer must approve the design and instillation as being capable of supporting 80,000 LBS gross vehicle weight in all weather conditions.”
- C. D103.1 Amend Section D103.1 by deleting the words exclusive of shoulders.
- D. Section D103.4 Amend section to read as follows: “D103.4 Dead Ends. Dead end fire apparatus access roads in excess of 100 feet shall be provided with width and turnaround provisions in accordance with Table D103.4.”

**SECTION D103  
MINIMUM SPECIFICATIONS**

**D103.1 Access road width with a hydrant.**

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).



For SI: 1 foot = 304.8 mm.

**FIGURE D103.1  
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND**

**2012 INTERNATIONAL FIRE CODE\***

E. DELETE TABLE 103.4 AND REPLACE WITH THE FOLLOWING:

TABLE D103.4 - MIN. REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

LENGTH (FEET)	MINIMUM WIDTH (FEET)	MINIMUM TURNAROUNDS REQUIRED
100-150	20	96-FOOT DIAMETER CUL-DE-SAC IN ACCORDANCE WITH FIGURE D103.1
150 – 500	26	120 - FOOT HAMMERHEAD, 60 - FOOT “Y”, 96 - FOOT DIAMETER CUL-DE-SAC IN ACCORDANCE WITH FIGURE D103.1.
OVER 500		SPECIAL FIRE DEPARTMENT APPROVAL IS REQUIRED.

FOR SI: 1 FOOT = 304.8mm.

F. Section D103.6. Amend Section D103.6 to read as follows: “D103.6 Signs. Where required by the *fire code official*, fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Section D103.8. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.”

G. Section D103.7. Add a new Section D103.7 to read as follows: “D103.7. Striping. Complying with Figure D103.7, fire apparatus access roads shall be marked by painted lines of red traffic paint six (6) inches in width to show the boundaries of the lane.

Where fire lane signage is not used the words “No Parking Fire Lane” shall appear in four (4) inch white reflective letters at thirty (30) feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.”

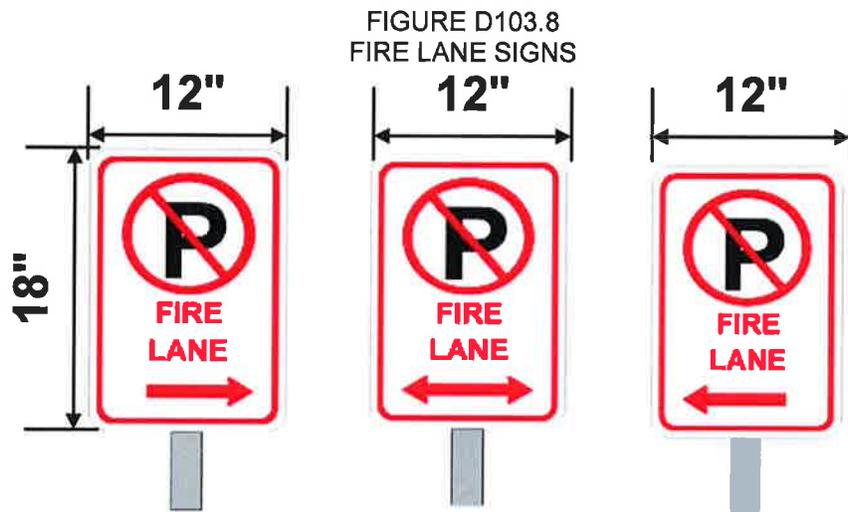
H. Figure D103.7. Add a new Figure D103.7 as follows:



I. Section D103.8. Add a new Section D103.8 to read as follows: “D103.8. Signs. Where required by the fire department, fire apparatus access roads shall be marked with permanent No Parking Fire Lane signs complying with Figure D103.6. or D103.8. Signs shall have a white background with letters and borders in red, using

not less than two-inch lettering and have a minimum dimension of 12 inches wide by 18 inches high. Signs shall be posted on one or both sides of the fire apparatus access road as required by Section D103.6. Signs shall indicate the beginning and ending of the fire apparatus access road and shall be spaced no more than one hundred (100) feet apart. Signs may be installed on permanent buildings or walls or as approved by the fire department.”

J. Figure D103.8. Add a new Figure D103.8. as follows:



K. D105.2 Amend Section 105.2 by deleting the words exclusive of shoulders.

#### Appendix E

Amend the subtitle of Appendix E to read as follows: “This appendix E is adopted for informational purposes only.”

#### Appendix F

Amend the subtitle of Appendix F to read as follows: “This appendix F is adopted for informational purposes only.”

#### Appendix G

Amend the subtitle of Appendix G to read as follows: “This appendix G is adopted for informational purposes only.”

#### Appendix H

Amend the subtitle of Appendix H to read as follows: “This appendix H is adopted for informational purposes only.”

#### Appendix I

Amend the subtitle of Appendix I to read as follows: “This appendix I is adopted for informational purposes only.”

#### Appendix J

Amend the subtitle of Appendix J to read as follows: “This appendix I is adopted for informational purposes only.”

#### 15.16.080: Violation – Penalty:

- A. It is unlawful for any person to violate any of the provisions of this Chapter including any provision of the *International Fire Code*, *International Fire Code Appendices*, *International Fire Code Amendments* as adopted by this Chapter.
- B. Every person convicted of a violation of any provision set forth in this Chapter shall be punished by a fine of not more than One Thousand Dollars (1000.00) or by imprisonment not exceeding one year, or both such fine and imprisonment. Each and every day during which such violation shall occur and continue to occur shall be a separate offense.

This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read by title and passed this \_\_\_\_ day of \_\_\_\_\_, 2013, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter and provided that section 15.16.080: Violation – Penalty of the ordinance shall be published in full.

\_\_\_\_\_  
Gabriel Ortega, Mayor

ATTEST:

\_\_\_\_\_  
Silvia Mascarenas, City Clerk

Introduced, read by title and passed on second and final reading, this \_\_\_\_ day of \_\_\_\_\_, 2013, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published by title in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

\_\_\_\_\_  
Gabriel Ortega, Mayor

ATTEST:

\_\_\_\_\_  
Silvia Mascarenas, City Clerk



# Regular City Council Meeting

## New Business – 9A

Items Removed from Consent

### February 11, 2014

#### Summary Information

**Title:**

Consideration of Items Removed from the Consent Agenda

Initiator : City Clerk Mascarenas

Presenter: Silvia Mascarenas, City Clerk

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

Any Items removed from the Consent agenda for further discussion shall be heard under this item

#### Background Information

N/A

#### Recommendation

N/A

#### Proposed Motion

S.T.

CM Review



# Regular City Council Meeting

## New Business – 9B

Amendment to Attorney Contract

### February 11, 2014

#### Summary Information

**Title:**

**Resolution #14-006, A RESOLUTION APPROVING FIRST AMENDMENT TO CONTRACT FOR LEGAL SERVICES OF DECEMBER 9, 2003 BY AND BETWEEN THE CITY OF FOUNTAIN, A COLORADO HOME RULE MUNICIPAL CORPORATION, AND ALPERN MYERS STUART LLC, ATTORNEYS**

Initiator (Type Name and Initial): Scott Trainor, City Manager

Presenter: Scott Trainor, City Manager

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The purpose of this action item is to review a request to increase the City Attorney's rate for the City of Fountain. This rate has not changed since 2004.

Attachments: Resolution 14-006  
2003 Contract with Attorney

#### Background Information

The City has worked with the firm of Alpern, Myers, and Stuart as the City Attorney since 2003, when they took over the position from Jack Donnelly. Since then, Al Ziegler has been the primary attorney assigned to the City of Fountain and has done a good job fulfilling that role. When hired, the agreement between the City and the firm was that Fountain would initially pay \$135/hour for the first 6 months, as a probationary amount. In June of 2004, that amount was adjusted to \$155/hour, which is where it has been ever since. That contract also anticipated periodic adjustments.

To date, there have been no fee adjustments since 2004.

#### Recommendation

The purpose of this agenda item is to request that the City Council consider increasing the amount that the City pays to Alpern, Meyers, and Stuart to \$185/hour. In coming to this amount, an inquiry was sent out to the City Management listserv to find out how much other communities are paying their contract attorneys, recognizing that most communities our size and larger have in-house attorneys. Following are the results:

Monte Vista	\$3,400/month
Ouray	\$150/hour
Monument	\$5,000/month
Crestone	\$1,000/month
Minturn	\$185/hour
Lake City	\$165/hour
Littleton	\$205/hour
Rocky Ford	\$125/hour
Fruita	\$170/hour
Windsor	\$2,000/month
Crested Butte	\$155/hour

Superior	\$165/hour
Delta	\$160-\$200/hour
Cynthia Covell (water)	\$220/hour
Gordon Vaughn (personnel)	\$200/hour
Kutak Rock (Bond)	\$300/hour
Paul Benedetti	\$180/hour
Alpern, Meyers Stuart (Ziegler)	\$250-\$300/hour

Based on a CPI adjustment from 2003, the current hourly rate would be \$206/hour. Based on an average of other attorneys that work for Fountain, the hourly rate would be \$225.

### *Proposed Motion*

"I move that we approve Resolution 14-006"



CM Review



**RESOLUTION 14 -006**

**A RESOLUTION APPROVING FIRST AMENDMENT TO  
CONTRACT FOR LEGAL SERVICES OF DECEMBER 9, 2003 BY AND BETWEEN  
THE CITY OF FOUNTAIN, A COLORADO HOME RULE MUNICIPAL  
CORPORATION, AND ALPERN MYERS STUART LLC, ATTORNEYS**

**RECITALS**

BE IT RESOLVED by the City Council of the City of Fountain, Colorado:

1. The First Amendment to the Contract for Legal Services by and between the City of Fountain, a Colorado home rule municipal corporation, and Alpern Myers Stuart, LLC, a Colorado limited liability company ("First Amendment") to be effective February 1, 2014, has been reviewed and is hereby approved by the City Council.

2. The Mayor is hereby authorized to execute the First Amendment on behalf of the City of Fountain.

DONE in Fountain, Colorado, this 28<sup>th</sup> day of January, 2014.

CITY OF FOUNTAIN, COLORADO

\_\_\_\_\_  
Gabriel Ortega, Mayor

ATTEST:

\_\_\_\_\_  
Sylvia Mascarenas, City Clerk

FIRST AMENDMENT  
TO  
CONTRACT FOR LEGAL SERVICES

THIS FIRST AMENDMENT TO CONTRACT FOR LEGAL SERVICES (“First Amendment”) dated the 1<sup>ST</sup> day of February, 2014 (“Effective Date”), by and between the City of Fountain, a Colorado home rule municipal corporation, hereinafter known as “the City” and Alpern Myers Stuart, LLC, a Colorado limited liability company, formerly known as Alpern, Myers, Stuart Scheuerman, and Hickey, LLC (the “Firm”).

WHEREAS, the City entered into a *Contract For Legal Services* on December 9, 2003 (the “Agreement”), setting forth certain specifics concerning the engagement of the Firm to provide legal services to the City; and

WHEREAS, the City Council has reviewed the history of legal services provided by the Firm for the City and found them to be satisfactory, with an increase in the rate of pay for the services to be appropriate.

NOW THEREFORE, for good and sufficient consideration, the Parties desire to amend the Agreement as follows:

1. Section 1 of the Agreement, “Attorneys Fees”, is hereby deleted and replaced with the following:

1. ATTORNEYS’ FEES.

Client agrees to pay the Firm for its services at hourly rates specified herein. Time shall be recorded in tenth of an hour increments. Tasks for which time shall be recorded include, but are not limited to, the following: conferences with Client and others, legal research, factual investigation, preparation of correspondence and legal documents, reading and analyzing correspondence and legal documents, preparation for and appearances at meetings and in court for and on behalf of the Client, travel to and from court and other meetings, and telephone conversations with Client and others.

M. Allen Ziegler, Jr. and Lisa Tormoen Hickey will be the primary attorneys providing legal services to the Client. Other attorneys of the Firm may provide legal services for the Client. The City agrees to pay to the Firm for services provided by attorneys calculated at the hourly rate of \$185.00 per hour, and legal assistants and paralegals shall be paid fees equal to \$100.00 per hour.

These rates are subject to change during the period of representation if the Firm is required by advancing costs and economic circumstances to raise its rates. However, no charge in hourly rates will be made without first notifying the Client at least thirty (30) days in advance and obtaining Client’s written consent to the change in rates.

The parties acknowledge that the Firm is providing a specific end product(s) other than reports that are merely incidental to the required performance under this First Amendment. Therefore the provisions pertaining to “illegal aliens-public service contracts” under C.R.S. 8-17.5.101 et. seq. do not apply to this First Amendment.

2. Section 8 is hereby added to the Agreement as follows:

The Firm is hereby authorized to destroy any files in the Firm's possession relating to services provided to Client at any time after five (5) years from the date the Firm ceased to perform any further substantive services to Client or this Agreement is terminated, whichever first occurs.

3. This First Amendment may be signed in counterparts, all of which taken together shall constitute one document.
4. This First Amendment is subject to approval by the City Council of the City of Fountain, Colorado.
5. Except as changed by this First Amendment, the Agreement between the City and the Firm dated December 9, 2003, is hereby ratified and reaffirmed.
6. If any provision or portion of this First Amendment is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall remain in full force and effect.

In WITNESS WHEREOF, the parties have executed this First Amendment on the dates set forth adjacent to their respective signatures to be effective on the Effective Date first set forth herein.

CITY OF FOUNTAIN

\_\_\_\_\_  
Gabriel Ortega, Mayor      Date

ALPERN MYERS STUART, LLC

By: \_\_\_\_\_  
Greg O'Boyle, Manager    Date

ATTEST:

\_\_\_\_\_  
Silvia Mascarenas, City Clerk



# Regular City Council Meeting

## New Business – 9C

Resolution 14-008

### February 11, 2014

#### Summary Information

**Title:**

**Public Hearing** and Resolution 14-008, A Resolution Approving a Modification to a Condition of Approval for a Conditional Use to Permit a Child Care Facility in the Planned Unit Development District (PUD), Located on the Southeast Corner of Marksheffel Road and Peaceful Valley Road, and hereinafter described in Exhibit A

Initiator: Dave Smedsrud, Community Services Director

Presenter: Dave Smedsrud, Community Services Director

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

A request modify a condition of approval of an existing conditional use to permit a child care facility.

Previous Action by City Council: N/A

Attachment A: Vicinity Map and Letter of Intent

Attachment B: Review Criteria for Approving Conditional Uses

Attachment C: Resolution 14-008

#### Background Information

The Applicant proposes to expand the existing child care facility (A Rainbow of Friends) located at 9355 Peaceful Valley Road by increasing the maximum number of children from 49 to 80 and the maximum number of employees from 5 to 10.

The initial conditional use for the child care facility was approved by City Council on November 22, 2005. Originally, the child care facility was located within a modular structure on the same property as Restoration Church. As part of the 2005 approval, the facility had two years to locate within the church and expand from a maximum of 38 students and employees to a maximum number of 49 children and 5 employees without requiring re-review and hearing of the conditional use.

A modification to the approved Conditional Use was requested by Restoration Church on behalf of a Rainbow of Friends and approved by City Council on February 13, 2007 to request additional time to locate in the church.

The building addition was completed on March 14, 2008 and the facility subsequently moved into the new church addition, which allowed the facility to increase to a maximum number of 49 children and a maximum number of 5 employees.

The Colorado Department of Human Services inadvertently issued a State license for a maximum of 60 children for the facility. Currently, the facility is at this capacity. The applicant would like to modify the conditional use to ensure that they are permitted the maximum number of 60 that they currently have at the facility, and allow for future expansion, up to a maximum of 80 children and 10 employees.

The parking requirements for a child care facility are 1 space per each employee, 1 space per six children and one space per company-owned vehicle. Based upon the information provided by the Applicant, the facility will have one company-owned vehicle and will require a total of 24 spaces for the daycare. The required spaces

must be in addition to those required for the church.

The main assembly area in the church requires 75 spaces and the offices within the church an additional 15 spaces. The total number of parking spaces required for this site is 114 spaces. Handicap parking is in addition to all required parking. The site plan depicts 182 paved parking spaces, 6 handicap spaces, and future spaces that are not currently on the site. A visual inspection of the property on December 27, 2013 revealed that there are only 126 existing spaces, with 6 handicap spaces. There is adequate parking on site for the current uses and proposed increase in the child care facility

Surrounding Land Uses:

North	Single Family Residential	RR- 0.5 (Unincorporated El Paso County)
South	Undeveloped Land	Planned Unit Development (PUD) District
East	Commercial (offices)	CC (Unincorporated El Paso County)
West	Undeveloped Land	RS-6000 (Unincorporated El Paso County)

Fountain Comprehensive Development Plan: The future land use plan shows Single-Family Residential for this property. The request is generally consistent with the land use designation and characteristics as identified below and the Future Land Use Plan:

“This land use designation is designed to promote stable, well-established neighborhoods with a mix of densities, located off community collector streets and in close proximity to the regional and local trail system. The lots should be of sufficient size to allow for off-street parking.”

The Plan discourages *“non-residential uses that create traffic volumes above what is commonly generated in a single-family neighborhood”* unless such impacts can be mitigated to the satisfaction of the City.

Public Notification: At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of record within four hundred feet (400’) were notified and a public notice was published in the El Paso County Advertiser & News. Staff is not aware of any opposition to this request.

Staff Findings: Staff finds that the conditional use request is substantially consistent with the review criteria set forth in Section 17.562 of the Zoning Ordinance and outlined in Attachment B.

### *Recommendations*

Planning Commission Recommendation: On January 8, 2014, the City Planning Commission voted 6 to 0 to recommend approval to modify a condition of approval for a conditional use to permit a child care facility in the Planned Unit Development District subject to the condition that the Applicant submit a revised site plan that accurately depicts the existing parking spaces on the property.

Staff Recommendation: Staff recommends approval of the modification to a condition of approval for a conditional use to permit a child care facility in the Planned Unit Development District subject to the following condition:

1. The maximum number of children permitted is 80 and the maximum number of employees is 10.

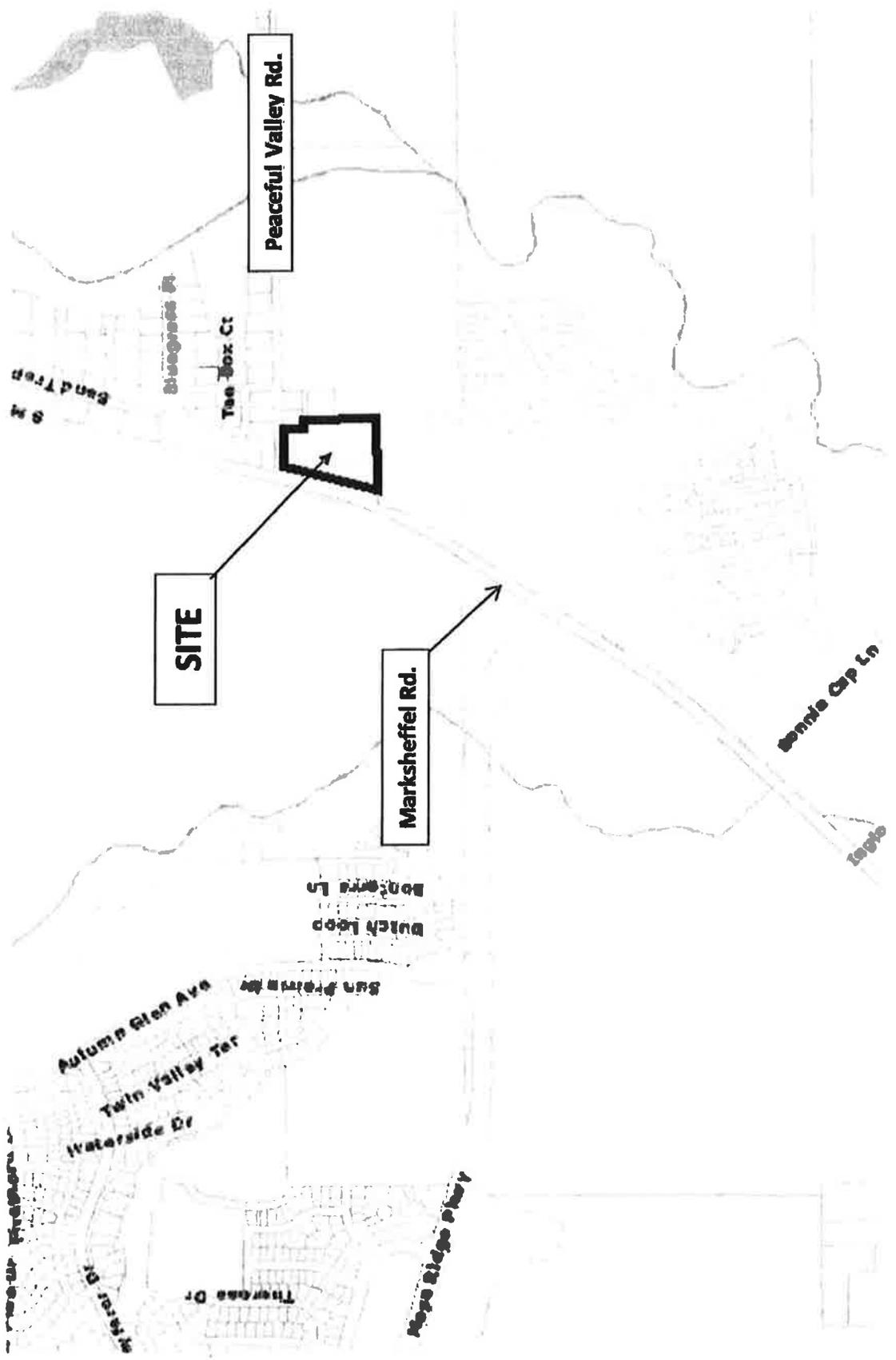
### *Proposed Motion*

“I recommend approval of Resolution 14-008.

S.T.  
CM Review

# **ATTACHMENT A**

**VICINITY MAP**



**SITE**

**Peaceful Valley Rd.**

**Marksheffel Rd.**

Bluegrass Pt.  
Tee Box Ct.  
Sand Trap  
Bonnie Gap Ln  
109th  
Sun Prairie  
Bunch Loop  
Bonora Ln  
Autumn Glen Ave  
Twin Valley Ter  
Waterside Dr  
Theresa Dr  
New Ridge Pkwy



**A Rainbow of Friends Preschool  
9355 Peaceful Valley Road  
Colorado Springs, CO 80925  
719-243-2043**

**November 12, 2013**

**To Whom It May Concern,**

**My name is Renee' Green and I am the owner of A Rainbow of Friends Preschool. We are located at Restoration Church, 9355 Peaceful Valley Road, Colorado Springs, CO, 80925. I am formally requesting Planning and Development to raise the maximum number of students allowed at this school to be compliant with state and regional agencies that already have supervision and authority over this school.**

**Enclosed in this letter is \$500 fee. I have also attached the Letter of Authorization from Restoration Church and a diagram of the church property, church facility, and parking analysis.**

**Thank you,**

**Renee' Green  
Director/Owner of A Rainbow of Friends Preschool**

To whom it may concern,

My name is Renee Green from A Rainbow of Friends Preschool. I, Renee Green, received my Associate's Degree in Early Childhood Education in 1990 from Aims Community College in Greeley, Colorado. While earning my degree, I worked at the 5<sup>th</sup> Street College, a preschool in Berthoud, Colorado. After graduating I moved to Colorado Springs, Colorado. I worked at the Air Force Academy Daycare and Part-Day Preschool for eight years. My husband and I then decided to open a part-day preschool in our home in 1999. I obtained a small home day care license and in 2001, I obtained a large license to serve more families in our community. I also attended Pikes Peak Community College to obtain my director's qualifications. In 2005, the preschool expanded into a center at Restoration Church located in the Fountain Valley area and Colorado Springs, Colorado. In May 2007, I graduated with a Bachelor's Degree and a teaching certificate in Early Childhood Education. In March 2011, A Rainbow of Friends became an accredited preschool in the Fountain Area through NAEYC (National Association for the Education of Young Children)

### **NAEYC Accreditation**

A Rainbow of Friends is proud to be an accredited Christian preschool. Very few centers in the area have achieved this nationally recognized standard of quality. NAEYC's (National Association for the Education of Young Children) accredited programs have voluntarily undergone a comprehensive process of internal self-study, invited external professional review to verify compliance with the criteria for High-Quality Early Childhood Programs, and have been found to be in compliance with the criteria. The criteria address all components of a high-quality early childhood program

A copy of the criteria can be obtained from NAEYC's Academy ([www.naeyc.org](http://www.naeyc.org))

### **Our Mission Statement is:**

To provide a solid Christian foundation with a high quality curriculum that prepares children for higher learning as each child enters the elementary years and beyond.

### **Our Philosophy is:**

We believe, by using a high quality curriculum program with basic Christian values and beliefs, children will develop healthy habits and will succeed in school. During the first five years of life, the emotions a child feels, as well as what a child sees, hears and experiences is the key to their brain development. Developmentally appropriate educational opportunities will impact a child for the rest of his or her life. It is our responsibility to offer a curriculum that will developmentally impact the child for the rest of his or her life.

The planned experiences and activities for our young students consist of six dimensions of readiness. This includes a coherent progression of skills and knowledge, physical well-being, motor development, approaches to learning, language skills, cognitive development, and a balance between child-initiated and teacher-directed activities. Through parent involvement, quality teachers, and motivated children, we will be able to accomplish this mission.

The reason A Rainbow of Friends condition should be approved is because we want to expand our services and prepare more children for their future school career to be successful! All children deserve the have the best start in life. It can all start at our school.

Sincerely,

A handwritten signature in black ink, appearing to read "Renee' Green". The signature is fluid and cursive, with a long horizontal stroke at the end.

Renee' Green

## Meeting Conditional Use Criteria

1. The use is consistent with the intent and purpose of this title as declared in Chapter 17.10, because we serve the surrounding neighbors and the community.
2. The use is consistent and compatible with the intent of the zoning district location because it is a PUD and the neighborhood is a single family home area.
3. The use is also compatible with other uses in the area because this is a needed service in the surrounding area and in the community of Fountain. The utilization of mitigation measures, such as increased setbacks, screening or buffering is not required.
4. The use is consistent with the Fountain Comprehensive Development Plan and other approved plans because the neighborhood is family single homes.
5. The use will not create any adverse environmental influences on the surrounding area because it will not generate excessive dust, odors, fumes, noise, glare or vibration.
6. The use will not usually generate traffic hazards or congestion in the area because activities will not conflict with each other at the same time.
7. The existing transportation systems will not be overburdened by the use.
8. The ingress and egress points are appropriately and safely located.
9. There is adequate water, sewer, drainage, and other utility facilities; they have been provided by the church.
10. The physical appearance of the site, including building orientation, scale, and architectural treatment and landscaping, sensitive to other uses in the area have been previously approved by the planning division.
11. The use is reasonably related to the overall needs of the community because this is a single family neighborhood that needs our service.
12. The conditional use is consistent with the intent and purpose of this title because we rent space inside Restoration Church for the school.

I am very passionate for the City of Fountain. Thank you for considering this use for our community, preparing children for their future, and working to make this city the best place to raise a family.

# **ATTACHMENT B**

## **REVIEW CRITERIA FOR APPROVING CONDITIONAL USES**

Section 17.562 of the Zoning Ordinance specifies, "In reviewing a conditional use, the planning commission and city council shall consider the following review criteria, where applicable:

1. Is the use consistent with the intent and purpose of this title as declared in Chapter 17.20?
2. Is the use consistent with the intent of the zoning district in which the applicant intends to locate such use?
3. Is the use compatible with other uses in the area? Will the impacts generated by the use be abated through the utilization of mitigation measures, such as increased setbacks, screening or buffering?
4. Is the use consistent with the Fountain Comprehensive Development Plan and other approved plans?
5. Will the use create any adverse environmental influences on the surrounding area? For example: will the use generate excessive dust, odors, fumes, noise, glare or vibration?
6. Will the use generate traffic hazards or congestion in the area?
7. Will existing transportation systems be overburdened by the use?
8. Are ingress and egress points appropriately and safely located?
9. Have adequate water, sewer, drainage, and other utility facilities been provided?
10. Is the physical appearance of the site, including building orientation, scale, and architectural treatment and landscaping sensitive to other uses in the area?
11. Is the use reasonably related to the overall needs of the community?
12. Is the conditional use consistent with the intent and purpose of this title?

In approving an application for conditional use, the Planning Commission or City Council may impose conditions or modifications, which it deems reasonably necessary to secure the purpose and intent of this title."

# **ATTACHMENT C**



**RESOLUTION 14-008**

**A RESOLUTION APPROVING A MODIFICATION TO A CONDITION OF APPROVAL FOR A CONDITIONAL USE TO PERMIT A CHILD CARE FACILITY IN THE PLANNED UNIT DEVELOPMENT DISTRICT (PUD), LOCATED ON THE SOUTHEAST CORNER OF MARKSHEFFEL ROAD AND PEACEFUL VALLEY ROAD, AND HEREINAFTER DESCRIBED IN EXHIBIT A**

WHEREAS, on February 13, 2007 the City of Fountain City Council approved a conditional use for a child care facility on the real property described in Exhibit A, attached hereto, under Resolution No. 07-004 subject to certain conditions; and

WHEREAS, Renee' Green on behalf of A Rainbow of Friends, has made application for a modification to a condition of approval of a conditional use of the above-referenced property described in Exhibit A; and

WHEREAS, on January 8, 2014, the City Planning Commission reviewed and voted to recommend approval of a request for a modification to a condition of approval for the conditional use approval to permit a child care facility in the Planned Unit Development District (PUD); and

WHEREAS, the City Council finds that the request is generally consistent with the review criteria set forth in section 17.562 of the Fountain Municipal Code.

1. NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Fountain does hereby approve the modification to a condition of approval placed on the conditional use to permit a child care facility in a PUD zoning district located on the southeast corner of Marksheffel Road and Peaceful Valley Road for the property described in Exhibit A and Exhibit B, attached hereto and incorporated by reference herein, subject to the following modified condition:
  1. The maximum number of children permitted is 80 and the maximum number of employees is 10.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Gabriel P. Ortega, Mayor

ATTEST:

---

Silvia Mascarenas, City Clerk

# **EXHIBIT A**

## **LEGAL DESCRIPTION**

Lot 1, Restoration Church Subdivision Filing No. 2 in the City of Fountain, El Paso  
County, State of Colorado



# Regular City Council Meeting

***New Business – 9D***

*Ordinance 1617*

***February 11, 2014***

## ***Summary Information***

**Title:**

**Public Hearing** and First Reading of Ordinance 1617, An Ordinance Approving the Mesa Ridge Overall Development Plan Amendment No. 4, Located Northeast of Sneffels Street and Mesa Ridge Parkway, and Hereinafter More Specifically Described in Exhibit “A” and Exhibit “B”.

Initiator: Dave Smedsrud, Community Services Director

Council Action

Presenter: Dave Smedsrud, Community Services Director

Council Information

Legal Review:  Yes  No

Report to Council

**Summary Overview and List of Attachments:**

A request to modify the existing Mesa Ridge Overall Development Plan.

Previous Action by City Council: N/A

Attachment A: Vicinity Map and Letter of Intent

Attachment B: Overall Development Plan Review Criteria

Attachment C: Ordinance 1617

## ***Background Information***

This is a request for approval of a major amendment to the Mesa Ridge Overall Development Plan (ODP). This is the fourth amendment to this ODP and it changes the area north of Mesa Ridge Parkway and east of Sneffels Street from commercial (9 acres) and multi-family residential (2.1 acres) to all multi-family.

The total number of residential units increases from 2037 to 2114 dwelling units and the overall residential acreage and percentage increases from 360.3 acres at 67.8% back to 369.3 at 69.4%. With the elimination of the commercial land use in Area T, the total commercial area in the entire ODP development will remain at 35.9 acres.

**Residential Area:** All of Area T of the proposed ODP amendment has been shown as multi-family with a gross density of 10.8 dwelling units per acre. Although this amendment involves 11.1 acres, the existing multi-family development to the north is regulated by the Cross Creek Master Plan and is shown as multi-family. The two properties are proposed for joint development. The multi-family development is separated from the adjacent single-family development to the north by the Fountain Mutual Irrigation Ditch which provides a physical buffer of approximately 75 to 100 feet in width.

**Access:** Access to this area will be taken from Landover Lane. Access to individual units will be from internal private roadways within the development. There will be no direct access onto Mesa Ridge Parkway.

**Drainage:** This property is located in the Jimmy Camp Creek Drainage Basin. The site generally slopes from northeast to southwest toward the existing full spectrum detention pond located northeast of the intersection of Mesa Ridge Parkway and Sneffels Street.

**Floodplain:** The property is not located within a 100-year floodplain designation.

**Services:** City of Fountain will provide electric, fire and police services to the property. Fountain Sanitation District will provide sanitary sewer service. Natural gas will be provided by Black Hills Energy and Widefield Water will provide water service to this property.

**Surrounding Land Uses and Zoning:**

North	Phase I Mesa Ridge Apartment Complex	Planned Unit Development (PUD)
South	Mesa Ridge / Mesa Ridge Parkway	Planned Unit Development (PUD)
East	Undeveloped	County (RS-6000)
West	Single Family Residential/Detention Pond	Planned Unit Development (PUD)

**Public Notification:** At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of record within four hundred feet (400') were notified and a public notice was published in the El Paso County Advertiser & News. Staff is not aware of any opposition to this request.

**Staff Findings:** Staff finds that the Major Amendment to the Mesa Ridge Overall Development Plan is consistent with the review criteria set forth in Section 17.532 E of the Zoning Ordinance which are outlined in Attachment B.

**Recommendations**

**Planning Commission Recommendation:** On January 8, 2014, the City Planning Commission voted 6 to 0 to recommend approval of the Mesa Ridge Overall Development Plan Amendment No. 4 subject to the following conditions:

1. A masonry wall along Mesa Ridge Parkway must be constructed at the time of construction of Phase II of the apartments. The wall is to be owned and maintained by the property owner. The wall may be incorporated with the back of the proposed garages as shown on the concept plan.
2. With the development of Area T, the developer shall be required to construct the trail connection between Phase I and Phase II along the Fountain Mutual Irrigation Company ditch
3. Upon development of Area T, the developer shall construct amenities as identified at the January 8, 2014 Planning Commission meeting for the multi-family development as outlined in the Concept Plan.
4. Any change to the proposed land use other than multi-family for Area T shall require submittal of a revised Concept Plan to the Planning Commission for review and approval.

**Staff Recommendation:** Staff recommends approval of Ordinance 1617 on first reading and the Mesa Ridge Overall Development Plan Amendment No. 4 subject to the following conditions which have been incorporated into the ordinance.

1. A masonry wall along Mesa Ridge Parkway must be constructed at the time of construction of Phase II of the apartments. The wall is to be owned and maintained by the property owner. The wall may be incorporated with the back of the proposed garages as shown on the concept plan.
2. With the development of Area T, the developer shall be required to construct the trail connection between Phase I and Phase II along the Fountain Mutual Irrigation Company ditch
3. Upon development of Area T, the developer shall construct amenities as identified at the January 8, 2014 Planning Commission meeting for the multi-family development as outlined in the Concept Plan.
4. Any change to the proposed land use other than multi-family for Area T shall require submittal of a revised Concept Plan to the Planning Commission for review and approval.

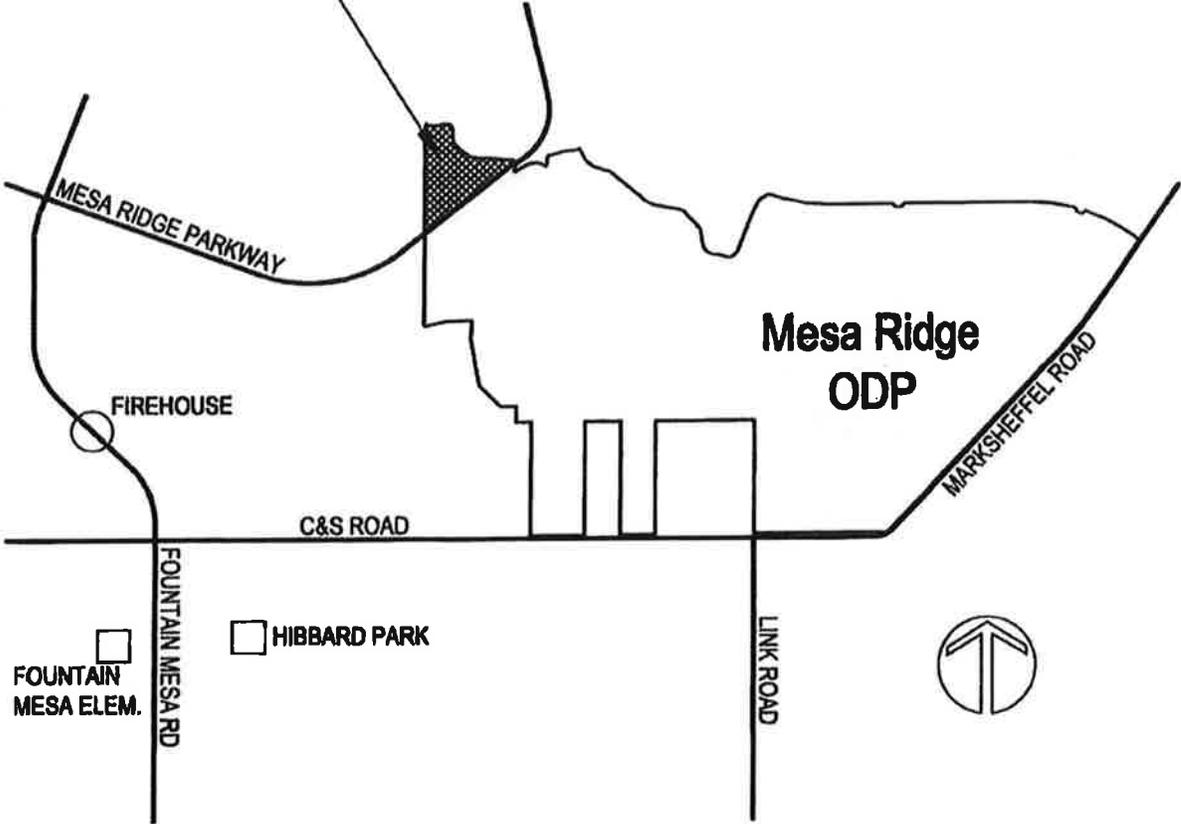
**Proposed Motion**

"I recommend approval of Ordinance No. 1617 on first reading subject to conditions."

S.T.  
CM Review

# **ATTACHMENT A**

**Mesa Ridge ODP  
Amendment No. 4**



**VICINITY MAP**

NO SCALE

**Mesa Ridge ODP Major Amendment No. 4**  
**Letter of Intent**  
**November 8, 2013**

**LAND USE PROPOSAL**

This development request is for review and approval of a major amendment to the Mesa Ridge ODP for a change of land use on an 11.1 acre parcel from Commercial to Multi-family Residential. This residential use will be for the expansion of the Mesa Ridge Apartments located directly northwest of this parcel. An additional 120 units are planned for this property which will result in a gross density of 10.8 du/ac. The total residential units in the ODP will now be 2,114 total. This falls below the capped total of 2,127. This parcel was previously approved for multifamily residential uses but was changed to commercial in a previous amendment.

**SITE LOCATION**

The parcel of land is generally located 200 feet +/- east of the intersection of Sneffels Street and Landover Drive. This parcel of land lies between the existing Mesa Ridge Parkway and the existing Mesa Ridge Apartments.

**NATURAL FEATURES**

The property to be developed is a parcel of land generally exhibiting slopes ranging in steepness from 2% to 4%. Steeper slopes occur along the eastern end of the site near the Fountain Mutual Irrigation Ditch Company property. The property is vegetated entirely with native grasses. The property's natural drainage is to the southwest. This site has been previously overlot graded for development of a self-storage commercial land use. There are no significant natural features located on this property.

**VEHICULAR CIRCULATION**

This project will be served by the existing Landover Drive. No direct vehicular access from the property will be allowed onto Mesa Ridge Parkway.

**OPEN SPACE AND TRAILS**

This proposed subdivision will extend the trail along the frontage of this property where it abuts the Fountain Mutual Ditch. Public open space per the ODP will not be reduced with this land use change. Private open space will actually be added with this development.

**MAJOR UTILITIES**

The subdivision will be served by water from Landover Drive. Sanitary Sewer will be provided and will extend from this property to Sneffels Street. Electric, Phone and Gas are all located near the property within Landover Drive. All drainage will be directed to the detention pond located at Sneffels Street and Mesa Ridge Parkway directly west of the property.

**PHASING**

Phasing for development of this specific parcel is for construction to begin in the winter of 2013 with completion within one to two years depending on market absorption. Phasing of the remainder of the ODP parcels will be per the existing phasing notes included on the ODP sheet one.

**SUMMARY**

The project is in conformance with the Mesa Ridge Overall Development Plan. The property will be planned in accordance with the approved PUD zoning. This property is separated from lower density existing and planned single family subdivisions by physical barriers or buffers such as the Mesa Ridge Parkway and open space along the south boundary, the existing detention pond west of the site, and the Fountain Mutual Ditch corridor along the eastern boundary.

# **ATTACHMENT B**

## **OVERALL DEVELOPMENT PLAN REVIEW CRITERIA**

Pursuant to section 17.532 E. of the Zoning Ordinance, Overall Development Plans shall be reviewed for substantial conformance to the applicable review criteria below.

1. The overall development plan is consistent with the Fountain Comprehensive Development Plan and other adopted plans.
2. The overall development plan achieves the stated objectives of the Planned Unit Development District, by allowing for the mixture of uses and greater diversity of building types, promoting environmental protection, limiting sprawl, improving design quality and a higher-quality living environment, encouraging innovation of design and a variety of housing types, and managing the increase in demand for public amenities.
3. The overall development plan design achieves the stated development concept.
4. The proposed land uses are compatible with other land uses in the development and with surrounding land uses in the area.
5. The type, density, and location of proposed land uses are appropriate based on the findings of any required report or analysis.
6. The street design and circulation system are adequate to support the anticipated traffic and the proposed land uses do not generate traffic volumes, which exceed the capacity of existing transportation systems, or that adequate measures have been developed to effectively mitigate such impacts.
7. The overall development plan adequately mitigates off-site impacts to public utilities and facilities.
8. The fiscal impacts have been satisfactorily addressed and the city will be able to provide adequate levels of service for police and fire protection, street maintenance, snow removal and other public services, or that adequate measures have been developed to effectively mitigate such impacts.
9. Higher levels of amenities, including open spaces, parks, recreational areas, trails and school sites will be provided to serve the projected population.
10. The overall development plan preserves significant natural features and incorporates these features into parks and open space areas.
11. There are special physical conditions or objectives of development that the proposal will satisfy to warrant a departure from the standard regulation requirements.
12. The adjacent and nearby developments will not be detrimentally affected by the proposed PUD and approval period.
13. The applicant adequately demonstrates that the proposal is feasible.

# **ATTACHMENT C**

**ORDINANCE NO. 1617**

**AN ORDINANCE APPROVING THE MESA RIDGE OVERALL DEVELOPMENT PLAN AMENDMENT NO. 4, LOCATED NORTHEAST OF SNEFFELS STREET AND MESA RIDGE PARKWAY, AND HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT "A" AND EXHIBIT "B"**

WHEREAS, MRL No. 1, LLC, has made application for approval of a major amendment to the Overall Development Plan for Mesa Ridge on property described in Exhibit A and Exhibit B; and

WHEREAS, the Overall Development Plan and supplemental documents are on file with the City Clerk's office; and

WHEREAS, at a regular meeting on January 8, 2014, the City Planning Commission reviewed and voted 6 to 0 to recommend approval of the major amendment to the Mesa Ridge Overall Development Plan.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado:

Section 1. The Mesa Ridge Overall Development Plan Amendment No. 4 is hereby approved subject to the following conditions:

1. A masonry wall along Mesa Ridge Parkway must be constructed at the time of construction of Phase II of the apartments. The wall is to be owned and maintained by the property owner. The wall may be incorporated with the back of the proposed garages as shown on the concept plan.
2. With the development of Area T, the developer shall be required to construct the trail connection between Phase I and Phase II along the Fountain Mutual Irrigation Company ditch
3. Upon development of Area T, the developer shall construct amenities as identified at the January 8, 2014 Planning Commission meeting for the multi-family development as outlined in the Concept Plan.
4. Any change to the proposed land use other than multi-family for Area T shall require submittal of a revised Concept Plan to the Planning Commission for review and approval.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read by title and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Introduced, read by title, and passed on second and final reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, and ordered published by title in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## LEGAL DESCRIPTION:

That portion of Sections 27, 28, and 29, Township 15 South, Range 65 West of the 6th P.M., and of Tracts 1 and 2, in SUBDIVISION NO. 1 OF THE FOUNTAIN SUBURBAN HOMES CORPORATION, El Paso County, Colorado, according to the plat thereof as recorded in Plat Book L at Page 44, El Paso County, Colorado, being more particularly described as follows:

Commencing at the Southeast corner of said Section 29; thence N00°28'06"E on the East line of the Southeast quarter of said Section, the basis of bearings used herein, a distance of 30.00 feet to a point thirty (30.00) feet North of the South line of the Southwest quarter (SW1/4) of said Section 28, as measured perpendicular thereto and the POINT OF BEGINNING; thence N00°28'06"E on said East line, a distance of 1290.14 feet to a point on the North line of the South half of the Southwest quarter of said Section 28; thence N44°05'32"W a distance of 252.65 feet; thence N44°06'10"W a distance of 338.98 feet; thence N09°07'50"W a distance of 546.02 feet; thence N04°31'14"E a distance of 206.93 feet to a point on a curve; thence on a curve to the left having a central angle of 21°04'17", a radius of 1460.00 feet for an arc distance of 536.93 feet, whose chord bears S83°19'07"W to a point on the Easterly line of the City of Fountain, El Paso County, Colorado as shown on the Annexation Plat of North Fountain Addition No. 15 as recorded in Plat Book D-4 at Page 62 of the records of said El Paso County; thence N00°22'19"E on said Easterly line, a distance of 210.96 feet; thence N00°22'20"E on said Easterly line, a distance of 2095.96 feet to a point on a curve on the Southerly boundary line of the Main Canal of the Fountain Mutual Irrigation Company as described in Book 5506 at Page 1290 of the records of said El Paso County; the following twelve (12) courses are on said Southerly boundary line; thence: 1) on a curve to the left having a central angle of 38°50'05", a radius of 220.00 feet for an arc distance of 149.11 feet, whose chord bears S82°40'31"E; 2) N77°54'26"E a distance of 93.79 feet to a point of curve; 3) on a curve to the right having a central angle of 100°24'22", a radius of 55.00 feet for an arc distance of 96.38 feet, whose chord bears S51°53'23"E; 4) S01°41'12"E a distance of 137.18 feet to a point of curve; 5) on a curve to the left having a central angle of 46°29'23", a radius of 88.00 feet for an arc distance of 71.40 feet, whose chord bears S24°55'53"E; 6) S48°10'35"E a distance of 126.77 feet to a point of curve; 7) on a curve to the left having a central angle of 40°56'06", a radius of 220.00 feet for an arc distance of 157.18 feet, whose chord bears S68°38'38"E; 8) S89°06'41"E a distance of 124.09 feet to a point of curve; 9) on a curve to the right having a central angle of 04°53'33", a radius of 460.00 feet for an arc distance of 39.28 feet, whose chord bears S86°39'54"E; 10) S84°13'08"E a distance of 236.92 feet to a point of curve; 11) on a curve to the right having a central angle of 90°54'00", a radius of 23.00 feet for an arc distance of 36.49 feet, whose chord bears S38°46'08"E; 12) S06°40'52"W a distance of 116.20 feet; thence N51°03'46"E a distance of 46.41 feet; thence N60°23'46"E a distance of 110.51 feet to a point of curve; thence on a curve to the right having a central angle of 67°18'34", a radius of 195.87 feet for an arc distance of 230.10 feet, whose chord bears S85°56'57"E to a point on the Southerly boundary line of the Main Canal of the Fountain Mutual Irrigation Company as described in Book 5992 Page 1279 of the records of said El Paso County, the following two (2) courses are on said Southerly boundary line; thence: 1) N06°26'08"E a distance of 66.34 feet; 2) N14°22'23"E a distance of 52.05 feet to a point on a curve; thence on a curve to the right having a central angle of 13°37'05", a radius of 1520.00 feet for an arc distance of 361.27 feet, whose chord bears N78°12'47"E to a point on the Southerly boundary line of the Main Canal of the Fountain Mutual Irrigation Company as described in Book 5992 Page 1279 of the records of said El Paso County, the following twenty-two (22) courses are on said Southerly boundary line; thence: 1) S27°47'09"E a distance of 133.07 feet; 2) S41°09'52"E a distance of 48.94 feet to a point of curve; 3) on a curve to the left having a central angle of 28°52'45", a radius of 153.00 feet for an arc distance of 77.12 feet, whose chord bears S55°36'15"E; 4) S70°02'37"E a distance of 94.36 feet; 5) S74°54'11"E a distance of 80.06 feet to a point of curve; 6) on a curve to the right having a central angle

EXHIBIT A 2 of 3

of  $25^{\circ}13'15''$ , a radius of 51.00 feet for an arc distance of 22.45 feet, whose chord bears  $S62^{\circ}17'33''E$ ; 7)  $S49^{\circ}40'56''E$  a distance of 523.46 feet to a point of curve; 8) on a curve to the left having a central angle of  $29^{\circ}38'12''$ , a radius of 175.00 feet for an arc distance of 90.52 feet, whose chord bears  $S64^{\circ}30'02''E$ ; 9)  $S79^{\circ}19'08''E$  a distance of 312.08 feet to point of a curve; 10) on a curve to the right having a central angle of  $37^{\circ}39'42''$ , a radius of 58.00 feet for an arc distance of 38.12 feet, whose chord bears  $S60^{\circ}29'17''E$ ; 11)  $S41^{\circ}39'26''E$  a distance of 256.99 feet to a point of curve; 12) on a curve to the right having a central angle of  $34^{\circ}30'25''$ , a radius of 55.00 feet for an arc distance of 33.12 feet, whose chord bears  $S24^{\circ}24'14''E$ ; 13)  $S07^{\circ}09'01''E$  a distance of 147.36 feet to a point of curve; 14) on a curve to the left having a central angle of  $77^{\circ}34'32''$ , a radius of 142.00 feet for an arc distance of 192.26 feet, whose chord bears  $S45^{\circ}56'17''E$ ; 15)  $S84^{\circ}43'33''E$  a distance of 42.45 feet to a point of curve; 16) on a curve to the right having a central angle of  $14^{\circ}06'03''$ , a radius of 233.00 feet for an arc distance of 57.34 feet, whose chord bears  $S77^{\circ}40'32''E$ ; 17)  $S70^{\circ}37'30''E$  a distance of 42.79 feet to a point of curve; 18) on a curve to the left having a central angle of  $89^{\circ}02'05''$ , a radius of 91.00 feet for an arc distance of 141.41 feet, whose chord bears  $N64^{\circ}51'27''E$ ; 19)  $N20^{\circ}20'25''E$  a distance of 404.62 feet; 20)  $N24^{\circ}23'23''E$  a distance of 214.77 feet to a point of curve; 21) on a curve to the right having a central angle of  $40^{\circ}00'00''$ , a radius of 75.00 feet for an arc distance of 52.36 feet, whose chord bears  $N44^{\circ}23'23''E$ ; 22)  $N64^{\circ}23'23''E$  a distance of 99.89 feet; thence  $S72^{\circ}59'09''E$  a distance of 157.08 feet to a point of curve; thence on a curve to the left having a central angle of  $17^{\circ}16'12''$ , a radius of 1680.00 feet for an arc distance of 506.38 feet, whose chord bears  $S81^{\circ}37'15''E$ ; thence  $N89^{\circ}44'40''E$  a distance of 710.67 feet to a point of curve; thence on a curve to the right having a central angle of  $90^{\circ}00'00''$ , a radius of 40.00 feet for an arc distance of 62.83 feet, whose chord bears  $S45^{\circ}15'20''E$ ; thence  $N89^{\circ}44'40''E$  a distance of 80.00 feet to a point on a curve; thence on a curve to the right having a central angle of  $90^{\circ}00'00''$ , a radius of 40.00 feet for an arc distance of 62.83 feet, whose chord bears  $N44^{\circ}44'40''E$ ; thence  $N89^{\circ}44'40''E$  a distance of 1397.46 feet to a point of curve; thence on a curve to the right having a central angle of  $15^{\circ}18'05''$ , a radius of 1920.00 feet for an arc distance of 512.75 feet, whose chord bears  $S82^{\circ}36'18''E$  to a point of compound curve; thence on a curve to the right having a central angle of  $92^{\circ}26'20''$ , a radius of 40.00 feet for an arc distance of 64.53 feet, whose chord bears  $S28^{\circ}44'06''E$ ; thence  $S72^{\circ}30'56''E$  a distance of 80.00 feet to a point on a curve; thence on a curve to the right having a central angle of  $92^{\circ}26'20''$ , a radius of 40.00 feet for an arc distance of 64.53 feet, whose chord bears  $N63^{\circ}42'14''E$  to a point of compound curve; thence on a curve to the right having a central angle of  $14^{\circ}01'20''$ , a radius of 1920.00 feet for an arc distance of 469.89 feet, whose chord bears  $S63^{\circ}03'56''E$ ; thence  $S56^{\circ}03'15''E$  a distance of 209.04 feet to a point on the Northwesterly right-of-way line of Marksheffel Road; the following three (3) courses are on said Northwesterly right-of-way line; thence: 1)  $S33^{\circ}56'45''W$  a distance of 664.27 feet to a point of a curve; 2) on a curve to the right having a central angle of  $09^{\circ}16'28''$ , a radius of 5699.98 feet for an arc distance of 922.65 feet, whose chord bears  $S38^{\circ}34'59''W$ ; 3)  $S43^{\circ}13'13''W$  a distance of 2787.86 feet to the Northerly right-of-way line of C & S Road; thence  $S89^{\circ}44'27''W$  on said Northerly right-of-way line, a distance of 1490.44 feet; thence  $N00^{\circ}18'33''E$  a distance of 1290.05 feet to the Northeast corner of Tract 1 of said Subdivision No. 1 of The Fountain Suburban Homes Corporation, said point also being on the North line of the South half of the Southwest quarter of said Section 28; thence  $S89^{\circ}44'31''W$  on said North line a distance of 1075.05 feet to a point on a line being 1565.00 feet East of the West line of said

**EXHIBIT A 3 of 3**

Section 28, as measured perpendicular to thereto; thence S00°28'06"W parallel with said West line, a distance of 660.11 feet to the Northwest corner of the tract of land recorded at Reception No. 205041118 of the records of said El Paso County, the following two (2) courses are on the Northerly and Easterly boundary line of said tract of land; thence: 1) N89°44'27"E a distance of 400.00 feet; 2) S00°28'06"W a distance of 630.00 feet to the Northerly right-of-way line of C & S Road; thence S89°44'27"W on said Northerly right-of-way line, a distance of 1965.00 feet to the POINT OF BEGINNING and containing 532.28 acres of land, more or less.

Prepared by:  
John L. Bailey PLS #19586  
for and on behalf of  
Rockwell Consulting, Inc.  
October 19, 2013

File: 13016ODP.doc

# MESA RIDGE - OVERALL DEVELOPMENT PLAN AMENDMENT NO. 4 (MAJOR AMENDMENT)

CITY OF FOUNTAIN, COLORADO

## DEVELOPMENT CRITERIA

1. THERE SHALL BE NO DIRECT ACCESS TO ROADS OR SIDEWAYS VIA ANY ROADWAYS EXCEPT POTENTIALLY FOR CROSS CREEK AVENUE OR FROM ANY ADJOINING LOTS WITHIN THE MESA RIDGE DEVELOPMENT.
2. ENTRIES TO THE PROJECT SHALL BE LANDSCAPED AND MONUMENTED AS APPROPRIATE TO PLEASANT AND ACTIVE RECREATION USES AS DESCRIBED IN THE DEVELOPMENT PLAN.
3. PERFORATIONS FOR THE LOCAL CLIMATE AND ANTICIPATED USERS OF EACH INDIVIDUAL PARK SHALL BE AS SPECIFIED IN THE DEVELOPMENT PLAN.
4. SINGLE FAMILY DETACHED DEVELOPMENT STANDARDS SHALL BE AS FOLLOWS:
  - 35' MAXIMUM HEIGHT
  - 20' FRONT SETBACK
  - 20' REAR SETBACK
  - 15' SETBACK FROM NON-FRONTING STREET FOR CORNER LOTS
  - DEVELOPER RESERVES THE RIGHT TO VARY THESE STANDARDS BY 10%. ANY VARIATION GREATER THAN 10% SHALL BE PERMITTED AT THE DISCRETION OF THE PLANNING DIRECTOR. PERMITTED PRINCIPAL, ACCESSORY AND CONDITIONAL USES SHALL CONFORM TO SECTION 17.228(B) OF THE FOUNTAIN ZONING CODE.
  - 5' MINIMUM FRONT YARD SETBACK
  - 20' MINIMUM FRONT YARD SETBACK
  - 5' SIDE YARD SETBACK & FOR ACCESSORY STRUCTURES
  - 5' SIDE YARD SETBACK FOR THE FIRST STORY PLUS AN ADDITIONAL FIVE FEET FOR EACH ADDITIONAL STORY
  - ACCESSORY USES SHALL CONFORM WITH SECTION 17.228(B) OF THE FOUNTAIN ZONING CODE
  - MAXIMUM IMPERVIOUS COVERAGE: NONE
  - MINIMUM OPEN SPACE: 250 SF PER DWELLING UNIT
5. DEVELOPER RESERVES THE RIGHT TO VARY THESE STANDARDS BY 10%. ANY VARIATION GREATER THAN 10% SHALL BE PERMITTED AT THE DISCRETION OF THE PLANNING DIRECTOR.
6. RESIDENTIAL DEVELOPMENT STANDARDS FOR ALLEY-LOADED OR TRADITIONAL NEIGHBORHOOD DESIGN PRODUCT SHALL BE DETERMINED AT THE TIME OF PRELIMINARY PLAT
7. COMMERCIAL AREA C SHALL CONFORM TO SETBACK AND DEVELOPMENT CRITERIA LISTED IN SECTION 17.240 REGIONAL COMMERCIAL DISTRICT OF THE FOUNTAIN ZONING CODE

## LEGAL DESCRIPTION

Section 17.228(B) of the Fountain Zoning Code, as amended, requires that all lots within the MESA RIDGE DEVELOPMENT PLAN AMENDMENT NO. 4 (MAJOR AMENDMENT) shall conform to the following standards:
   
1. THERE SHALL BE NO DIRECT ACCESS TO ROADS OR SIDEWAYS VIA ANY ROADWAYS EXCEPT POTENTIALLY FOR CROSS CREEK AVENUE OR FROM ANY ADJOINING LOTS WITHIN THE MESA RIDGE DEVELOPMENT.
   
2. ENTRIES TO THE PROJECT SHALL BE LANDSCAPED AND MONUMENTED AS APPROPRIATE TO PLEASANT AND ACTIVE RECREATION USES AS DESCRIBED IN THE DEVELOPMENT PLAN.
   
3. PERFORATIONS FOR THE LOCAL CLIMATE AND ANTICIPATED USERS OF EACH INDIVIDUAL PARK SHALL BE AS SPECIFIED IN THE DEVELOPMENT PLAN.
   
4. SINGLE FAMILY DETACHED DEVELOPMENT STANDARDS SHALL BE AS FOLLOWS:
   
-35' MAXIMUM HEIGHT
   
-20' FRONT SETBACK
   
-20' REAR SETBACK
   
-15' SETBACK FROM NON-FRONTING STREET FOR CORNER LOTS
   
-DEVELOPER RESERVES THE RIGHT TO VARY THESE STANDARDS BY 10%. ANY VARIATION GREATER THAN 10% SHALL BE PERMITTED AT THE DISCRETION OF THE PLANNING DIRECTOR. PERMITTED PRINCIPAL, ACCESSORY AND CONDITIONAL USES SHALL CONFORM TO SECTION 17.228(B) OF THE FOUNTAIN ZONING CODE.
   
-5' MINIMUM FRONT YARD SETBACK
   
-20' MINIMUM FRONT YARD SETBACK
   
-5' SIDE YARD SETBACK & FOR ACCESSORY STRUCTURES
   
-5' SIDE YARD SETBACK FOR THE FIRST STORY PLUS AN ADDITIONAL FIVE FEET FOR EACH ADDITIONAL STORY
   
-ACCESSORY USES SHALL CONFORM WITH SECTION 17.228(B) OF THE FOUNTAIN ZONING CODE
   
-MAXIMUM IMPERVIOUS COVERAGE: NONE
   
-MINIMUM OPEN SPACE: 250 SF PER DWELLING UNIT
   
DEVELOPER RESERVES THE RIGHT TO VARY THESE STANDARDS BY 10%. ANY VARIATION GREATER THAN 10% SHALL BE PERMITTED AT THE DISCRETION OF THE PLANNING DIRECTOR.
   
RESIDENTIAL DEVELOPMENT STANDARDS FOR ALLEY-LOADED OR TRADITIONAL NEIGHBORHOOD DESIGN PRODUCT SHALL BE DETERMINED AT THE TIME OF PRELIMINARY PLAT
   
COMMERCIAL AREA C SHALL CONFORM TO SETBACK AND DEVELOPMENT CRITERIA LISTED IN SECTION 17.240 REGIONAL COMMERCIAL DISTRICT OF THE FOUNTAIN ZONING CODE

## LAND USE CHART

MULTIFAMILY	ACRES	UNITS/AC	ESTIMATED % OF TOTAL UNITS	% OF TOTAL ACRES
U	17.2	12.20	27%	2.2%
R	11.4	10.0	21%	2.1%
Subtotal	28.6			4.3%
COMMERCIAL				
C	10.3	6.4	15%	2.0%
R	27.8	7.7	65%	8.0%
Subtotal	38.1			10.0%
SINGLE FAMILY				
A	32.2	4.8	138	8.1%
F	15.0	4.8	50	2.0%
Subtotal	47.2		220	8.8%
SINGLE FAMILY				
B	26.8	4.8	127	5.0%
G	27.9	4.8	138	5.2%
H	14.5	4.8	73	2.7%
M	10.1	4.8	51	1.9%
O	10.5	4.8	53	2.0%
P	25.1	4.8	127	4.8%
S	16.5	4.8	83	3.1%
Subtotal	137.3		652	24.7%
SINGLE FAMILY				
D	20.3	3.5	81	3.0%
I	23.3	3.5	84	4.4%
J	36.4	3.5	128	6.7%
K	34.0	3.5	86	4.5%
Subtotal	104.2		413	18.6%
SINGLE FAMILY				
P	15.3	2.3	39	2.0%
Subtotal	15.3		39	2.0%
SINGLE FAMILY				
U	1.0	1	1	0.2%
Subtotal	1.0		1	0.2%
RESIDENTIAL			2114	69.4%
COMMERCIAL				
C	35.9			8.7%
Subtotal	35.9			8.7%
PUBLIC USE				
OPEN SPACE	19.4			3.1%
DEFENSE				
SCHOOL	30.0			5.8%
ROAD ROW	31.1			7.9%
POWERLINE	39.5			7.1%
Subtotal	177.1			23.5%
TOTAL	323.3			100.0%

## APPROVALS STATEMENT

The City Council of the City of Fountain, Colorado, has approved the amendment to the Mesa Ridge Overall Development Plan pursuant to Ordinance No. \_\_\_\_\_, adopted at the meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ AD. The City Council hereby certifies that the information submitted in support of this amendment is true and correct to the best of its knowledge and belief.

Mayor: \_\_\_\_\_ City Clerk: \_\_\_\_\_  
 Recorder: \_\_\_\_\_ City Engineer: \_\_\_\_\_  
 The document was received in the office of the City of Fountain on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ AD.

PREPARED: 11-29-13

Sheet 1 of 2

## EXHIBIT B 1 of 2

OVERALL DEVELOPMENT PLAN  
 FOUNTAIN, COLORADO  
 AMENDMENT NO. 4 (MAJOR AMENDMENT)

1. THE PROPERTY OWNERS BASED ON THE LAND COUNTY ASSESSORS WEBSITE INFORMATION AS OF 10/20/13.
2. THE SCHOOL DISTRICT BOUNDARY AS SHOWN WILL BE BUFFERED BY PUBLIC ROAD ROW OR PARKWAY SETBACK.
3. THE POSSIBILITY OF DIVIDING A PRIVATE LOT OR STRUCTURE IN NO CASE WILL A SINGLE LOT BE PLACED IN BOTH DISTRICTS.
4. COMMON AREAS AND OTHER PUBLIC AREAS (EXCEPT ROAD ROW OR PARKWAY) WILL BE OWNED AND MAINTAINED BY THE MESA RIDGE METRO DISTRICT (MRS).
5. THIS PROPERTY IS LOCATED WITHIN A DESIGNATED FLOOD PLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP (FIRM) FOR THE CITY OF FOUNTAIN, COLORADO.
6. THE PROPOSED DEVELOPMENT SHALL BE BUFFERED FROM THE FLOOD PLAIN AS DETERMINED BY THE FIRM.
7. THE PROPOSED DEVELOPMENT SHALL BE BUFFERED FROM THE FLOOD PLAIN AS DETERMINED BY THE FIRM.
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20. THE PROPOSED DEVELOPMENT SHALL BE BUFFERED FROM THE FLOOD PLAIN AS DETERMINED BY THE FIRM.

## IN WITNESS WHEREOF:

WE, THE BOARD OF DIRECTORS OF MESA RIDGE DEVELOPMENT, INC. DO HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS INSTRUMENT IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

STATE OF COLORADO )  
 COUNTY OF EL PASO )  
 I, \_\_\_\_\_, )  
 being the duly authorized officer of the above-named company, do hereby certify that the information contained in this instrument is true and correct to the best of my knowledge and belief.

NOTARY PUBLIC

## ZONING NARRATIVE

The proposed development is located within the MESA RIDGE DEVELOPMENT PLAN AMENDMENT NO. 4 (MAJOR AMENDMENT) and is zoned COMMERCIAL AREA C. The proposed development is consistent with the zoning requirements of COMMERCIAL AREA C. The proposed development is located within the MESA RIDGE DEVELOPMENT PLAN AMENDMENT NO. 4 (MAJOR AMENDMENT) and is zoned COMMERCIAL AREA C. The proposed development is consistent with the zoning requirements of COMMERCIAL AREA C. The proposed development is located within the MESA RIDGE DEVELOPMENT PLAN AMENDMENT NO. 4 (MAJOR AMENDMENT) and is zoned COMMERCIAL AREA C. The proposed development is consistent with the zoning requirements of COMMERCIAL AREA C.

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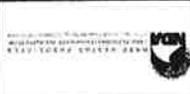
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# MESA RIDGE

## OVERALL DEVELOPMENT PLAN AMENDMENT #4 CITY OF FOUNTAIN, COLORADO

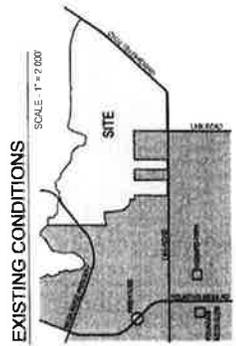
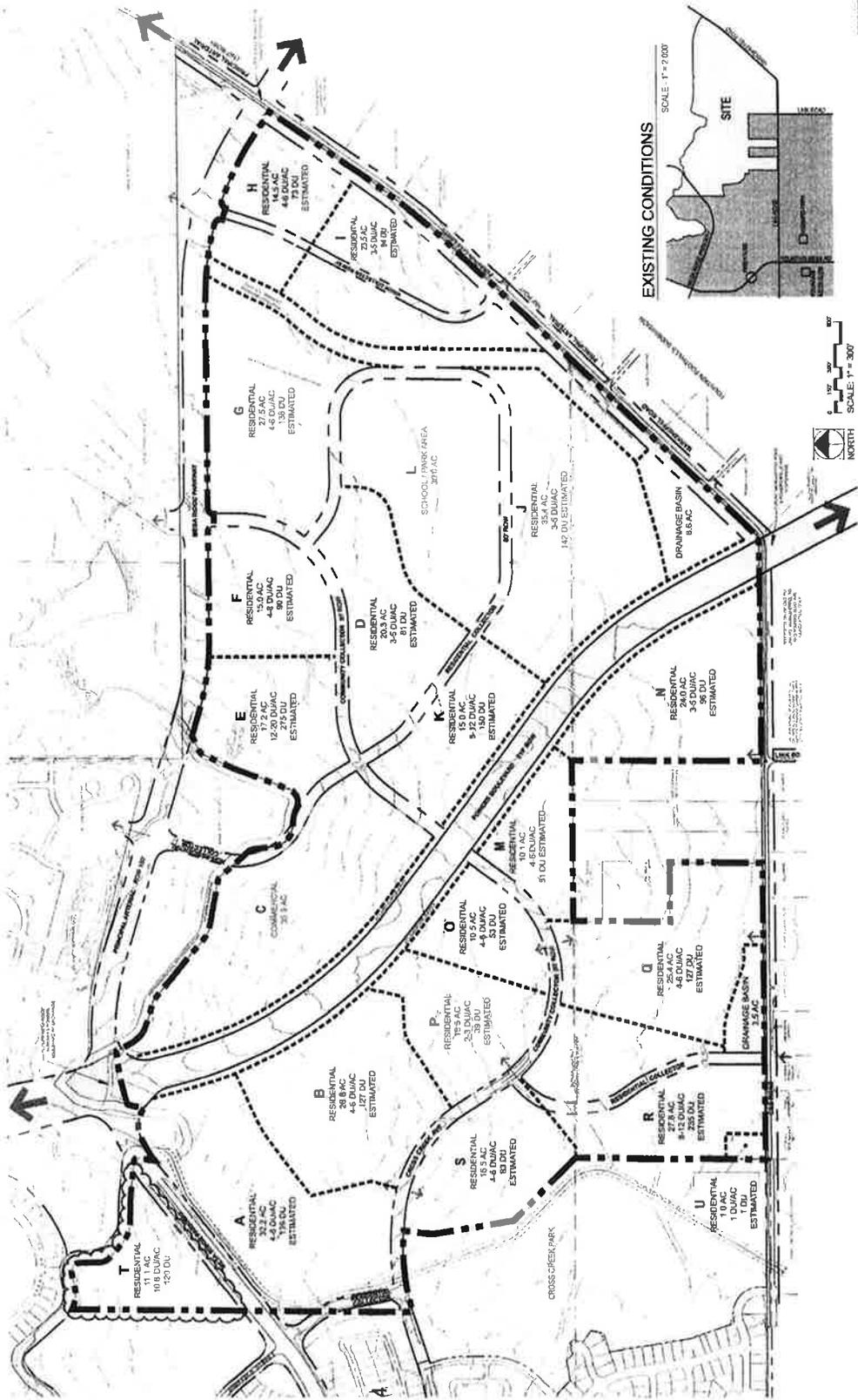


DATE: \_\_\_\_\_  
REVISIONS: \_\_\_\_\_

MESA RIDGE  
OVERALL DEVELOPMENT PLAN  
FOUNTAIN, COLORADO  
AMENDMENT NO. 4 (MAJOR AMENDMENT)

Sheet 2 of 2

EXHIBIT B A of D



PREPARED: 11-08-12



# Regular City Council Meeting

**New Business –9E**

**February 11, 2014**

### Summary Information

Title:

Resolution 14-009, A Resolution Approving the Lighten the Load Agreement between the City of Fountain, Colorado through its Electric, Water, and Wastewater Utility Enterprise and the Pikes Peak Community Action Agency, and Certifying This Agreement as the City of Fountain’s Alternative Energy Assistance Program Under the Low-Income Energy Assistance Act.

Initiator : Denise Sulski, Customer Service Manager

Presenter: Denise Sulski, Customer Service Manager

Legal Review:  Yes  No

- Council Action
- Council Information
- Report to Council

Summary Overview and List of Attachments:

The purpose of this action item is for the Council to consider changes to the Lighten the Load Program.

Attachment A: Resolution 14-009

Attachment B: Lighten the Load Agreement with the Pikes Peak Community Action Agency

### Background Information

In 2005, Fountain Utilities created the Lighten the Load Program. The Program is a voluntary contribution program designed to provide assistance to residential customers with temporary, short-term payment of their past due utility bill. The program is funded through customer donations, a portion of late fees, unclaimed deposits, and an annual grant from Energy Outreach Colorado.

When the Program was initially created, Fountain Utilities partnered with a local non-profit agency, Pikes Peak Community Action Agency, to help administer the program. Customers contact the agency to discuss their situation, determine program eligibility, and identify other areas of assistance which may be available through other organizations and charities.

To date, Fountain Utilities has issued over 1,500 grants to aid customers, which total over \$200,000 in assistance funds. Due to the economy and increased unemployment rates, we have seen a higher demand for utility bill payment assistance in recent years. In an effort to meet the needs of the community and continue to be good stewards of the program funding, we revisited the original contract and are recommending changes to the Program. These changes include adding a second distribution agency, new eligibility guidelines and case standards, increasing monetary assistance limits, expanded reporting and program management, and the customer donation enrollment process.

### Recommendation

Fountain Utilities staff recommends the approval of Resolution 14-XXX, A Resolution Approving the Lighten the Load Agreement between the City of Fountain, Colorado through its Electric, Water, and Wastewater Utility Enterprise and the Pikes Peak Community Action Agency, and Certifying This Agreement as the City of Fountain’s Alternative Energy Assistance Program Under the Low-Income Energy Assistance Act.

### Proposed Motion

“I recommend the approval of Resolution 14-xxx, a Resolution approving the Lighten the Load Agreements between the City of Fountain and the Pikes Peak Community Action Agency.”

*S.T.*

CM Review



## RESOLUTION 14-009



**A RESOLUTION APPROVING THE LIGHTEN THE LOAD AGREEMENT BETWEEN THE CITY OF FOUNTAIN, COLORADO THROUGH ITS ELECTRIC, WATER AND WASTEWATER UTILITY ENTERPRISE AND THE PIKES PEAK COMMUNITY ACTION AGENCY, AND CERTIFYING THIS AGREEMENT AS THE CITY OF FOUNTAIN'S ALTERNATIVE ENERGY ASSISTANCE PROGRAM UNDER THE LOW-INCOME ENERGY ASSISTANCE ACT.**

WHEREAS, the City of Fountain, Colorado through its Electric, Water and Wastewater Utility Enterprise (the "Utility Enterprise") established the Lighten the Load Program in June 2005 to assist eligible residential customers of Fountain Utilities in paying their utility bill under emergency circumstances; and

WHEREAS, the City of Fountain, Colorado through its Utility Enterprise desires to provide such services through the Lighten the Load Program Agreement, an agreement with the Pikes Peak Community Action Agency, a qualified 501(c) (3) non-profit organization (the "Agreement"); and

WHEREAS, the Low-Income Energy Assistance Act, Article 8.7 of Title 40 Colorado Revised Statutes, (the "Act") requires an electric utility to provide for an energy assistance program to collect an optional low-income energy assistance contribution from its utility customers in Colorado; and

WHEREAS, the Act allows a municipally owned electric utility to self-certify its own low-income energy assistance program in accordance with the requirements of the Act; and

WHEREAS, all customers of Fountain Utilities needing assistance in paying their utility bills due to emergency circumstances may apply for Lighten the Load funds ("Applicants"); and

WHEREAS, Lighten the Load's funding is provided to eligible residential customers ("Clients") by an independent third party distribution agency ("Distribution Agency"); and

WHEREAS, Fountain Utilities determines the amount of funding available to the Distribution Agency and will communicate this amount to the Distribution Agency on an annual basis.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, State of Colorado, that:

1. The Lighten the Load Agreement between the City of Fountain, Colorado through its Utility Enterprise and the Pikes Peak Community Action Agency, a qualified 501 (c) (3) non-profit organization as presented to the City Council is hereby approved.
2. The Mayor is authorized to sign the Agreement.
3. The City Council as the governing body of the City of Fountain, Colorado Utility Enterprise certifies the Agreement shall constitute the alternative assistance energy program under the Act of the City of Fountain, Colorado through its Utility Enterprise, and the Agreement meets the requirements of the Act for self-certification.

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Gabriel P. Ortega, Mayor

ATTEST:

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Silvia Mascarenas, City Clerk

## **LIGHTEN THE LOAD AGREEMENT**

### **Revision 1**

This LIGHTEN THE LOAD Agreement Revision 1 (Agreement) is made and entered into by The City of Fountain Colorado through its Electric, Water, and Wastewater Utility Enterprise ("Fountain Utilities") and the Pikes Peak Community Action Agency (PPCAA) a qualified 501(c)(3) non-profit corporation ("Distribution Agency") on this \_\_\_\_\_ day of \_\_\_\_\_, 2014. The Agreement shall become effective upon the date set forth immediately above and upon becoming effective shall supersede and replace the Lighten the Load Agreement in its entirety dated the 28<sup>th</sup> day of June 2005, to include the First Amendment to the Lighten the Load Agreement dated the 22<sup>nd</sup> day of May 2007. This Agreement shall not supersede any rights or obligations that have accrued under the Lighten the Load Agreement dated the 28<sup>th</sup> day of June 2005, or under the First Amendment dated the 22<sup>nd</sup> day of May 2007, including any payment for services rendered under the 2005 agreement.

### **RECITALS**

**Whereas**, the Lighten the Load program was established by Fountain Utilities in June 2005 to assist eligible needy residential customers of Fountain Utilities in paying their utility bills under emergency circumstances.

**Whereas**, all customers of Fountain Utilities needing assistance in paying their utility bills due to emergency circumstances may apply for Lighten the Load funds ("Applicants");

**Whereas**, Lighten the Load's funding is provided to eligible residential customers ("Clients") by independent third-party distribution agencies;

**Whereas**, Fountain Utilities determines the amount of funding available to the Distribution Agency and will communicate this amount to the Distribution Agency on an annual basis.

**NOW THEREFORE**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed:

## AGREEMENT

### **1. Definitions:**

The following terms shall have the following meanings:

- a. "Lighten the Load" shall mean the program developed and administered by Fountain Utilities for the purpose of providing funds to be used to assist eligible residential Fountain Utilities customers with temporary, short term payment of past due utility charges in order to forestall service termination.
- b. "Distribution Agency" shall mean the distribution agency that has been selected by Fountain Utilities to determine customer eligibility for potential assistance.
- c. "Program Manager" shall mean Fountain Utilities Lighten the Load Program Manager and/or Administrator.
- d. "EOC funds" are those funds received by Fountain Utilities from Energy Outreach Colorado grants.

### **2. Scope of the Agreement.**

This Agreement governs the requirements, responsibilities, and procedures between the Parties regarding the Lighten the Load program. Specifically, this Agreement governs how the allocation and distribution of Lighten the Load funds shall operate. The Parties agree to the terms and conditions of this Agreement.

### **3. Term.**

The term of this Agreement is for one calendar year beginning February 11, 2014 ("Term").

### **4. Ownership and Operation**

- a. Lighten the Load is a Fountain Utilities owned project supported by voluntary contributions, unclaimed deposits, a portion of Late Fee collections, and from grants.
- b. All Lighten the Load contributed monies, unclaimed deposits, and Late Fees are to be deposited into the Lighten the Load general ledger.
- c. All Lighten the Load grants monies are to be deposited in separate general ledgers titled with the grantor's name. Presently, funds from Energy Outreach Colorado (EOC) grants are used in support of the program.
- d. The reserve balance for each of the Lighten the Load general ledgers will not be less than 10% of each quarter's disbursements.
- e. The EOC grant general ledger is to be closed out each year on October 31<sup>st</sup> and any remaining balance is to be returned to Energy Outreach Colorado.

- f. All of the aforementioned Lighten the Load monies are to be used only for utility assistance to eligible residential customers of Fountain Utilities as determined by the Distribution Agency.
- g. Lighten the Load shall at all times be operated to comply with all legal requirements, including compliance with Internal Revenue Service requirements to maintain tax deductibility of contributions.

**5. Allocation of Lighten the Load Funds to the Distribution Agency.**

Fountain Utilities shall establish the amount of Lighten the Load funds allocated to the Distribution Agency based on the following criteria:

- a. Total number of Applicant requests for assistance;
- b. The total number of Clients in the entire Lighten the Load program;
- c. The total amount of the Lighten the Load funds; and
- d. The resources the agency has to meet with Clients and complete budget counseling.

Fountain Utilities will inform the Distribution Agency of its allocation amount within a reasonable time after the Execution Date of this Agreement, but in no event later than February 11, 2014. The Distribution Agency is responsible for budgeting its Lighten the Load funds during the Term. The Distribution Agency is held financially responsible if Lighten the Load funds are spent in excess of the allocated amount. The Distribution Agency shall not carry over unspent Lighten the Load funds from one Term to another Term. All Lighten the Load funds allocated to Distribution Agency but not dispersed to Clients by the end of the Term will expire and will return to the Lighten the Load fund. Any additional Lighten the Load funds requested beyond the Distribution Agency's allocation must be approved by the Program Manager in writing.

**6. Client Selection.**

- a. Except as noted in section 6.j, Applicants must show ability to pay future utility bills and this ability must be documented in the Applicant's file held at the Distribution Agency.

**The Distribution Agency must develop case assessment standards to apply a standardized rubric to each Applicant. The case assessment standards must consider the Applicant's budget assessment, the Applicant's Fountain Utilities payment record and the Applicant's ability to continue to pay for utilities services.**

- b. When selecting Clients, the Distribution Agency must do the following three things:
  - 1. Interview Applicants;
  - 2. Prepare a case plan as appropriate and in compliance with CRS § 24-76.5-101 *et seq.*; and
  - 3. Apply the Distribution Agency's case assessment standards. This includes having the Applicant provide valid identification and sign an affidavit regarding citizenship, legal

residency, or alien status. Documentation (Applicant's affidavit and either a photocopy of identification provided or Distribution Agency's affidavit that appropriate identification was presented) verifying the Applicant's lawful presence in the United States as required by statute must be retained by Distribution Agency in accordance with the Audit provision below.

- c. The Distribution Agency shall determine whether the Applicant is receiving other assistance from another distribution agency.
- d. The Distribution Agency must obtain written permission from the Applicant to request from Fountain Utilities information about the Applicant's debt and payment history with Fountain Utilities. In addition, Distribution Agency must obtain permission to request from Fountain Utilities information related to Applicant's previous Lighten the Load assistance and Applicant's inquiries for assistance from other Lighten the Load distribution agencies within the last twelve (12) months.
- e. Once an Applicant is determined to be eligible, the Distribution Agency must complete a client assistance form for the Client. The client assistance form must be complete, legible, include an account number, and have accurate information. The form must be promptly provided to Fountain Utilities.
- f. The Distribution Agency shall make the determination to provide assistance to an Applicant on a case by case basis. No Applicant shall be discriminated against because of race, color, national origin or ancestry, sex, age, religious convictions, veteran status, sexual orientation, disability, political beliefs, or employer. The Distribution Agency shall comply with all Federal and State nondiscrimination laws. An Applicant who also receives subsidized housing shall be treated the same as any other Applicant. The Distribution Agency has the authority to discontinue assistance to a Client if the Client fails to keep his or her commitments to the Distribution Agency or for any other reasonable cause at the Distribution Agency's discretion.
- g. If the Client Lighten the Load Guarantee Form for an approved Lighten the Load Applicant is not received by the Fountain Utilities Customer Service Department prior to the account being disconnected for non-payment, any applicable reconnect charges may be charged to the Client's utility account and will not be paid with Lighten the Load funds.
- h. Fountain Utilities reserves the right to override the Distribution Agency's decision regarding the eligibility of an Applicant for assistance if there exists a situation of safety/code violation, diversion, subterfuge, or other egregious behavior.
- i. Extreme Hardship Cases
  - a. An Extreme Hardship Case is generally defined as:
    - i. An extraordinary hardship that is not likely to reoccur.
    - ii. The Applicant or a member of the Applicant's household has been subjected to exceptional financial strain caused by e.g. extraordinary medical expenses, physical catastrophe, etc. which was not caused by the intentional or negligent conduct of the Applicant or member of the Applicant's household.
  - b. Process

- i. The Applicant would be granted Lighten the Load fund assistance (with proof of a Notice of Termination) and/or EOC fund assistance (with a Past Due balance) even though the customer would not normally qualify for assistance due to:
  - 1. Past or present income guidelines;
  - 2. Future income potential;
  - 3. Exceeding the annual assistance limit.
- ii. Favorable consideration will be given to such Applicant characteristics as:
  - 1. Length of service;
  - 2. Prior payment history;
  - 3. Prior non-pay activity;
- iii. The payment amounts for Extreme Hardship Cases will be as outlined in paragraphs 8.g for Lighten the Load and EOC funds.
- iv. The Distribution Agency's Executive Director must approve all Extreme Hardship Cases.
- v. The Distribution Agency's Executive Director or designee will document all Extreme Hardship Cases by email to Fountain Utilities Customer Service Manager and the Program Manager; on the Lighten the Load Guarantee Form; and on the Monthly/Quarterly Report.
- j. Lighten the Load and EOC assistance is not to be provided to the Distribution Agency's employees; volunteers; or for the immediate relatives of the Distribution Agency's employees and volunteers. It is required that such persons be referred to another Agency for assistance.
- k. Applicant Appeal Process

The Distribution Agency must develop and implement a fair and impartial appeal process for its Applicants. An Applicant denied assistance may appeal through the appeal process implemented by the Distribution Agency. An Applicant may not appeal through Fountain Utilities.

## **7. Counseling and Training Services.**

The Distribution Agency shall provide case work counseling to its Clients. This counseling shall focus on developing a budget with the Client and how to become financially self-sufficient. As part of the counseling process, the Distribution Agency is encouraged to recommend to Clients that they begin making nominal contributions to the current amount due on their Utilities bill whenever possible.

The Distribution Agency shall provide appropriate training for its staff and volunteers. This includes attending an orientation with the Fountain Utilities and attending Lighten the Load meetings to assure proper operation of the Lighten the Load program

**8. Distribution of Lighten the Load Funds to Clients.**

- a. Lighten the Load is the fund of last resort. All other resources (such as LEAP, when applicable) must be exhausted first.
- b. Lighten the Load funds shall only be used by the Distribution Agency to resolve emergency situations of Applicants by paying Fountain Utilities residential past due balances on accounts which are subject to disconnect. As proof of the emergency situation, a copy of notice of termination and telephone verification of notice of termination, or a payment installment arrangement that has been defaulted upon, is required for all Applicants.
- c. Lighten the Load funds are to be used for usage related charges only and shall not be used for loans, deposits, or fees, to include: late, reconnect, non-sufficient fund, and/or diversion fees.
- d. The use of EOC funds is limited to one time per grant year (November 1 thru October 31) per Client regardless of the vendor receiving payment.
- e. Payments will not be made directly to the Client.
- f. The Client's utility account must be credited within two weeks.
- g. Individual grants in excess of \$500.00 must be approved by the Distribution Agency's Supervisor and the Lighten the Load Program Manager. No individual grant may exceed \$500.00, unless approved in writing by the Lighten the Load Program Manager. If EOC funds are being used, then the Distribution Agency must comply with any and all EOC rules and guidelines.
- h. The Distribution Agency's Director of Operations may authorize more than one payment to a Client within the same calendar year, as long as all of the combined payments do not exceed \$500.00, *unless* approved by the Lighten the Load Program Manager and noted on the Client's utility account.
- i. Any Client receiving assistance more than once in a calendar year may only receive that assistance from the original distribution agency.
- j. A Distribution Agency counselor will collaborate with the Lighten the Load Program Manager to assure that Fountain Utilities is willing to accept the Lighten the Load guarantee and to assure that the Client's utilities are sustained or started given the guarantee.
- k. If appropriate, the Lighten the Load guarantee may be made on a contingency basis, that is, after the Client has paid an agreed portion towards their bill or entered into a Payment Arrangement/Extension. In these cases the Client must present to the Distribution Agency a receipt and/or a copy of the Payment Arrangement form before the Lighten the Load Guarantee Form is authorized.

## **9. The Distribution Agency's Representations and Warranties.**

The Distribution Agency represents and warrants that, to the best of its knowledge, the following are true and accurate:

- a. **Geographic Area** – The Distribution Agency is located in, and operates and provides services within the Fountain Utilities service area.
- b. **Financial Management** – The Distribution Agency is in good standing with the Colorado Secretary of State, is financially stable, and is well managed.
- c. **Non-Profit Standing** – The Distribution Agency is a charitable non-profit organization with tax exempt status or it either is a military/governmental entity or it is approved through a special exemption by the Board.

The Distribution Agency will provide Fountain Utilities with proof of their non-profit status, a copy of their last financial audit, and a list of their Board of Directors on an annual basis.

As of the Effective Date of this Agreement, Fountain Utilities will pay administration fees to the Distribution Agency as set forth herein. The administration fee shall be payable on a quarterly basis. The Distribution Agency shall invoice Fountain Utilities within the first fifteen (15) days of each quarter for administrative services rendered in the previous quarter, with each invoice due and payable within thirty (30) days after the receipt by the Fountain Utilities Customer Service Department. The invoice form and information will be one mutually agreed upon by both the Distribution Agency and the Fountain Utilities Customer Service Department. The administration fee shall be equal to 5% of all Lighten the Load funds guaranteed by the Distribution Agency and credited to residential customer accounts in the preceding quarter or an amount mutually agreed upon by the parties in writing. Fountain Utilities shall pay the administration fee from the respective Lighten the Load general ledger funds.

## **10. Suspension.**

The Lighten the Load Program Manager has the authority and discretion to suspend the Distribution Agency from the Lighten the Load program. The suspended Distribution Agency shall not receive any allocation of Lighten the Load funds during the suspension period. The Program Manager shall set the suspension period; however, the suspension period shall not exceed six months without written documentation from the Fountain Utilities Customer Service Manager. The suspended Distribution Agency shall be reinstated into the Lighten the Load program upon the occurrence of one of the following three events: (1) expiration of the suspension period; (2) by reinstatement from the Program Manager; or (3) by written authorization from the Fountain Utilities Customer Service Manager.

Reasons for a suspension may include, but are not limited to, the following actions or failures of the Distribution Agency:

- a. Failure to follow established Lighten the Load policies and procedures;
- b. Failure to comply with applicable laws, rules, and regulations, including Colorado Revised Statute § 24-76.5-101 *et seq.*;
- c. Failure to comply with this Agreement;
- d. Loss of tax exempt status;
- e. Failure to have accurate reports completed by the agreed upon time.

**11. Termination.**

- a. The initial term of Revision 1 of this Agreement (Agreement) is from the Effective Date through December 31, 2014.
- b. If either Fountain Utilities or the Distribution Agency is in default under the provisions of this Agreement and fails to cure the default within ten (10) days following written notice from the non-defaulting party of the default, then a breach of this Agreement will be deemed to have occurred. Upon breach of the Agreement, the non-defaulting party may pursue such remedies as provided by law or equity.
- c. Either party may terminate this Agreement, for any reason, upon ninety (90) days advance written notice to the other party.
- d. All notices necessary or required under this Agreement shall be in writing and shall be personally delivered, sent by overnight delivery service, or mailed by certified mail, postage prepaid and return receipt requested, faxed, or emailed as follows:

<b>To Fountain Utilities:</b>	<b>Fountain Utilities</b>
	<b>Attention: Customer Service Manager</b>
	<b>116 S. Main Street</b>
	<b>Fountain, CO 80817</b>

<b>To Distribution Agency:</b>	<b>Pikes Peak Community Action Agency</b>
	<b>Attention: Director of Operations</b>
	<b>312 S. Weber Street, Ste. A</b>
	<b>Colorado Springs, CO 80903</b>

- e. Notice given by personal delivery, overnight delivery, or mail shall be effective upon actual receipt. The parties may change any address to which notice is to be given by giving notice as provided above of such change of address.
- f. Upon termination of this Agreement any allocated but not distributed Lighten the Load funds shall expire and will not be distributed to the Distribution Agency. All funds not distributed prior to Termination of this Agreement will remain in Lighten the Load funds for the following year.

**12. Appropriation of Funds.**

In accord with the City Charter, performance of Utilities' obligations under this Agreement are expressly subject to appropriation of funds by the City Council. In the event funds are not appropriated

in whole or in part sufficient for performance of Fountain Utilities' obligations under this Agreement, then this Agreement shall thereafter become null and void by operation of law, and Fountain Utilities shall thereafter have no liability for compensation or damages to the Distribution Agency in excess of Utilities' authorized appropriation for this Agreement. Fountain Utilities shall notify the Distribution Agency as soon as reasonably practicable in the event of non-appropriation.

**13. Audit.**

The Distribution Agency shall maintain accurate records of all amounts billable to and payments made by Fountain Utilities hereunder in accordance with generally accepted accounting principles and in a format that will permit audit, for a period of seven (7) years after payment of the last invoice related to this Agreement. Such records shall be open to reasonable inspection and subject to audit and/or reproduction, during normal working hours, by Fountain Utilities or its authorized representative. Utilities shall give the Distribution Agency advance notice of intended audits. The Distribution Agency shall burn, shred, pulverize, or otherwise destroy all confidential information such that it cannot be read or reconstructed according to the Distribution Agency's retention policy.

**14. Reporting.**

The Distribution Agency shall provide monthly reports to the Lighten the Load Program Manager for the first six (6) months of this agreement. Reporting thereafter will follow a quarterly schedule. Reports shall contain the date of Applicants request, account number, Client name, Client's monthly income, military status, amount of guarantee from Lighten the Load funds, funds from contributions or unclaimed deposits, EOC funds, audit figure, total disbursements for the period and the calculated administration fee.

In addition, the Distribution Agency will provide a monthly report providing information regarding the applicants that were declined Lighten the Load assistance. The report shall contain the date of the Applicants request, account number, Applicant's name, Applicant's monthly income, military status, amount of requested assistance funds, and explanation for the decline.

**15. Confidentiality.**

The Distribution Agency acknowledges that it has been or may be exposed to confidential or proprietary information, oral or written, (Confidential Information), including, but not limited to, customer information, financial and business information (including, without limitation, revenues, expenses, taxes and contracts), partner relationships, patents, trade secrets, technical processes, formulae related to products and services, pricing and any device, technique or compilation of information used in Fountain Utilities' business ("Fountain Utilities' Confidential Information"). The Distribution Agency agrees that it shall not use, commercialize or disclose such Fountain Utilities' Confidential Information to any person or entity, except to its own employees having a "need to know." The Distribution Agency may only disclose Fountain Utilities' Confidential Information to third parties upon prior written approval by Fountain Utilities, and shall comply with Fountain Utilities approval in making such disclosure. The Distribution Agency shall use at least the same degree of care in safeguarding Fountain Utilities' Confidential Information as it uses in safeguarding its own confidential

information, but in no event less than reasonable care. Nothing is intended to or shall grant the Distribution Agency an ownership right, a license or other right of any nature to use Fountain Utilities' Confidential Information except as expressly provided herein.

In order to ensure confidential information is adequately safeguarded, the Distribution Agency shall maintain all confidential information in locked files and only key personnel shall have access to these files. All key personnel must obtain training regarding confidentiality and sign a confidentiality agreement binding them to the terms of this Agreement. A list of all key personnel authorized to contact Fountain Utilities and a call-in password will be established and provided at the beginning of each Term of this Agreement. The Distribution Agency's Executive Director may authorize changes to the list of key personnel as necessary. In addition, the Distribution Agency will conduct phone calls and in-person interviews as privately as possible in order to protect the applicant/clients privacy.

**16. Severability.**

If any provision of this Agreement shall be found to be illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.

**17. Assignment.**

There shall be no assignment of the rights or obligations contained in this Agreement by either party without the prior written consent by the other party, and any such assignment without the written consent of the other party shall be null and void. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Fountain Utilities and the Distribution Agency.

**18. Compliance with Laws and Regulations.**

This Agreement and the rights and obligations of the parties hereunder shall be subject to all applicable laws, orders, court decisions, directives, rules and regulations of any duly constituted governmental body or official having jurisdiction.

**19. Governing Law.**

This Agreement shall be interpreted in accordance with the laws of the State of Colorado, the Fountain City Charter, City Code, Ordinances, Rules and Regulations, and tariffs. In the event of litigation, this Agreement shall be enforceable by or against the City of Fountain on behalf of Fountain Utilities as provided in Ordinance No. 1167. In the event of any dispute over the Agreement's terms and conditions, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.

**20. Survival.**

The provisions of this Agreement with respect to confidentiality and audit shall survive the termination of this Agreement.

**21. Entire Agreement.**

This Agreement with any attachments constitutes the entire agreement between the parties and supersedes all previous written or oral communications, understandings, and agreements between the parties unless specifically stated herein. This Agreement may only be amended by a written agreement signed by both parties.

*(Remainder of page left intentionally blank)*

**ACCEPTED AND AGREED:**

Distribution Agency:

\_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Its: \_\_\_\_\_

Name: \_\_\_\_\_

Organization Address:

\_\_\_\_\_

\_\_\_\_\_

Organization Phone: \_\_\_\_\_

Fountain Utilities:

Fountain Utilities \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Its: \_\_\_\_\_

Name: \_\_\_\_\_

Organization Address:

\_\_\_\_\_

\_\_\_\_\_

Organization Phone: \_\_\_\_\_



# Regular City Council Meeting

**New Business –9F**

**February 11, 2014**

### Summary Information

**Title:**

Resolution 14-010, A Resolution Approving the Lighten the Load Agreement between the City of Fountain, Colorado through its Electric, Water, and Wastewater Utility Enterprise and the Salvation Army of the Fountain Valley, and Certifying This Agreement as the City of Fountain’s Alternative Energy Assistance Program Under the Low-Income Energy Assistance Act.

Initiator : Denise Sulski, Customer Service Manager

Presenter: Denise Sulski, Customer Service Manager

Legal Review:  Yes  No

Council Action

Council Information

Report to Council

**Summary Overview and List of Attachments:**

The purpose of this action item is for the Council to consider changes to the Lighten the Load Program.

Attachment A: Resolution 14-010

Attachment B: Lighten the Load Agreement with the Salvation Army of the Fountain Valley

### Background Information

In 2005, Fountain Utilities created the Lighten the Load Program. The Program is a voluntary contribution program designed to provide assistance to residential customers with temporary, short-term payment of their past due utility bill. The program is funded through customer donations, a portion of late fees, unclaimed deposits, and an annual grant from Energy Outreach Colorado.

When the Program was initially created, Fountain Utilities partnered with a local non-profit agency, Pikes Peak Community Action Agency, to help administer the program. Customers contact the agency to discuss their situation, determine program eligibility, and identify other areas of assistance which may be available through other organizations and charities.

To date, Fountain Utilities has issued over 1,500 grants to aid customers, which total over \$200,000 in assistance funds. Due to the economy and increased unemployment rates, we have seen a higher demand for utility bill payment assistance in recent years. In an effort to meet the needs of the community and continue to be good stewards of the program funding, we revisited the original contract and are recommending changes to the Program. These changes include adding a second distribution agency, new eligibility guidelines and case standards, increasing monetary assistance limits, expanded reporting and program management, and the customer donation enrollment process.

### Recommendation

Fountain Utilities staff recommends the approval of Resolution 14-XXX, A Resolution Approving the Lighten the Load Agreement between the City of Fountain, Colorado through its Electric, Water, and Wastewater Utility Enterprise and the Salvation Army of the Fountain Valley, and Certifying This Agreement as the City of Fountain’s Alternative Energy Assistance Program Under the Low-Income Energy Assistance Act.

### Proposed Motion

“I recommend the approval of Resolution 14-xxx, a Resolution approving the Lighten the Load Agreements between the City of Fountain and the Salvation Army of the Fountain Valley.”

*S.T.*

CM Review



## RESOLUTION 14-010

### **A RESOLUTION APPROVING THE LIGHTEN THE LOAD AGREEMENT BETWEEN THE CITY OF FOUNTAIN, COLORADO THROUGH ITS ELECTRIC, WATER AND WASTEWATER UTILITY ENTERPRISE, AND THE SALVATION ARMY OF THE FOUNTAIN VALLEY AND CERTIFYING THIS AGREEMENT AS THE CITY OF FOUNTAIN'S ALTERNATIVE ENERGY ASSISTANCE PROGRAM UNDER THE LOW-INCOME ENERGY ASSISTANCE ACT.**

WHEREAS, the City of Fountain, Colorado through its Electric, Water and Wastewater Utility Enterprise (the "Utility Enterprise") established the Lighten the Load Program in June 2005 to assist eligible residential customers of Fountain Utilities in paying their utility bill under emergency circumstances; and

WHEREAS, the City of Fountain, Colorado through its Utility Enterprise desires to provide such services through the Lighten the Load Program Agreement, an agreement with the Salvation Army of the Fountain Valley, a qualified 501(c) (3) non-profit organization (the "Agreement"); and

WHEREAS, the Low-Income Energy Assistance Act, Article 8.7 of Title 40 Colorado Revised Statutes, (the "Act") requires an electric utility to provide for an energy assistance program to collect an optional low-income energy assistance contribution from its utility customers in Colorado; and

WHEREAS, the Act allows a municipally owned electric utility to self-certify its own low-income energy assistance program in accordance with the requirements of the Act; and

WHEREAS, all customers of Fountain Utilities needing assistance in paying their utility bills due to emergency circumstances may apply for Lighten the Load funds ("Applicants"); and

WHEREAS, Lighten the Load's funding is provided to eligible residential customers ("Clients") by an independent third party distribution agency ("Distribution Agency"); and

WHEREAS, Fountain Utilities determines the amount of funding available to the Distribution Agency and will communicate this amount to the Distribution Agency on an annual basis.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, State of Colorado, that:

1. The Lighten the Load Agreement between the City of Fountain, Colorado through its Utility Enterprise and the Salvation Army of the Fountain Valley, a qualified 501 (c) (3) non-profit organization as presented to the City Council is hereby approved.
2. The Mayor is authorized to sign the Agreement.
3. The City Council as the governing body of the City of Fountain, Colorado Utility Enterprise certifies the Agreement shall constitute the alternative assistance energy program under the Act of the City of Fountain, Colorado through its Utility Enterprise, and the Agreement meets the requirements of the Act for self-certification.

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Gabriel P. Ortega, Mayor

ATTEST:

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Silvia Mascarenas, City Clerk

## LIGHTEN THE LOAD AGREEMENT

This LIGHTEN THE LOAD Agreement Revision 1 (Agreement) is made and entered into by The City of Fountain Colorado through its Electric, Water, and Wastewater Utility Enterprise ("Fountain Utilities") and the Salvation Army of the Fountain Valley a qualified 501(c) (3) non-profit corporation ("Distribution Agency") on this \_\_\_\_\_ day of \_\_\_\_\_, 2014. The Agreement shall become effective upon the date set forth immediately above.

### RECITALS

**Whereas**, the Lighten the Load program was established by Fountain Utilities in June 2005 to assist eligible needy residential customers of Fountain Utilities in paying their utility bills under emergency circumstances.

**Whereas**, all customers of Fountain Utilities needing assistance in paying their utility bills due to emergency circumstances may apply for Lighten the Load funds ("Applicants");

**Whereas**, Lighten the Load's funding is provided to eligible residential customers ("Clients") by independent third-party distribution agencies;

**Whereas**, Fountain Utilities determines the amount of funding available to the Distribution Agency and will communicate this amount to the Distribution Agency on an annual basis.

**NOW THEREFORE**, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed:

## AGREEMENT

### **1. Definitions:**

The following terms shall have the following meanings:

- a. "Lighten the Load" shall mean the program developed and administered by Fountain Utilities for the purpose of providing funds to be used to assist eligible residential Fountain Utilities customers with temporary, short term payment of past due utility charges in order to forestall service termination.
- b. "Distribution Agency" shall mean the distribution agency that has been selected by Fountain Utilities to determine customer eligibility for potential assistance.
- c. "Program Manager" shall mean Fountain Utilities Lighten the Load Program Manager and/or Administrator.
- d. "EOC funds" are those funds received by Fountain Utilities from Energy Outreach Colorado grants.

### **2. Scope of the Agreement.**

This Agreement governs the requirements, responsibilities, and procedures between the Parties regarding the Lighten the Load program. Specifically, this Agreement governs how the allocation and distribution of Lighten the Load funds shall operate. The Parties agree to the terms and conditions of this Agreement.

### **3. Term.**

The term of this Agreement is for one calendar year beginning February 11, 2014 ("Term").

### **4. Ownership and Operation**

- a. Lighten the Load is a Fountain Utilities owned project supported by voluntary contributions, unclaimed deposits, a portion of Late Fee collections, and from grants.
- b. All Lighten the Load contributed monies, unclaimed deposits, and Late Fees are to be deposited into the Lighten the Load general ledger.
- c. All Lighten the Load grants monies are to be deposited in separate general ledgers titled with the grantor's name. Presently, funds from Energy Outreach Colorado (EOC) grants are used in support of the program.
- d. The reserve balance for each of the Lighten the Load general ledgers will not be less than 10% of each quarter's disbursements.
- e. The EOC grant general ledger is to be closed out each year on October 31<sup>st</sup> and any remaining balance is to be returned to Energy Outreach Colorado.

- f. All of the aforementioned Lighten the Load monies are to be used only for utility assistance to eligible residential customers of Fountain Utilities as determined by the Distribution Agency.
- g. Lighten the Load shall at all times be operated to comply with all legal requirements, including compliance with Internal Revenue Service requirements to maintain tax deductibility of contributions.

**5. Allocation of Lighten the Load Funds to the Distribution Agency.**

Fountain Utilities shall establish the amount of Lighten the Load funds allocated to the Distribution Agency based on the following criteria:

- a. Total number of Applicant requests for assistance;
- b. The total number of Clients in the entire Lighten the Load program;
- c. The total amount of the Lighten the Load funds; and
- d. The resources the agency has to meet with Clients and complete budget counseling.

Fountain Utilities will inform the Distribution Agency of its allocation amount within a reasonable time after the Execution Date of this Agreement, but in no event later than February 11, 2014. The Distribution Agency is responsible for budgeting its Lighten the Load funds during the Term. The Distribution Agency is held financially responsible if Lighten the Load funds are spent in excess of the allocated amount. The Distribution Agency shall not carry over unspent Lighten the Load funds from one Term to another Term. All Lighten the Load funds allocated to Distribution Agency but not dispersed to Clients by the end of the Term will expire and will return to the Lighten the Load fund. Any additional Lighten the Load funds requested beyond the Distribution Agency's allocation must be approved by the Program Manager in writing.

**6. Client Selection.**

- a. Except as noted in section 6.j, Applicants must show ability to pay future utility bills and this ability must be documented in the Applicant's file held at the Distribution Agency.

**The Distribution Agency must develop case assessment standards to apply a standardized rubric to each Applicant. The case assessment standards must consider the Applicant's budget assessment, the Applicant's Fountain Utilities payment record and the Applicant's ability to continue to pay for utilities services.**

- b. When selecting Clients, the Distribution Agency must do the following three things:
  - 1. Interview Applicants;
  - 2. Prepare a case plan as appropriate and in compliance with CRS § 24-76.5-101 et seq.; and
  - 3. Apply the Distribution Agency's case assessment standards. This includes having the Applicant provide valid identification and sign an affidavit regarding citizenship, legal

residency, or alien status. Documentation (Applicant's affidavit and either a photocopy of identification provided or Distribution Agency's affidavit that appropriate identification was presented) verifying the Applicant's lawful presence in the United States as required by statute must be retained by Distribution Agency in accordance with the Audit provision below.

- c. The Distribution Agency shall determine whether the Applicant is receiving other assistance from another distribution agency.
- d. The Distribution Agency must obtain written permission from the Applicant to request from Fountain Utilities information about the Applicant's debt and payment history with Fountain Utilities. In addition, Distribution Agency must obtain permission to request from Fountain Utilities information related to Applicant's previous Lighten the Load assistance and Applicant's inquiries for assistance from other Lighten the Load distribution agencies within the last twelve (12) months.
- e. Once an Applicant is determined to be eligible, the Distribution Agency must complete a client assistance form for the Client. The client assistance form must be complete, legible, include an account number, and have accurate information. The form must be promptly provided to Fountain Utilities.
- f. The Distribution Agency shall make the determination to provide assistance to an Applicant on a case by case basis. No Applicant shall be discriminated against because of race, color, national origin or ancestry, sex, age, religious convictions, veteran status, sexual orientation, disability, political beliefs, or employer. The Distribution Agency shall comply with all Federal and State nondiscrimination laws. An Applicant who also receives subsidized housing shall be treated the same as any other Applicant. The Distribution Agency has the authority to discontinue assistance to a Client if the Client fails to keep his or her commitments to the Distribution Agency or for any other reasonable cause at the Distribution Agency's discretion.
- g. If the Client Lighten the Load Guarantee Form for an approved Lighten the Load Applicant is not received by the Fountain Utilities Customer Service Department prior to the account being disconnected for non-payment, any applicable reconnect charges may be charged to the Client's utility account and will not be paid with Lighten the Load funds.
- h. Fountain Utilities reserves the right to override the Distribution Agency's decision regarding the eligibility of an Applicant for assistance if there exists a situation of safety/code violation, diversion, subterfuge, or other egregious behavior.
- i. Extreme Hardship Cases
  - a. An Extreme Hardship Case is generally defined as:
    - i. An extraordinary hardship that is not likely to reoccur.
    - ii. The Applicant or a member of the Applicant's household has been subjected to exceptional financial strain caused by e.g. extraordinary medical expenses, physical catastrophe, etc. which was not caused by the intentional or negligent conduct of the Applicant or member of the Applicant's household.
  - b. Process

- i. The Applicant would be granted Lighten the Load fund assistance (with proof of a Notice of Termination) and/or EOC fund assistance (with a Past Due balance) even though the customer would not normally qualify for assistance due to:
    - 1. Past or present income guidelines;
    - 2. Future income potential;
    - 3. Exceeding the annual assistance limit.
  - ii. Favorable consideration will be given to such Applicant characteristics as:
    - 1. Length of service;
    - 2. Prior payment history;
    - 3. Prior non-pay activity;
  - iii. The payment amounts for Extreme Hardship Cases will be as outlined in paragraphs 8.g for Lighten the Load and EOC funds.
  - iv. The Distribution Agency's Executive Director must approve all Extreme Hardship Cases.
  - v. The Distribution Agency's Executive Director or designee will document all Extreme Hardship Cases by email to Fountain Utilities Customer Service Manager and the Program Manager; on the Lighten the Load Guarantee Form; and on the Monthly/Quarterly Report.
- j. Lighten the Load and EOC assistance is not to be provided to the Distribution Agency's employees; volunteers; or for the immediate relatives of the Distribution Agency's employees and volunteers. It is required that such persons be referred to another Agency for assistance.

k. Applicant Appeal Process

The Distribution Agency must develop and implement a fair and impartial appeal process for its Applicants. An Applicant denied assistance may appeal through the appeal process implemented by the Distribution Agency. An Applicant may not appeal through Fountain Utilities.

**7. Counseling and Training Services.**

The Distribution Agency shall provide case work counseling to its Clients. This counseling shall focus on developing a budget with the Client and how to become financially self-sufficient. As part of the counseling process, the Distribution Agency is encouraged to recommend to Clients that they begin making nominal contributions to the current amount due on their Utilities bill whenever possible.

The Distribution Agency shall provide appropriate training for its staff and volunteers. This includes attending an orientation with the Fountain Utilities and attending Lighten the Load meetings to assure proper operation of the Lighten the Load program

**8. Distribution of Lighten the Load Funds to Clients.**

- a. Lighten the Load is the fund of last resort. All other resources (such as LEAP, when applicable) must be exhausted first.
- b. Lighten the Load funds shall only be used by the Distribution Agency to resolve emergency situations of Applicants by paying Fountain Utilities residential past due balances on accounts which are subject to disconnect. As proof of the emergency situation, a copy of notice of termination and telephone verification of notice of termination, or a payment installment arrangement that has been defaulted upon, is required for all Applicants.
- c. Lighten the Load funds are to be used for usage related charges only and shall not be used for loans, deposits, or fees, to include: late, reconnect, non-sufficient fund, and/or diversion fees.
- d. The use of EOC funds is limited to one time per grant year (November 1 thru October 31) per Client regardless of the vendor receiving payment.
- e. Payments will not be made directly to the Client.
- f. The Client's utility account must be credited within two weeks.
- g. Individual grants in excess of \$500.00 must be approved by the Distribution Agency's Supervisor and the Lighten the Load Program Manager. No individual grant may exceed \$500.00, unless approved in writing by the Lighten the Load Program Manager. If EOC funds are being used, then the Distribution Agency must comply with any and all EOC rules and guidelines.
- h. The Distribution Agency's Director of Operations may authorize more than one payment to a Client within the same calendar year, as long as all of the combined payments do not exceed \$500.00, unless approved by the Lighten the Load Program Manager and noted on the Client's utility account.
- i. Any Client receiving assistance more than once in a calendar year may only receive that assistance from the original distribution agency.
- j. A Distribution Agency counselor will collaborate with the Lighten the Load Program Manager to assure that Fountain Utilities is willing to accept the Lighten the Load guarantee and to assure that the Client's utilities are sustained or started given the guarantee.
- k. If appropriate, the Lighten the Load guarantee may be made on a contingency basis, that is, after the Client has paid an agreed portion towards their bill or entered into a Payment Arrangement/Extension. In these cases the Client must present to the Distribution Agency a receipt and/or a copy of the Payment Arrangement form before the Lighten the Load Guarantee Form is authorized.

## **9. The Distribution Agency's Representations and Warranties.**

The Distribution Agency represents and warrants that, to the best of its knowledge, the following are true and accurate:

- a. **Geographic Area** – The Distribution Agency is located in, and operates and provides services within the Fountain Utilities service area.
- b. **Financial Management** – The Distribution Agency is in good standing with the Colorado Secretary of State, is financially stable, and is well managed.
- c. **Non-Profit Standing** – The Distribution Agency is a charitable non-profit organization with tax exempt status or it either is a military/governmental entity or it is approved through a special exemption by the Board.

The Distribution Agency will provide Fountain Utilities with proof of their non-profit status, a copy of their last financial audit, and a list of their Board of Directors on an annual basis.

As of the Effective Date of this Agreement, Fountain Utilities will pay administration fees to the Distribution Agency as set forth herein. The administration fee shall be payable on a quarterly basis. The Distribution Agency shall invoice Fountain Utilities within the first fifteen (15) days of each quarter for administrative services rendered in the previous quarter, with each invoice due and payable within thirty (30) days after the receipt by the Fountain Utilities Customer Service Department. The invoice form and information will be one mutually agreed upon by both the Distribution Agency and the Fountain Utilities Customer Service Department. The administration fee shall be equal to 5% of all Lighten the Load funds guaranteed by the Distribution Agency and credited to residential customer accounts in the preceding quarter or an amount mutually agreed upon by the parties in writing. Fountain Utilities shall pay the administration fee from the respective Lighten the Load general ledger funds.

## **10. Suspension.**

The Lighten the Load Program Manager has the authority and discretion to suspend the Distribution Agency from the Lighten the Load program. The suspended Distribution Agency shall not receive any allocation of Lighten the Load funds during the suspension period. The Program Manager shall set the suspension period; however, the suspension period shall not exceed six months without written documentation from the Fountain Utilities Customer Service Manager. The suspended Distribution Agency shall be reinstated into the Lighten the Load program upon the occurrence of one of the following three events: (1) expiration of the suspension period; (2) by reinstatement from the Program Manager; or (3) by written authorization from the Fountain Utilities Customer Service Manager.

Reasons for a suspension may include, but are not limited to, the following actions or failures of the Distribution Agency:

- a. Failure to follow established Lighten the Load policies and procedures;
- b. Failure to comply with applicable laws, rules, and regulations, including Colorado Revised Statute § 24-76.5-101 *et seq.*;
- c. Failure to comply with this Agreement;
- d. Loss of tax exempt status;
- e. Failure to have accurate reports completed by the agreed upon time.

**11. Termination.**

- a. The initial term of Revision 1 of this Agreement (Agreement) is from the Effective Date through December 31, 2014.
- b. If either Fountain Utilities or the Distribution Agency is in default under the provisions of this Agreement and fails to cure the default within ten (10) days following written notice from the non-defaulting party of the default, then a breach of this Agreement will be deemed to have occurred. Upon breach of the Agreement, the non-defaulting party may pursue such remedies as provided by law or equity.
- c. Either party may terminate this Agreement, for any reason, upon ninety (90) days advance written notice to the other party.
- d. All notices necessary or required under this Agreement shall be in writing and shall be personally delivered, sent by overnight delivery service, or mailed by certified mail, postage prepaid and return receipt requested, faxed, or emailed as follows:

<b>To Fountain Utilities:</b>	<b>Fountain Utilities</b>
	<b>Attention: Customer Service Manager</b>
	<b>116 S. Main St.</b>
	<b>Fountain CO 80817</b>

<b>To Distribution Agency:</b>	<b>Salvation Army</b>
	<b>Attention: Director of Operations</b>
	<b>901 N. Santa Fe</b>
	<b>Fountain, CO 80817</b>

- e. Notice given by personal delivery, overnight delivery, or mail shall be effective upon actual receipt. The parties may change any address to which notice is to be given by giving notice as provided above of such change of address.
- f. Upon termination of this Agreement any allocated but not distributed Lighten the Load funds shall expire and will not be distributed to the Distribution Agency. All funds not distributed prior to Termination of this Agreement will remain in Lighten the Load funds for the following year.

**12. Appropriation of Funds.**

In accord with the City Charter, performance of Utilities' obligations under this Agreement are expressly subject to appropriation of funds by the City Council. In the event funds are not appropriated

in whole or in part sufficient for performance of Fountain Utilities' obligations under this Agreement, then this Agreement shall thereafter become null and void by operation of law, and Fountain Utilities shall thereafter have no liability for compensation or damages to the Distribution Agency in excess of Utilities' authorized appropriation for this Agreement. Fountain Utilities shall notify the Distribution Agency as soon as reasonably practicable in the event of non-appropriation.

**13. Audit.**

The Distribution Agency shall maintain accurate records of all amounts billable to and payments made by Fountain Utilities hereunder in accordance with generally accepted accounting principles and in a format that will permit audit, for a period of seven (7) years after payment of the last invoice related to this Agreement. Such records shall be open to reasonable inspection and subject to audit and/or reproduction, during normal working hours, by Fountain Utilities or its authorized representative. Utilities shall give the Distribution Agency advance notice of intended audits. The Distribution Agency shall burn, shred, pulverize, or otherwise destroy all confidential information such that it cannot be read or reconstructed according to the Distribution Agency's retention policy.

**14. Reporting.**

The Distribution Agency shall provide monthly reports to the Lighten the Load Program Manager for the first six (6) months of this agreement. Reporting thereafter will follow a quarterly schedule. Reports shall contain the date of Applicants request, account number, Client name, Client's monthly income, military status, amount of guarantee from Lighten the Load funds, funds from contributions or unclaimed deposits, EOC funds, audit figure, total disbursements for the period and the calculated administration fee.

In addition, the Distribution Agency will provide a monthly report providing information regarding the applicants that were declined Lighten the Load assistance. The report shall contain the date of the Applicants request, account number, Applicant's name, Applicant's monthly income, military status, amount of requested assistance funds, and explanation for the decline.

**15. Confidentiality.**

The Distribution Agency acknowledges that it has been or may be exposed to confidential or proprietary information, oral or written, (Confidential Information), including, but not limited to, customer information, financial and business information (including, without limitation, revenues, expenses, taxes and contracts), partner relationships, patents, trade secrets, technical processes, formulae related to products and services, pricing and any device, technique or compilation of information used in Fountain Utilities' business ("Fountain Utilities' Confidential Information"). The Distribution Agency agrees that it shall not use, commercialize or disclose such Fountain Utilities' Confidential Information to any person or entity, except to its own employees having a "need to know." The Distribution Agency may only disclose Fountain Utilities' Confidential Information to third parties upon prior written approval by Fountain Utilities, and shall comply with Fountain Utilities approval in making such disclosure. The Distribution Agency shall use at least the same degree of care in safeguarding Fountain Utilities' Confidential Information as it uses in safeguarding its own confidential

information, but in no event less than reasonable care. Nothing is intended to or shall grant the Distribution Agency an ownership right, a license or other right of any nature to use Fountain Utilities' Confidential Information except as expressly provided herein.

In order to ensure confidential information is adequately safeguarded, the Distribution Agency shall maintain all confidential information in locked files and only key personnel shall have access to these files. All key personnel must obtain training regarding confidentiality and sign a confidentiality agreement binding them to the terms of this Agreement. A list of all key personnel authorized to contact Fountain Utilities and a call-in password will be established and provided at the beginning of each Term of this Agreement. The Distribution Agency's Executive Director may authorize changes to the list of key personnel as necessary. In addition, the Distribution Agency will conduct phone calls and in-person interviews as privately as possible in order to protect the applicant/clients privacy.

**16. Severability.**

If any provision of this Agreement shall be found to be illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.

**17. Assignment.**

There shall be no assignment of the rights or obligations contained in this Agreement by either party without the prior written consent by the other party, and any such assignment without the written consent of the other party shall be null and void. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Fountain Utilities and the Distribution Agency.

**18. Compliance with Laws and Regulations.**

This Agreement and the rights and obligations of the parties hereunder shall be subject to all applicable laws, orders, court decisions, directives, rules and regulations of any duly constituted governmental body or official having jurisdiction.

**19. Governing Law.**

This Agreement shall be interpreted in accordance with the laws of the State of Colorado, the Fountain City Charter, City Code, Ordinances, Rules and Regulations, and tariffs. In the event of litigation, this Agreement shall be enforceable by or against the City of Fountain on behalf of Fountain Utilities as provided in Ordinance No. 1167. In the event of any dispute over the Agreement's terms and conditions, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of El Paso County, Colorado, and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.

**20. Survival.**

The provisions of this Agreement with respect to confidentiality and audit shall survive the termination of this Agreement.

**21. Entire Agreement.**

This Agreement with any attachments constitutes the entire agreement between the parties and supersedes all previous written or oral communications, understandings, and agreements between the parties unless specifically stated herein. This Agreement may only be amended by a written agreement signed by both parties.

*(Remainder of page left intentionally blank)*

**ACCEPTED AND AGREED:**

Distribution Agency:

\_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Its: \_\_\_\_\_

Name: \_\_\_\_\_

Organization Address:

\_\_\_\_\_

\_\_\_\_\_

Organization Phone: \_\_\_\_\_

Fountain Utilities:

Fountain Utilities \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

Its: \_\_\_\_\_

Name: \_\_\_\_\_

Organization Address:

\_\_\_\_\_

\_\_\_\_\_

Organization Phone: \_\_\_\_\_