



**CITY COUNCIL AGENDA
JUNE 28, 2016 – 6:00 P.M.
116 SOUTH MAIN STREET**

All Times Listed are Estimates. At the Discretion of the Mayor and Council Times May be Adjusted.

- 1) Call to Order**
- 2) Pledge of Allegiance**
- 3) Roll Call**
- 4) (A) Presentations:**
 - SCI Fulfillment Mission
- 4) (B) Board/Commission/Committee Appointments**
- 5) City Council Agenda Requests and Announcements**
- 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. **(Est. time-3 min)**

 - A.** Approval of the June 14, 2016 City Council Meeting Minutes
 - B.** Set a Public Hearing Date to Consider the Request of an Application for a Special Events Liquor Permit for City of Fountain.
 - C.** Appointment Of An Alternate Board Member To The ESA Board To Represent The City Of Fountain.
- 8) Old Business**
 - A.** Second Reading of Ordinance 1676, An Ordinance Repealing Chapter 01 (Building) Of Title 16 (Building) And Repealing And Reordaining Chapter 01 (Building) Of Title 18 (Building), And Renaming Chapter 01 (Building) Of Title 18 (Building) Of The Fountain Municipal Code And Adopting By

Reference, With Amendments, The Pikes Peak Regional Building Code, 2011 Edition Third Printing Dated March 8, 2016, Including The Secondary Codes Adopted By Reference In That Code (Pat McDivitt)

(Est. Time 1 min)

- B.** Second Reading of Ordinance No. 1670, An Ordinance Amending Section 17.392 (Recreational Vehicles, Campers, Motor Homes, Trailers or Similar Vehicles) of Chapter 17.39 (Supplemental Standards) of Article III (General Regulations and Development Standards) of Title 17 (Zoning) of the Fountain Municipal Code Relating to Using a Recreational Vehicle as a Temporary Dwelling unit. (Est time 15 Min)(Juan Flores/Kristy Martinez)**(Est. Time 30 Min)**

9) New Business

- A.** Consideration of Items Removed from the Consent Agenda
- B.** Report to Council on Dumpster Days and Recycle Event (Juan Flores)**(Est. Time 10 min)**
- C.** First Reading of Ordinance 1675, An Ordinance Amending Section 020 (Additions Or Modifications) Of Chapter 04 (Model Traffic Code) Of Title 10 (Vehicles And Traffic) Of The Fountain Municipal Code to Limit the Use of City Public Rights-of-Way by Trucks to Designated Routes, and for Related Purposes (Scott Trainor)**(Est. Time 10 Min)**

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

A (Administrative Action) QJ (Quasi-Judicial Action) L (Legislative Action)

**NEXT REGULAR COUNCIL MEETING
JULY 12, 2016**

Posting Date:



Regular City Council Meeting

Consent – 7A

Council Meeting Minutes

June 28, 2016

Summary Information

Title:

Approval of the June 14, 2016 City Council Meeting Minutes

Initiator : City Clerk

Presenter: Silvia Huffman, 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 June 14, 2016 City Council Meeting Minutes

Attachments: June 14, 2016 City Council Meeting Minutes

Background Information

N/A

Recommendation

Approve the June 14, 2016 City Council Meeting Minutes

Proposed Motion

Motion to approve shall be included under the consent agenda.

CITY COUNCIL MEETING
June 14, 2016

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 Thomas
Council Member Thompson
Council Member Gieck
Council Member Applegate
Council Member Coke
Council Member Lauer

Mayor Ortega asked for a moment of silence for Community Leader Reverend McMearn who passed away and for all those that lost their lives in the recent tragedy in Florida.

4) Special Presentations & Declarations:

(B) Board/Commission/Committee Appointments

There were no appointments.

5) City Council Agenda Requests and Announcements

Council Member Thompson reminded attendees of the upcoming movie night in the park and the Habitat for Humanity event.

Council Member Coke reminded attendees of the upcoming Thunder in the Valley event and the picnic will be at Metcalfe Park this year.

Mayor Pro Tem Thomas asked if Council could have an office to share in City Hall to send email or make phone calls to citizens. He also stated that he would like to begin discussion around a possible tax measure for roads and public safety.

Mayor Ortega reported on the soap box derby. He stated that he and Chief Heberer won first place.

6) Public to be Heard

Mr. Gonzales, VFW, reported on the upcoming events and the appointment of the new president.

Bob Zelens, resident, stated that he has concerns with weeds in Fountain particularly at the entrances to the city. He also requested that employee wages be published in the newspaper.

Kasey Campbell, resident stated her concerns with parking along the public streets. She suggested an ordinance prohibiting parking along roadways.

Dawn Cole; Sherry Hunter; Lavon Powell all spoke about concerns with disruptive youth Hibbard Park. They suggested removing the basketball hoop as they see this as the drive to the behavior.

Mayor Pro Tem Thomas suggested a neighborhood watch group.

Chief Heberer stated that the Police Department has done 26 checks on this park in 2 weeks. He asked residents to be patient to address these problems.

Mayor Ortega directed staff to remove the basketball hoop, temporarily.

Deborah Stout-Meninger, resident, reported on the mosquito season and stressed safety to residents. She also noted that water contamination is due, in part, to fracking.

7) Consent Agenda

A. Approval of the May 24, 2016 City Council Meeting Minutes

Council Member Thompson made a motion to approve the consent agenda, seconded by Mayor Pro Tem Thomas. All members voted yes (7-0); the motion carried.

8) Old Business

A. Second Reading Of Ordinance 1674, An Ordinance Of The City Of Fountain, Colorado Approving The Issuance Of Its Water Revenue Refunding Bonds, Series 2016, For The Purpose Of Refinancing The City's 2008 Loan With The Colorado Water Resources & Power Development Authority (CWRPDA), Funding The Reserve Account, And Paying The Cost Of Issuance Of The Bonds; Authorizing The Forms Of Such Bonds And Other Details With Respect To Such Bonds And The Payment Thereof; Providing For Payment Of The Bonds From A Portion Of The Revenues Of The City's Electric, Water

And Wastewater Utility Enterprise And Making Certain Covenants In Connection Therewith; And Providing Details In Connection With The Bonds

Finance Director Yucuis stated there have been minor changes to this ordinance since first reading and the changes are before Council for review. He also reported that supporting documents are on file with the City Clerk's office.

Council Member Applegate made a motion to approve Ordinance 1674 on second reading as amended, seconded by Council Member Gieck. 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.

B. Authorization and Partial Funding of two Additional Full Time SROs at the Request of District 8

Chief Heberer reported on the partnership with school district 8. He noted that with combined funding, the cost to the city would be approximately 20-30k annually.

Council Member Thompson verified that the new school resource officers would be regular full-time duty officers during the summer and not dedicated to the school. Chief Heberer confirmed.

Council Member Gieck made a motion to approve the partial funding, seconded by Council Member Lauer. All members voted yes (7-0); the motion carried.

C. First Reading of Ordinance 1676, An Ordinance Repealing Chapter 01 (Building) Of Title 16 (Building) And Repealing And Reordaining Chapter 01 (Building) Of Title 18 (Building), And Renaming Chapter 01 (Building) Of Title 18 (Building) Of The Fountain Municipal Code And Adopting By Reference, With Amendments, The Pikes Peak Regional Building Code, 2011 Edition Third Printing Dated March 8, 2016, Including The Secondary Codes Adopted By Reference In That Code

City Attorney McDivitt reported this ordinance allows amendments recommended by Pikes Peak Regional Building.

Council Member Thompson made a motion to approve ordinance 1676 on first reading, seconded by Council Member Lauer. All members voted yes (7-0); the motion carried.

D. Resolution No. 16-019, A Resolution Adopting A Schedule Of Fees Applicable To The Regional Building Code

City Attorney McDivitt stated this resolution is needed to come into compliance with the requirements of the Pikes Peak Building Department for collection of fees.

Council Member Coke made a motion to approve resolution 16-019, seconded by Council Member Gieck. All members voted yes (7-0); the motion carried.

E. Discussion of Business Alliance Membership

Council Member Thompson reported that she would like Council to reconsider paying for a membership with the Regional Business Alliance as she feels that they do not have the region in their best interest and have not remained neutral in their decisions. She feels they have given priority to Colorado Springs interests only and gave examples. Mayor Pro Tem Thomas concurred.

Mayor Ortega stated that a letter was sent to the Alliance for a meeting and only 2 Council Members attended. He feels the City needs to make more of a presence.

Economic Development Director Bailey stated that the City was not invited therefore not part of the discussion on the RTA. She suggested meeting with the Alliance for a next level of discussion and offered to have members from the Urban Renewal Authority attend. She asked to meet before deciding to end the membership.

10) Correspondence, Comments and Ex-Officio Reports

Chief Heberer reported on the upcoming active shooter training that will be held in conjunction with the Fire Department.

Mayor Pro Tem Thomas stated there was a survey sent out to residents surrounding Hibbard Park and stressed the importance of returning a response.

Mayor Ortega reported on his attendance at the cross-over events with the schools. He stated he will be at the CML conference next week and made note to attendees that fireworks are legal in Fountain with the same rules as El Paso County.

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 7:52 P.M.

City Clerk

Mayor



Regular City Council Meeting

Consent –7B

Set a Public Hearing Date

June 28, 2016

Summary Information

Title:

Set a Public Hearing Date to consider the Request of an Application for a Special Events Liquor Permit for City of Fountain.

Initiator : Deputy City Clerk Carneal

Presenter: Silvia Mascarenas, City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The City of Fountain is applying for a Special Events Liquor Permit for September 4, 2016:
The event is scheduled to take place at:
Metcalf Park, 704 E. Ohio Ave.

Attachments: Special Events Permit Application

Background Information

Fountain Fire Department will be hosting the Annual Labor Day BBQ Dinner and Dance.

Recommendation

Staff recommends approval.

Proposed Motion

N/A

CM Review



Regular City Council Meeting

Consent –7C

Appointment of alternate board member
the ESA Board.

June 28, 2016

Summary Information

Title:

APPOINTMENT OF AN ALTERNATE BOARD MEMBER TO THE ESA BOARD TO REPRESENT THE CITY OF FOUNTAIN.

Initiator : Fire Chief Anstine

Presenter: Fire Chief Anstine

Legal Review: Yes X No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Article 2.1, Board of Directors Composition, for the Emergency Services Authority, (ESA), states; in part; a Fountain City Council representative and alternate shall be appointed by the Fountain City Council.

Background Information

The Emergency Services Authority (ESA) was established in 2014 by Intergovernmental Agreement between the City of Fountain and El Paso County for the purpose of regulating and monitoring private ambulance service contract compliance throughout El Paso County. It addresses the needs and concerns of citizens in the Pikes Peak region and serves as an advisory board to the Board of County Commissioners and Fountain City Council.

In 2014 EMS Lieutenant Mike Skeldum was appointed as an Alternate Board member for the City of Fountain. EMS Lieutenant Mike Skeldum has been reassigned and Jared Cass has been assigned as the EMS Lieutenant for the fire department.

As the new EMS Lieutenant Jared Cass should be appointed as the alternate Board member to replace Mike Skeldum.

Recommendation

Staff recommends Council appointed of EMS Lieutenant Jared Cass as the Alternate Board member representing the City of Fountain on the ESA Board.

Proposed Motion

I move to appoint Jared Cass as an alternate board member representing the City of Fountain to the ESA board



Regular City Council Meeting

Old Business – 8A

Ordinance 1676

June 28, 2016

Summary Information

Title

SECOND READING OF ORDINANCE 1676, AN ORDINANCE REPEALING CHAPTER 01 (BUILDING) OF TITLE 16 (BUILDING) AND REPEALING AND REORDAINING CHAPTER 01 (BUILDING) OF TITLE 18 (BUILDING), AND RENAIMING CHAPTER 01 (BUILDING) OF TITLE 18 (BUILDING) OF THE FOUNTAIN MUNICIPAL CODE AND ADOPTING BY REFERENCE, WITH AMENDMENTS, THE PIKES PEAK REGIONAL BUILDING CODE, 2011 EDITION THIRD PRINTING DATED MARCH 8, 2016, INCLUDING THE SECONDARY CODES ADOPTED BY REFERENCE IN THAT CODE

Initiator : City Attorney

Presenter: Pat McDivitt, City Attorney

Legal Review: Yes No

Council Action

Council Information

Report to Council

There have been no changes to this ordinance since first reading.

This ordinance adopts changes to the Pikes Peak Regional Development Code and makes related administrative changes.

Background Information

The Pikes Peak Regional Development Department administers and enforces building and construction codes for the City. Recently RBD made changes to the codes that are appropriate for Fountain to adopt. In the process of reviewing these changes, staff determined that in 2011 when the sections of the Municipal Code related to the building code were moved from Title 16 to Title 18, the Title 16 provisions were not repealed, resulting in those provisions appearing in two places in the Municipal Code, but with different wording.

Other matters in the RBD code require clarification and are incorporated into the Fountain Municipal Code by this ordinance.

If adopted, this ordinance will accomplish the following: (i) repeal the Title 16 provisions that were transferred to Title 18 of the Fountain Municipal Code, (ii) repeal the previous version of the RBD code and adopt the revised version by reference, and (iii) make the changes required by State statute, necessary by the language of the RBD code, and necessary to comply with the practices followed by the City.

Recommendation

Adoption of the attached ordinance.

Proposed Motion

I move adoption of Ordinance 1676 on first reading.



Regular City Council Meeting

Old Business – 8B

June 28, 2016

Summary Information

Title:

Second Reading of Ordinance No. 1670, An Ordinance Amending Section 17.392 (Recreational Vehicles, Campers, Motor Homes, Trailers or Similar Vehicles) of Chapter 17.39 (Supplemental Standards) of Article III (General Regulations and Development Standards) of Title 17 (Zoning) of the Fountain Municipal Code Relating to Using a Recreational Vehicle as a Temporary Dwelling unit

Initiator: Planning Supervisor, Kristy Martinez

Presenter: Planning Supervisor, Kristy Martinez

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Proposed amendment to the Zoning Ordinance to allow a recreational vehicle to be used as a dwelling unit on a temporary basis with a permit.

Previous City Council Action: This item was tabled at the April 12, 2016 City Council meeting and requested that staff make various amendments to the proposed ordinance and to hold a Town Hall meeting to gather additional feedback from the citizens about the proposed ordinance changes.

Attachment: Ordinance 1670, as amended

Background Information

Title 17 (Zoning) addresses utilizing recreational vehicles or similar vehicles as a dwelling unit. Section 17.392 of the Zoning Ordinance currently prohibits recreational vehicles or similar vehicles as a dwelling unit unless located within an approved RV Park or an approved Mobile Home Park (MHP) Subdivision.

On January 26, 2016, City Council discussed utilizing a recreational vehicle as a dwelling unit on a temporary basis and directed Staff to draft an ordinance amendment that would allow the utilization of a recreational vehicle as a dwelling unit on a temporary basis with a permit. Title 17 defines a recreational vehicle as, "A vehicle used for temporary habitation and used for travel, vacation, and recreation purposes. This term shall include, but is not limited to, travel trailers, campers, motor homes, truck campers and similar vehicles."

On March 29, 2016, a proposed ordinance amendment was presented and passed on first reading to City Council that would allow recreational vehicles and other similar vehicles to be used as a temporary dwelling unit. This version of the ordinance proposed allowing recreational vehicles to be used as a dwelling unit on a temporary basis in all zone districts for a period not to exceed ten (10) consecutive days, with no more than two permits, per property, per calendar year.

On April 12, 2016, City Council voted to table this item and requested that staff make various amendments to the proposed ordinance and to hold a Town Hall meeting to gather additional feedback from the citizens about the proposed changes.

A Town Hall meeting on this topic was held on June 8, 2016. At this meeting, there were 9 citizens and 3 City Council members present. Citizens and Members held a lively discussion on the topic and the general consensus was split on the amount of time a person could utilize a recreational vehicle as a dwelling unit. Some felt that the amount of time suggested by City Council was too excessive (approximately 5 months) while others thought that it should not be limited. Some felt that differing lot sizes should be considered and have different standards for "larger lots" while others felt that RV's should not be used a dwelling unit at all. There was a consensus that if this amendment was to move forward that there should not be a fee associated with a permit.

Based on input received at the April 12, 2016 City Council meeting and the follow-up Town Hall meeting that was held on June 8, 2016, the following changes are being proposed to Section 17.392 of the Zoning Ordinance and have been incorporated into the Ordinance.

- Section 17.392 of the Zoning Ordinance be amended to allow a recreational vehicle to be used as a dwelling unit on a temporary basis in all zone districts for a period not to exceed fourteen (14) consecutive days, with no more than five permits, per property, per calendar year.
- There will be a grace period of 72 hours before a Temporary Dwelling Unit (TDU) permit must be obtained.
- The TDU permit must be approved by the Zoning Administrator or designated representative.
- The recreational vehicle may only be utilized as a temporary dwelling unit if it is parked on private property and does not obstruct vehicle or pedestrian traffic, create a health or safety hazard, or nuisance condition in any manner and has an approved permit.

The amount of time an RV could be used as a dwelling unit based on these proposed changes is approximately 5 months (155 days), including the proposed grace periods.

Should this ordinance pass on second reading, a TDU permit will be created to track the locations and time periods in which a property owner desires to utilize a recreational vehicle as a temporary dwelling unit. At the April 12, 2016 City Council meeting and follow-up Town Hall meeting it was suggested that a fee not be assessed for a TDU permit. Staff concurs with this Staff suggestion.

Recommendation

Amendments to the ordinance have been incorporated based on the input at the previous City Council meeting. Staff recommends approval of Ordinance 1670 on second reading, as amended.

Proposed Motion

"I recommend the approval of Ordinance 1670 on second reading as amended."

ORDINANCE 1670

AN ORDINANCE AMENDING SECTION 17.39 (RECREATIONAL VEHICLES, CAMPERS, MOTOR HOMES, TRAILERS OR SIMILAR VEHICLES) OF CHAPTER 17.39 (SUPPLEMENTAL STANDARDS) OF ARTICLE III (GENERAL REGULATIONS AND DEVELOPMENT STANDARDS) OF TITLE 17 (ZONING) OF THE FOUNTAIN MUNICIPAL CODE RELATING TO USING A RECREATIONAL VEHICLE AS A TEMPORARY DWELLING UNIT

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

WHEREAS, Input was received from members of the public, the City of Fountain Planning Division, City of Fountain Code Enforcement and recommendations of the City of Fountain City Council at a discussion held during a public meeting on January 26, 2016, April 12, 2016 and a public Town Hall meeting on June 8, 2016, regarding amending the Zoning Ordinance to allow a recreational vehicle to be used as a dwelling unit on a temporary basis within the City of Fountain.

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

Section 1. Section 17.392 (Recreational Vehicles, Campers, Motor Homes, Trailers or Similar Vehicles) of Chapter 17.39 (Supplemental Standards) of Article III (General Regulations and Development Standards) of Title 17 (Zoning) of the Fountain Municipal Code is hereby amended to read as follows:

Section 17.392 Recreational Vehicles, Campers, Motor Homes, Trailers or Similar Vehicles

A. A recreational vehicle, camper, motor home, trailer or similar vehicle may be used for a dwelling unit on a temporary basis on private property as long as the location of the vehicle does not obstruct vehicular or pedestrian traffic, creates a health or safety hazard, or nuisance condition in any manner. A recreational vehicles or similar vehicle may be used as temporary dwelling unit with a permit for a period of time not to exceed fourteen (14) consecutive days with no more than five permits, per property, per calendar year. A 72 hour grace period is permitted before a Temporary Dwelling Unit (TDU) permit is required. Each TDU permit is eligible for one – 14 day extension. The TDU permit must be approved by the Zoning Administrator or designated representative.

B. A recreational vehicle, camper, motor home, trailer or similar vehicle may be used for a dwelling unit when located in an approved MHP zone district or approved RV Park subject to all rules and regulations governing the district and RV Park. No business shall be conducted within such equipment or vehicle, in a fixed location without approval of a temporary use permit as set forth in Section 17.393.

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 _____, 2016, 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.

Gabriel P. Ortega, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of _____, 2016, 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 P. Ortega, Mayor

ATTEST:

Silvia Huffman, City Clerk



Regular City Council Meeting

New Business – 9A

Items Removed from Consent

June 28, 2016

Summary Information

Title:

Consideration of Items Removed from the Consent Agenda

Initiator : City Clerk Huffman

Presenter: Silvia Huffman, 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

CM Review



Regular City Council Meeting

New Business – 9B

June 28, 2016

Summary Information

Title:

Report to Council on Dumpster Days and Recycle Event.

Initiator: Juan Flores, Code Compliance Supervisor, Neighborhood Services Division

Council Action

Presenter: Juan Flores, Code Compliance Supervisor, Neighborhood Services Division

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

Report on the success of Dumpster Days and the Electronic recycling event held in the Spring 2016.

Background Information

The annual City of Fountain Spring clean-up was rescheduled to the Fall 2016 due to the relocation of the Public Works/Parks/Water Department offices to the Lorraine Building at 301 East Iowa Avenue. In an effort to still offer a similar service to the residents the City held a Dumpster Days and Recycling Event.

Dumpsters were placed at the Lorraine Building (301 E. Iowa Avenue) and the Electric Shop (6745 Southmoor Drive). The locations were open for drop-off from Monday thru Friday from May 2nd through May 13th and on Saturday, May 7, 2016. A special electronic recycling event was also held on Saturday, May 7, 2016.

A report on the Event will be given to City Council.

Recommendation

Not Applicable.

Proposed Motion

Not Applicable.

CM Review



Regular City Council Meeting

New Business-9C

Ordinance 1675

June 28, 2016

Summary Information

Title

FIRST READING OF ORDINANCE 1675, AN ORDINANCE AMENDING SECTION 020 (ADDITIONS OR MODIFICATIONS) OF CHAPTER 04 (MODEL TRAFFIC CODE) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE FOUNTAIN MUNICIPAL CODE TO LIMIT THE USE OF CITY PUBLIC RIGHTS-OF-WAY BY TRUCKS TO DESIGNATED ROUTES, AND FOR RELATED PURPOSES

Initiator : City Manager

Presenter: City Manager

Legal Review: Yes No

Council Action

Council Information

Report to Council

Document Attached: Ordinance Amending the City Code

Background Information

The City does not limit truck travel to designated truck routes. Ordinance No. 1191, adopted in 2003, established truck routes in the City, but for various reasons that ordinance has not been enforced in recent years. The ordinance limited trucks with a gross vehicle weight rating (GVWR) of 10,000 pounds or greater to designated routes, a rating that staff believes is unnecessarily restrictive. The proposed ordinance repeals Ordinance No. 1191.

The proposed ordinance also repeals Resolution 99-025. That resolution prohibits vehicles with a GVWR of 10,000 pounds or greater from travel on Ohio Avenue. The prohibition was implemented as a resolution, not as an ordinance, and for that reason is not a part of the traffic code and is not enforceable. In addition, because Ohio Avenue is a major traffic route in the City, the City may need to designate portions of Ohio Avenue as a truck route. This is the case because Colorado law prohibits municipalities from severely restricting truck travel in their city limits and forcing trucks onto routes designated as truck routes in the surrounding unincorporated county or in abutting municipalities.

A significant difference between Ordinance No. 1191 and the proposed ordinance is that the 2003 ordinance specifies the truck routes, and therefore the City cannot change those routes as the City changes without returning to Council: the proposed ordinance delegates the authority to designate truck routes to the City Engineer, a practice that is employed by other municipalities. Although by this delegation by Council yields direct control to designate truck routes to the Administration, Council retains its inherent authority to direct the City Manager to amend truck route designations as Council deems appropriate.

The proposed ordinance also increases the GVWR to 26,000 pounds, thus permitting trucks under that rating to travel on all City rights-of-way.

The proposed ordinance changes the name of the City's traffic code from "Model Traffic Code" to "Fountain

Municipal Traffic Code.” Staff believes that this change will more accurately identify the City’s traffic code and will reduce confusion between the City’s traffic code and the model traffic code that the City incorporates into the City Code by reference, that is, the “Model Traffic Code for Colorado.” The Model Traffic Code for Colorado was drafted by the Colorado Department of Transportation.

Recommendation

Staff recommends adoption of the attached ordinance.

Proposed Motion

I move adoption of the ordinance.

CM Review

ORDINANCE 1675

AN ORDINANCE AMENDING SECTION 020 (ADDITIONS OR MODIFICATIONS) OF CHAPTER 04 (MODEL TRAFFIC CODE) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE FOUNTAIN MUNICIPAL CODE TO LIMIT THE USE OF CITY PUBLIC RIGHTS-OF-WAY BY TRUCKS TO DESIGNATED ROUTES, AND FOR RELATED PURPOSES

WHEREAS, trucks tend to cause greater damage to City streets than other vehicles; and

WHEREAS, trucks tend to cause a greater risk to the safety of people and property than other vehicles; and

WHEREAS, trucks tend to disturb the ability of residents to enjoy the use of their property to a greater extent than other vehicles; and

WHEREAS, residents and businesses need trucks to deliver or pick up goods or to provide services throughout the City; and

WHEREAS, it is important to residents and businesses for City Council to balance the harm trucks create with the benefits they provide; and

WHEREAS, Section 42-4-111(1)(g), C.R.S. and section 106(3) of the Model Traffic Code for Colorado authorize the City to designate truck routes;

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

Section 1. Resolution 99-025 and Ordinance 1191 are repealed.

Section 2. Chapter 04 (Model Traffic Code) of Title 10 (Vehicles and Traffic) of the Fountain Municipal Code is amended by renaming Chapter 04 to read **Fountain Municipal Traffic Code**.

Section 3. Section 020 (Additions or Modifications) of Chapter 04 (of the renamed Fountain Municipal Traffic Code) of Title 10 (Vehicles and Traffic) of the Fountain Municipal Code) is amended by adding a new Subsection J to read as follows:

J. Pursuant to subsection (3) of section 106 of the adopted Model Traffic Code, the following relating to the operation of trucks applies within the City of Fountain:

- a. It shall be unlawful to operate a truck on a City right-of-way that is not designated as a truck route. This prohibition does not apply to a truck that is not on a truck route if the driver establishes that the truck is on duty.
- b. It shall be unlawful to park a truck on a City right-of-way unless signs authorizing truck parking are posted on the right-of-way, except that a truck may park on a City right-of-way that is not posted for truck parking if the driver establishes that the truck is on duty. There is a rebuttable presumption that a truck parked for more than four hours is not on duty.
- a. Truck means a (i) motor vehicle with a gross vehicle weight rating (GVWR) of more than 26,000 pounds that is designed to transport goods or to provide a service, (ii) truck-tractor, or (iii) semi-trailer.

For purposes of this Subsection J, "City right-of-way" means a publically maintained way if the way is open to the use by the public for purposes of vehicular travel. The term includes a way declared to be a public highway by the law of Colorado.

- b. For purposes of this Subsection J, a truck is on duty if it is (i) in the process of delivering or picking up goods, (ii) providing a service of the type for which the truck was manufactured, or (iii) is in route to or from where it will be garaged or serviced. Notwithstanding the above, a truck is on duty only if is at a point that is the shortest distance between the duty point and the nearest truck route.
- c. The City Engineer shall (i) designate truck routes, (ii) assure that the truck routes are appropriately marked, (iii) make maps publically available showing the truck routes, and (iv) where truck parking is permitted on City rights-of-way, post appropriate signs.

Section 4. 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 the _____ day of _____ 2016 by the City Council, 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.

[SEAL]

CITY OF FOUNTAIN, COLORADO

By: _____
Gabriel P. Ortega, Mayor

Attest:

By: _____
Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of _____ 2016 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.

CITY OF FOUNTAIN, COLORADO

By: _____
Gabriel P. Ortega, Mayor

[Seal]

Attest:

By: _____
Silvia Huffman, City Clerk