

ORDINANCE 1785

AN ORDINANCE AMENDING CHAPTER 18.04 (BUILDING CODE) OF TITLE 18 (BUILDING CODES) OF THE FOUNTAIN MUNICIPAL CODE, AS AMENDED, PERTAINING TO THE ADOPTION OF THE PIKES PEAK REGIONAL BUILDING CODE, 2023 EDITION.

WHEREAS, by an intergovernmental agreement, the City of Fountain uses the services of Pikes Peak Regional Building Department to administer and enforce building and construction codes; and

WHEREAS, in 2022, Pikes Peak Regional Building Department approved changes to the Pikes Peak Regional Building Code, 2023 Edition, that the participants in the intergovernmental agreement need to adopt for purposes of uniformity; and

WHEREAS, the amendments adopted by Pikes Peak Regional Building Department are incorporated into the Pikes Peak Regional Building Code, 2023 Edition; and

WHEREAS, Pikes Peak Regional Building Department requests that the City adopts the Pikes Peak Regional Building Code, 2023 Edition, together with Appendix A and Appendix B; and

WHEREAS, City staff recommends that the City adopts the Pikes Peak Regional Building Code, 2023 Edition, together with Appendix A and Appendix B; and

WHEREAS, City staff recommends that certain technical changes be made to Title 18 of the City Code;

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

Section 1: Chapter 18.04 (Building Code) of Title 18 (Building Codes) of the Fountain Municipal Code is amended to read:

Sec. 18.04.010. - Title. This chapter shall be known and may be cited as the "Pikes Peak Regional Building Code", "regional building code", or "building code".

Sec. 18.04.020. - Code adopted by reference. The Pikes Peak Regional Building Code, 2023 Edition, published by Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910, (the Pikes Peak Regional Building Code) is adopted by reference as if set out in its entirety.

Sec. 18.04.030. - Codes available for inspection and sale. One copy of the Pikes Peak Regional Building Code, certified by the mayor and the city clerk to be a true copy, and one copy of each secondary code the Pikes Peak Regional Building Code adopted by reference, each certified by the mayor and the city clerk to be a true copy, shall be maintained on file in the office of the city clerk and may be inspected during regular business hours. The city clerk shall assure that a reasonable supply of copies of the Pikes Peak Regional Building Code and the secondary codes the Pikes Peak Regional Building Code adopted by reference are maintained for sale at a reasonable price at the Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.

Sec. 18.04.040. - Sections amended and modified in the Pikes Peak Regional Building Code. The following sections are amended and modified in the Pikes Peak Regional Building Code RBC103.12, RBC108.2, and RBC111.17.

Sec. 18.04.050. – Violations. Any person violating the building code, or any provision of the building code, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ninety (90) calendar days in the city jail or county jail, or both. A separate offense shall be deemed committed for each and every calendar day during which any illegal erection, construction, reconstruction, alteration, maintenance, or use continues. If a In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, or remodeled, or used or maintained in violation of the building code, the city attorney or the Department's attorney, as applicable, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus, or abatement to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, remodeling, maintenance, or use.

Sec. 18.04.060 - Authority to impose fines. RBC103.12 AUTHORITY TO IMPOSE FINES is amended to read:

RBC103.12 AUTHORITY TO IMPOSE FINES. The Building Official may impose an administrative fine in an amount of up to one thousand dollars (\$1,000.00) on any person (entity included) engaged in any construction consulting work or construction work covered the building code who engages in this work in violation of any provisions of the building code. Appeals of an administrative fine may be commenced as provided in RBC101.7 of the building code.

Sec. 18.04.070. - Fire board of appeals. RBC111.7 FIRE BOARD OF APPEALS is amended to read:

The fire board of appeals shall have the power and authority specified in RBC207.3.6 of the building code.

Sec. 18.04.080. – Schedule of permit fees. RBC108.2 SCHEDULE OF PERMIT FEES is amended and modified by adding the following to read: “City Council establishes Appendix B: Building Permit Fee Schedule of the building code as the adopted fee schedule.”

Section 2. The following penalty provisions are set forth in the Pikes Peak Regional Building Code, in compliance with C.R.S. § 31-16-204, and are adopted as set forth below:

Sec. 18.04.090. – Penalty provisions. The building code is subject to the following penalty provisions:

RBC101.8 VIOLATIONS. Any person violating the Building Code, or any provision of this Code, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ninety (90) calendar days in the City jail or County jail, or both. A separate offense shall be deemed committed for each and every calendar day during which any illegal erection, construction, reconstruction, alteration, maintenance, or use continues. In case any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered or remodeled, or used or maintained in violation of this Code or of any provision of the Building Code, the Jurisdiction’s attorney or the Department’s attorney, as applicable, in addition to other remedies provided by law, may institute an appropriate action for injunction, mandamus or abatement to prevent, enjoin, abate or remove any unlawful erection, construction, reconstruction, alteration, remodeling, maintenance, or use.

RBC103.12 AUTHORITY TO IMPOSE A FINE. The Building Official may impose an administrative fine in an amount of up to one thousand dollars (\$1,000.00) on any person (entity included) engaged in any construction consulting work or construction work covered by this Code within the Jurisdictions who engages in this work in violation of any provisions of this Code. Appeals to this action may be made as provided for elsewhere in this Code.

RBC103.13 AUTHORITY TO RECORD A CERTIFICATE OF ALLEGED NONCOMPLIANCE. The Building Official shall have authority to record a certificate of alleged noncompliance in the public records of the County of the Jurisdiction where a property is located thirty (30) calendar days after notice of noncompliance is posted on the premises or sent by registered mail or by certified mail, postage prepaid, return receipt requested, addressed to the record owner as such concerns any work done by any person, which work

allegedly fails to comply with the final inspection requirements of the Pikes Peak Regional Building Code. Service is perfected under this Section at the earliest of the date of posting; the date the record owner receives the notice of non-compliance; the date shown on the return receipt, if signed on behalf of the record owner; or five (5) days after mailing. This Section does not prescribe the only means, or necessarily the required means, of serving a person in the State of Colorado. When the person has made appropriate corrections so that the work becomes compliant with the Pikes Peak Regional Building Code, the Building Official may record a release of the certificate of alleged non-compliance.

RBC105.2.3 Emergency Work. All work performed on an emergency basis, as determined by the Building Official, to maintain an existing service or to maintain an existing installation, building, or structure, where the maintenance is necessary to protect life or property, shall not be subject to penalty if application for any required permits is made within seventy-two (72) hours after commencement of the emergency work.

RBC105.10.4 Suspension or Revocation of Permit. The Building Official may, in writing, suspend or revoke a permit issued under the provisions of the Pikes Peak Regional Building Code whenever the permit has been issued in error or on the basis of incorrect information supplied, or in violation of any other provisions of this Code.

RBC112.3.8.3 Penalties. Any person who refuses, without lawful excuse, to attend any hearing or to produce material evidence in the person's possession or under the person's control, as required by any subpoena served upon the person as provided for herein, shall be guilty of a misdemeanor.

RBC112.5.1 Report Account of Expenses. The Jurisdiction's Engineer shall keep an itemized account of the expenses incurred by the Jurisdiction in the repair or demolition of any building or structure done pursuant to the provisions of Section RBC112.4.1.2 Item 3 of the Pikes Peak Regional Building Code. Upon the completion of the work of repair or demolition, the Jurisdiction's Engineer shall prepare and file with the Jurisdiction's Clerk a report specifying the work done, the itemized and total fees and cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section RBC112.2.5 of the Pikes Peak Regional Building Code. Upon receipt of this report, the Jurisdiction's Clerk shall fix a time, date, and place for hearing the report, and any protests or objections thereto. The Clerk shall cause notice of the hearing to be posted upon the property involved, published once in a newspaper of general circulation in the Jurisdiction, and served by registered mail or by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the assessment roll of the County Assessor, if it so appears or is known to the Clerk. The notice shall

be given at least ten (10) calendar days prior to the date set for hearing, and shall specify the day, hour, and place when the governing body of the Jurisdiction will hear and pass upon the Engineer's report, together with any objections or protests that may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

RBC112.5.4 Personal Obligation or Special Assessment. The Jurisdiction may thereupon order that the charge be made a personal obligation of the owner, or assess the charge against the property involved, or both.

RBC112.5.4.1 Personal Obligation. If the Jurisdiction orders that the charge be a personal obligation of the owner, it shall direct the Jurisdiction's attorney to collect the same on behalf of the Jurisdiction by use of all appropriate legal remedies.

RBC112.5.4.2 Special Assessment. If the Jurisdiction orders that the charge be assessed against the property, it shall confirm the assessment roll, and thereafter this assessment shall constitute a special assessment against and a lien upon the property and shall be collected in the same manner as other special assessments of the Jurisdiction.

RBC112.5.4.3 Authority for Installment Payments. Eligible persons who are determined to have a marginal income such that they cannot pay an assessment or personal obligation levied under this Section, either against the property on which they reside or against themselves personally, may be afforded relief as hereinafter provided.

1. Within thirty (30) calendar days after the assessment or the personal obligation is ordered by the Jurisdiction, an application for relief shall be filed with the Jurisdiction's Clerk.
2. The governing body of the Jurisdiction, or a hardship committee, as designated and authorized by the governing body of the Jurisdiction, shall review the application for the requested relief. To determine the applicant's eligibility, the reviewing body shall use criteria established or adopted in the Jurisdiction's code, ordinances, rules, or regulations, except that ownership of real property need not be required.
3. If it is determined that the applicant is eligible and that any person would probably default on the assessment or personal obligation, the reviewing body may authorize the execution with the applicant of an installment note for the payment of the assessment or personal obligation. The note shall be secured by a deed of trust, or if not available, by some other security reasonably available or appropriate. If no security is reasonably available or appropriate, then none may be required. The installment

note shall provide that the owner shall make monthly payments to the Jurisdiction's Treasurer; that the payments shall not be less than five dollars (\$5.00) and shall be sufficient to repay the amount within a period of not more than twenty-five (25) years; that interest shall be charged at a rate of three percent (3%) per annum on the unpaid balance; that the entire outstanding balance shall become due and payable upon the death of the obligor or the sale or transfer of the property; that if at any time the Jurisdiction determines that the obligor is financially able to pay the outstanding balance, or that the obligor has willfully misrepresented the obligor's financial condition on the obligor's application, it may upon sixty (60) calendar days' notice declare the entire balance due and payable.

RBC112.5.6.1 Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessment shall be a lien against the property assessed. The lien shall be subordinate to all existing special assessment liens previously imposed upon and recorded against the same property and shall be priority or superpriority, as applicable, to all other liens except for State, County, and municipal taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid in full.

RBC112.5.6.2 Interest. Any assessments remaining unpaid after thirty (30) calendar days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of one percent (1%) per month from and after this date.

RBC112.5.8 Collection of Assessment. The amount of the assessment shall be collected at the same time and in the same manner as general taxes are collected; and shall be subjected to the same penalties and procedures and sale in case of delinquency as provided for general municipal taxes. All laws applicable to the levy, collection, and enforcement of general municipal taxes shall be applicable to the assessment. If the Jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as general and municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedures for sale as provided for general municipal taxes.

RBC201.6.6 Felony; Criminal Fraud. No person or entity convicted or found by a court or an administrative agency or authority having competent jurisdiction of a felony, or for civil or criminal fraud, constructive or actual, or for civil or criminal theft, for work related to any license or registration issued by the Department, or for work related to the building trades in any jurisdiction, shall be granted a license or registration, or serve as an examinee for a contractor in the

Department's jurisdiction.

RBC201.7.2 Cancellation; Reduction of Insurance. Each policy of insurance shall contain an endorsement to the effect that the insurance carrier shall notify Pikes Peak Regional Building Department at least ten (10) calendar days in advance of the effective date of any reduction or cancellation of the policy. The lapse, cancellation, or reduction of insurance shall be cause for automatic suspension of the license or registration until the required coverage is timely reinstated.

RBC201.10.4 Renewal With Fees. Failure to renew a license within this forty-five (45) calendar day period after the expiration date of the license or registration will require payment of a penalty at one-half (1/2) of the license or registration fee if renewed within ninety (90) days of the expiration date. After ninety (90) days to one hundred thirty-five (135) days, the penalty will be equal to the license or registration fee. After one hundred thirty-five (135) days up to one hundred eighty (180) days, the penalty will be equal to twice the license or registration fee. All requests for renewal(s) after one hundred eighty (180) days from the expiration date shall require payment of all fees accrued, re-application, examination, evaluation by the respective Advisory Committee, and approval by the Board of Review, as applicable.

RBC201.11.3 Punishable Acts and Omissions. The following actions shall be considered punishable:

1. Willfully violating any provisions of this Code including any codes which are adopted by reference.
2. Failure to comply with any lawful order of the Building Official or of any other authorized representative employed by the Building Department pertaining to the administration of this Code and the codes which have been adopted by reference.
3. Using a contractor's license or registration to obtain permits required under this Code for work that will not be performed by or supervised by the contractor.
4. Misrepresentation by an applicant of a material fact when applying for a contractor's license or registration.
5. Failure to obtain a proper permit for any work for which a permit is required by virtue of this Code.
6. Commitment of any act of willful and wanton negligence in the conduct of the contractor's or other person's specific trade or business on work done

by the contractor or other person that is regulated by the provisions of this Code.

7. Ordinary negligence of the contractor or other person, evidenced by letters of reprimand and/or incident reports received by the contractor within a three (3) year time period that are, in the judgment of the Board of Review, sufficient in number and severity to warrant revocation or suspension of the contractor's license or registration.

RBC201.11.4 Automatic Revocation of Suspension. A license or registration, or the right of an examinee of the contractor to serve as a contractor or as an examinee of a contractor, shall automatically be suspended or revoked by the Building Official as follows:

1. Registrations within this jurisdiction shall be automatically revoked or suspended upon revocation, suspension or refusal to renew any required Colorado State license.
2. Any license or registration within this jurisdiction shall be automatically suspended upon lapse, cancellation, or reduction of insurance coverage below that required by section RBC201.7 of this Code. This suspension shall remain in effect until proof of the reinstatement of the required coverage is presented to the Building Department. Failure to present this proof within twelve (12) months from the date of the lapse, cancellation, or reduction shall result in automatic revocation of the license or registration.
3. Conviction or a finding by a court or administrative agency or authority having competent jurisdiction of the contractor and/or its examinee(s), for a felony, or for civil or criminal fraud, constructive or actual, or for civil or criminal theft, for work related to any license or registration under the authority of this Code, or for work related to the building trades in any jurisdiction, shall result in automatic revocation of the license or registration and revocation of the right of the examinee and all authorized persons of the contractor to serve as a contractor or examinee for this or another contractor after notification by the Board of Review and exhaustion of due process rights, if any, in accordance with Colorado law. The notification shall be served personally or posted by registered or by certified mail, return receipt requested, to the last known mailing address.

RBC201.11.5 Voluntary Suspension.

1. The Board of Review may suspend licenses or registrations upon the voluntary written request for this action by the contractor. These suspensions shall not exceed a period of twelve (12) months unless a notarized annual certification from an employer is furnished to the Building

Department indicating that the contractor is engaged in an active capacity in the field of building codes and construction.

2. While under voluntary suspension, the contractor need not carry insurance, but shall be responsible for all license or registration fees normally due.
3. The voluntary suspension shall be automatically lifted at any point during the twelve (12) month period under the following conditions:
 - a. Written request is made to the Board of Review by the contractor.
 - b. Proof of insurance is provided in accordance with section RBC201.7 of this Code.
4. In the event the contractor does not terminate the voluntary suspension within the twelve (12) month period as provided in item 3 above, or furnish proof of active engagement in the construction field and building codes, as provided in item 1 above, in order to obtain a new license or registration, the contractor must then meet all requirements of sections RBC201.5 and RBC201.6 of this Code.

RBC312.3.8 Authority to Enforce. The Building Official shall have the authority to require compliance with the requirements of SECTION RBC312 - of the Pikes Peak Regional Building Code. It shall be the responsibility of the property owner(s) to meet or cause to be met all applicable requirements. Upon due notification of noncompliance and failing to meet or cause to be met all applicable requirements, the property owner(s) shall be responsible for any and all incurred expenditures on the part of the Jurisdiction(s) or any authorized agency in the enforcement of and compliance with applicable requirements.

RBC313.10 Penalties for Noncompliance. Refer to local Jurisdiction's penalties for noncompliance, as stated within the Jurisdiction's ordinances or regulations.

Appendix B

R. Investigation Fee: Work Without A Permit.

Investigation. Whenever any work for which a permit is required by this Code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to twice the amount of the permit fee that would be required by this Code if a permit was issued. The payment of such an investigation fee shall not exempt any person from compliance with any provisions of this Code nor from any prescribed by law.

Equal to two times the Permit Fee

S. Re-Inspection Fees:

A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is requested is not complete, when corrections required by a previous inspection have not been made, or when an additional inspection is required for alterations made after completion of initial inspection.

This is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of requesting inspections before the job is ready for such an inspection or re-inspection.

Re-inspection fees may be assessed for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until such fees have been paid.

- \$50.00 for 1st incident
- \$100.00 for 2nd incident
- \$200.00 for 3rd incident
- Plus 2 work day inspection delay

Section 3. 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 on first reading, this 28th day of March, 2023, by City Council and ordered to be published by title in Gazette with a summary written by the City Clerk, and with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk, 116 South Main Street, Fountain, Colorado 80817.

CITY OF FOUNTAIN, COLORADO

By: Sharon Thompson
Sharon Thompson, Mayor

Attest:

By: Silvia Huffman
Silvia Huffman, City Clerk



Introduced, read by title, and passed on second reading, this 11th day of April 2023, by City Council and ordered to be published by title in Gazette by the City Clerk, and with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk, 116 South Main Street, Fountain, Colorado 80817.

CITY OF FOUNTAIN, COLORADO

By: Sharon Thompson
Sharon Thompson, Mayor

Attest:

By: Joney Carneal
Joney Carneal, Deputy City Clerk














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Final Audit Report

2023-04-20

Created:	2023-04-11
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✔ Agreement completed.

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