

ORDINANCE NO. 1797

AN ORDINANCE ESTABLISHING NEW SECTIONS TO CHAPTER 1.12 (GENERAL PENALTY) WITHIN TITLE 1 (GENERAL PROVISIONS) OF THE FOUNTAIN MUNICIPAL CODE, ESTABLISHING A RIGHT TO TRIAL BY JURY AND EXEMPTIONS THERETO

WHEREAS, the City of Fountain operates a municipal court which is vested with jurisdiction as conferred by the Ordinances of the City; and

WHEREAS, the City of Fountain desires to set forth the expectations for municipal defendants regarding their right to a trial by jury; and

WHEREAS, the City of Fountain recognizes that certain municipal violations lack severity or a level of concern to warrant any period of imprisonment; and

WHEREAS, the City desires to exempt certain municipal violations from a possible sentence of confinement, and additionally thereby eliminating the need and right of a trial by jury in those instances.

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

Section 1. Title 1 (General Provisions), is hereby amended, adding Sections to Chapter 1 .12 (General Penalty) to the Fountain Municipal Code, attached hereto.

Section 2. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severability. If any section, paragraph, sentence, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

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 this 23rd day of January, 2024, 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 Colorado Springs Gazette, a newspaper of general circulation in the City of Fountain.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the 13th day of February, 2024, and ordered published by title in the Colorado Springs Gazette, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

TITLE 1 (GENERAL PROVISIONS)

CHAPTER 12.12 GENERAL PENALTY

Sec. 1.12.040. – Right to Trial by Jury

In any action before the Municipal Court in which the Defendant thereto is entitled to a jury trial by the Constitution or the general laws of the State of Colorado, the Defendant shall have a jury upon request. The jury shall consist of three (3) jurors unless a greater number, not to exceed six (6), is requested by the Defendant.

Sec. 1.12.050. - Right To Trial By Jury; Waiver, Fee.

A Defendant waives the right to a jury trial under this Section unless, within twenty-one (21) days after arraignment or entry of a plea, the Defendant files with the Municipal Court a written jury demand and simultaneously tenders to the Municipal Court a jury fee established by Colorado State statute or Court rule, unless the fee is waived by the Municipal Court judge due to the indigence of the Defendant. If the action is dismissed or the Defendant is acquitted of the charge, or if the Defendant, having paid the jury fee, files with the Court a written waiver of the jury trial at least twenty-one (21) days before the scheduled trial date, the jury fee shall be refunded.

Sec. 1.12.060. - Right To Trial By Jury; Advisement.

At the time of arraignment for any offense, the Municipal Court Judge shall advise the Defendant of the Defendant's rights and responsibilities as to trial by jury.

Sec. 1.12.070. - Right To Trial By Jury; Jail; Exceptions.

The election of jury trial is hereby eliminated relating to the following sections of this Code, identified in Sub-Sections A, B, C, and D below and violations of the following sections of this Code shall not be punishable by imprisonment, but shall be punishable by a fine not to exceed one thousand dollars (\$2,650.00), by a sentence of unsupervised probation, or by a combination of such fine and sentence of unsupervised probation.

A. TRAFFIC

Section 10.04.050(A) of the Fountain Municipal Court for the following Model Traffic Code sections and/or subsections:

1. Section 201-240 – Equipment
2. Section 501-512 – Size-Weight-Mode
3. Section 603 – Obedience to Official Traffic Control Devices
4. Section 604 – Traffic Control Signal Legend
5. Section 605 – Flashing Signals
6. Section 605-615 – Signals-Signs-Markings
7. Section 701-713 – Rights-of-Way
8. Section 801-808 – Pedestrians
9. Section 901-903 – Turning-Stopping

10. Section 1001-1013 – 1101 – Speed Regulations as follows:
 - i. 1101(2)(h) – 1 to 4 miles per hour over the posted speed limit
 - ii. 1101(2)(h) – 5 to 9 miles per hour over the posted speed limit
 - iii. 1101(2)(h) – 10-19 miles per hour over the posted speed limit
11. Section 1201-1211 – Parking
12. Section 1402 – Careless Driving
13. Section 1403-1408; 1411-1412; 1415 – Other Offenses
14. Section 1409 – Compulsory Insurance
15. Section 1501-1504 – Motorcycles
16. Section 1803 – Abandonment of Motor Vehicles – Public Property
17. Section 1901-1904 – School Bus Requirements

B. ANIMALS

1. Section 6.04.050 – Animals kept on premises, sanitary requirements
2. Section 6.04.060 – Duty to Restrain
3. Section 6.04.100 – Specific Animals Prohibited
4. Section 6.04.110 – 6.04.140 – Exotic Animals – Permit Required – Application for Permit, Denial, Revocation of Permit, Failure to Obtain Permit - Impoundment
5. Section 6.04.150 – Noisy Pets or Animals Prohibited
6. Section 6.04.180 – Unlawful Sale or Display
7. Section 6.08.010 – 6.08.060 – Regulation of Dogs and Cats, Inoculation and License Fee – Dogs and Cats
8. Section 6.08.080 – License Tags to be attached to collar
9. Section 6.08.090 – 6.08.100 – Unlawful sale or display of cats or dogs in public places or by a pet store (Section 6.08.160 – Penalties needs to be revised.)
10. Section 6.12.010 – 6.12.040 – Regulation of hoofed animal

C. CODE

1. 8.04 – Pertaining to Weeds and Refuse
2. 8.08 – Nuisances
3. 8.12 – Property Maintenance Code for Non-Owner Occupied Housing and Non-Residential Buildings
4. 8.20 – Junk, Junkyards and Junk Vehicles
5. 8.24 – Alarms
6. Title 17 – Zoning

D. OTHER OFFENSES – NON-TRAFFIC

1. Section 9.24.050 – Parking motor vehicles on private property
2. Section 9.24.060 – Unlicensed or unregistered vehicles on property of another
3. Section 9.24.074 – Camping on public property prohibited
4. Section 9.24.090 – 9.24.120 – Littering prohibited
5. Section 9.52.020 – Noise prohibited generally
6. Chapter 9.56 – Offenses by or Against Minors
7. Section 10.12.010 – Authority to impound vehicle
8. Section 10.12.020 – Illegal parking