

**ORDINANCE NO. 1122**

**AN ORDINANCE AMENDING THE EXISTING CHAPTER 7, "ANIMAL CODE" FORT MORGAN MUNICIPAL CODE, (2010)**

**WHEREAS**, this Ordinance is intended to reorganize, delete and amend Chapter 7 of the Fort Morgan Municipal Code, (2010)

**THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN,**

**Section 1.** That the following sections of Chapter 7, Animal and Fowl, are hereby deleted in there entirety:

- Sec. 7-2-120.** Persons authorized to inoculate and issue registrations; designation; fee
- Sec. 7-2-130.** Authority generally; bond
- Sec. 7-2-140.** Certificate and tag preparation; contents
- Sec. 7-2-150.** Issuance; disposition of copies
- Sec. 7-2-160.** Filing of certificates

**Section 2.** Chapter 7, Animal and Fowl, is hereby reorganized with the following added or amended sections:

**ARTICLE 1**

***General Provisions; Enforcement***

**Sec. 7-1-10. Purpose; jurisdiction.**

(a) The purpose of this chapter is to protect the public health, safety, and welfare of the residents of the city by prescribing the types of animals that can be kept in the city and the conditions under which they can be kept, limitations on keeping animals that create a nuisance by being safety or health hazards, and the procedures by which the city manager or an authorized agent may impound and dispose of animals kept in violation of the chapter.

(b) The provisions of this Chapter shall apply to any animal that is housed, existing, found or otherwise determined to be within the City limits.

**Sec. 7-1-20. Definitions.**

For the purposes of this Chapter, the following definitions shall apply:

*Animal shelter* shall mean any animal shelter that the City has under its custody and control or any independently run animal shelter that City Council has designated as the animal shelter where animals within its jurisdiction or control shall be impounded pursuant to this Chapter.

*Officer* shall mean to include any peace officer or code enforcement officer or any other city officer, which the City Manager has delegated the power and authority granted under this Chapter.

**Sec. 7-1-30. Inspection; interference; and relinquishment.**

(a) No person shall refuse to present any animal located on his premises for inspection by an officer acting within the scope of his / her authority under this Chapter, any other provision of this code, or the laws of this state when so directed by the officer.

(b) No person shall knowingly interfere with, obstruct or hinder any officer in the discharge of any of the duties imposed upon such officer pursuant to this Chapter, any other provision of this code, or the laws of this state.

(c) It is unlawful for the owner and/or possessor of an animal to fail to relinquish the animal to the officer for impoundment when impoundment of the animal is authorized pursuant to this Chapter, or the laws of this state.

**Sec. 7-1-40. Sentencing.**

Unless otherwise indicated, all violations under this Chapter shall be punishable by a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00).

**ARTICLE 2**  
***Animal Offenses***

***Division 1***  
***Nuisance Animals; Care and Protection***

**Sec. 7-2-10. Animal Noise.**

(a) No person shall keep or permit to remain within the City any animal that continuously or incessantly produces noise at any time during the day or night to the disturbance of any other person

(b) *Continuous or incessantly* means producing noise for a period of time which disturbs the peace of another, including but not limited to barking, howling, crying, baying, squealing or making of any other noise, provided at that time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner or person in custody or control of the animal, or the animal was not being teased or provoked in any manner.

(c) Such noise shall constitute a public nuisance and each day that the animal is suffered or permitted to produce such noise shall constitute a separate offense.

**Sec. 7-2-20. Animals at large.**

(a) It is unlawful for any owner and/or possessor of any animal to suffer or permit such animal to be at large as defined in this section. Violations of this section are subject to citation and the animal at large is subject to impoundment as authorized by Article 3 of this Chapter.

(b) A dog is "at large" if that dog is not on the premises of its owner and/or possessor or the premises of another without the permission of the owner or occupant thereof, or not under physical restraint by a person capable of controlling the dog by means of a leash.

(c) A dog shall not be considered "at large" under the following circumstances:

(1) Service dogs, while performing their duties for persons with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing to sounds, pulling a wheelchair, or fetching dropped items;

(2) Dogs assisting a security guard or assisting an Officer engaged in law enforcement duties;

(3) Areas within the City specifically set aside and posted for the exercise of animals.

(d) Animals other than dogs shall be considered "at large" if an animal is off the premises of its owner and/or possessor while not under the physical restraint of a person capable of controlling the animal. This includes any animal which is tethered, leashed or otherwise present on property which is not owned or controlled by the owner and/or possessor of the animal without the permission of the owner or occupant thereof. An animal shall not be considered "at large" if it is on the premises of another person with the consent of the owner or occupant thereof.

**Sec. 7-2-30. Confinement of Dog or Cat during Heat.**

Any person owning and/or possessing an unspayed female dog or cat in heat shall securely confine the dog within an enclosure, unless the dog or cat is under the immediate physical restraint of its owner and/or possessor to prevent the unplanned access or attraction by male dogs or cats in the vicinity.

**Sec. 7-2-40. Stray; lost animals.**

Any person who apprehends or picks up a stray or apparently lost animal shall report the same to the Police Department within twenty-four (24) hours and shall release the same to the owner or to an Officer upon demand. The person shall provide a complete description of the animal, its location and a means to contact the person keeping the animal.

**Sec. 7-2-50. Trapping.**

The police department may place and set humane traps for the purpose of capturing unrestrained animals on any property in the city at the request of the owner/agent of the property. No person other than police department members shall "molest", or release any animal trapped within or bother/tamper with the trap in any way.

**Sec. 7-2-60. Animal Waste.**

No owner or person having an animal in his or her care, charge, control, custody or possession, except a disabled person using an assistance dog, shall permit or allow the animal to do the following:

(1) Defecate on any public street or other public property without immediately cleaning or removing the excrement to a proper receptacle

(2) Defecate on any private property other than that of its owner without the consent of the owner, lessee or other person in control of the private property

**Sec. 7-2-70. Animals and vehicles.**

No owner and/or possessor of a dog or other animal shall leave the animal in a motor vehicle without adequate ventilation, or in such a manner as to expose the animal to extremes of heat and cold. An officer may remove an animal from a vehicle and impound the same if the animal's safety appears to be in immediate danger from heat or cold or lack of adequate ventilation.

**Sec. 7-2-80. Sanitation of shelters and other animal enclosures.**

It is unlawful for any person to maintain any animal on his/her premises in a manner so as to cause the accumulation of manure, offal, or feces, which cause the attraction of flies or vermin, or create smells which interfere with the use and enjoyment of any neighboring properties. All yards and other enclosures in which dogs or other animals are kept shall be maintained in a sanitary manner and regularly cleaned at least once a week to prevent the accumulation of manure, offal or feces.

**Sec. 7-2-90. Farm animals prohibited; corrals, rabbitries, commercial kennels and catteries; exceptions.**

(a) For the purposes of this Section, the following definitions shall apply:

*Corrals* shall be defined as an enclosure used for the purposes of confining livestock.

*Catteries* shall be defined as a facility used for the temporary holding of cats for either breeding or boarding purposes.

*Kennels* shall be defined as a facility used for the temporary holding of dogs for either breeding or boarding purposes.

*Rabbitry* shall be defined to include the keeping of two (2) or more rabbits for the purpose of breeding and raising young, whether for commercial or noncommercial purposes. The keeping of four (4) or less rabbits for non-breeding purposes shall not be prohibited by the provisions of this Section.

(b) No person shall keep any swine, cattle, horses, sheep or goats or other farm animals or beasts of burden of any kind or any nondomesticated animals of any kind or nature within the corporate limits of the City.

(c) No person shall erect or maintain any catteries, corrals, kennels, or rabbitries within the corporate limits of the City.

(d) Exceptions.

(1) This Section shall not be applicable to the erection or maintenance and use of catteries, corrals, kennels, or rabbitries in UA (Urban Agricultural) and I (Industrial) zoned districts in which catteries, corrals, kennels, or rabbitries are permitted by the restrictions and requirements of that ordinance or by special use permit.

(2) This Section shall not prohibit the temporary keeping of any animal for observation, treatment or care at a veterinary hospital or clinic, or corrals adjacent to and used in connection with a commercial slaughterhouse or meat packing plant, for purpose of holding

or keeping animals for slaughter in an enclosure adjacent to and used in connection with a slaughterhouse or meat packing plant.

(3) This Section shall not be applicable to the temporary keeping of animals for educational purposes.

(4) This Section shall not be applicable to service animals that are individually trained to do work or perform tasks for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing to sounds, pulling a wheelchair, or fetching dropped items.

**Sec. 7-2-110. Depositing dead, sick or injured animals on public property prohibited.**

No person shall throw or place any dead animal or fowl, or part thereof, or any animal or fowl, sick or injured, in or upon any of the streets, alleys or other public places within or belonging to the City, except for dumpsters or other receptacles designated of trash and the removal thereof.

***Division 2***  
**Fowl, Rabbits, and Other Domesticated Animals**

**Sec. 7-2-230. Limited number; roosters prohibited**

(a) No person shall keep, in aggregate, more than six (6) chickens, ducks, geese, turkeys, pigeons or other domestic fowl in any yard, enclosure or building.

(b) Roosters shall not be permitted within the City.

**Sec. 7-2-260 Owners to enclose when notified.**

When any person within the City is notified by an Officer that his or her chickens, ducks, geese or turkeys are damaging the property belonging to another, then it shall be the duty of the person owning or having such chickens, ducks, geese or turkeys under his or her control to enclose them within some suitable enclosure upon his or her premises.

**Sec. 7-2-270 Notice of damage; failure to enclose.**

Persons who are being damaged by fowl shall notify the Fort Morgan Police Department and it shall be his or her duty to notify the owner of the fowl that they are damaging, molesting or annoying the complaining party, and if the owner of the fowl shall fail to properly enclose the fowl within a reasonable time after notification, then the person owning or keeping the fowl shall be deemed guilty of a misdemeanor.

***Division 3***  
***Dangerous Animals***

**Sec. 7-2-310. Definitions.**

(a) For purposes of this Division, the following definitions shall apply:

*Bodily injury* means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.

*Certified K-9 dog* means a currently registered and certified canine police dog that is either in training or on active duty status with a law enforcement agency within the State.

*Guard dog* means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog that is either securely enclosed within the area at all times or under the continuous control of a trained handler.

*Harassing animal* means any animal that:

- (1) Chases, snaps at, bites or attacks an animal or person; or
- (2) Has demonstrated tendencies that would cause a reasonable person to believe that the animal may inflict injury upon any person or animal, whether or not the offending animal inflicts injury.

*Serious bodily injury* means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

*Vicious or dangerous animal* means any animal that:

- (1) Has inflicted bodily or serious bodily injury upon or has caused the death of a person or domestic animal;
- (2) Has demonstrated tendencies that would cause a reasonable person to believe that he animal may inflict injury upon or cause the death of any person or domestic animal; or
- (3) Has engaged in or been trained for animal fighting as described and prohibited in Section 18-9-204, C.R.S.

**Sec. 7-2-320. Harassment.**

(a) No owner of an animal shall permit the animal to harass any other person or animal. An animal shall be deemed a *harassing animal* whether or not the offending animal inflicts injury.

(b) No animal shall be deemed a *harassing animal* in a situation where it is shown that the person or domestic animal suffering the injury or damage had, at the time of the injury or damage:

- (1) Provoke, tormented, teased, abused or assaulted the animal into the behavior alleged; or
- (2) Committed a willful trespass upon the property of the owner of the animal; or

(3) Committed or attempted to commit a crime; or

(4) Threatened or committed an unjustified attack or assault against the owner or person in control of the animal.

(c) No animal shall be deemed a *harassing animal* if the damage or injury was committed by a certified K-9 dogs or those in training or guard dogs.

**Sec. 7-2-330. Vicious or Dangerous Animal.**

(a) Impounding. Upon issuance of a summons and complaint to the owner or possessor an animal alleged to be a vicious animal, the animal shall be taken up and impounded in accordance with Article 3 of this Chapter.

(b) Vicious or dangerous animals are prohibited. It shall be unlawful to keep, harbor or maintain any vicious or dangerous dog within the City. If the Municipal Judge finds, by a preponderance of evidence available, that a dog is vicious or dangerous, the Municipal Judge may order any one (1) or more of the dispositions set forth in Paragraphs (e).

(c) No animal shall be deemed a *vicious or dangerous animal* in a situation where it is shown that the person or domestic animal suffering the injury or damage had, at the time of the injury or damage:

(1) Provoke, tormented, teased, abused or assaulted the animal into the behavior alleged; or

(2) Committed a willful trespass upon the property of the owner of the animal; or

(3) Committed or attempted to commit a crime; or

(4) Threatened or committed an unjustified attack or assault against the owner or person in control of the animal.

(d) No animal shall be deemed *vicious or dangerous animal* if the damage or injury was committed by a certified K-9 dogs or those in training or guard dogs.

(e) Disposition of vicious or dangerous dogs. Upon a conviction or finding by the Municipal Court that a dog is vicious or dangerous as defined herein, the Municipal Court Judge shall have any one (1) or combination of the following powers to dispose of said dog:

(1) Confiscate and destroy the dog in some humane fashion;

(2) Order the dog permanently removed from the City; or

(3) Establish any other condition deemed reasonable to protect the public.

**Division 4  
Vaccinations**

**Sec. 7-2-420. Required.**

It shall be the duty of every person who owns or harbors any dog or cat in the City to have such dog or cat inoculated for rabies by a person authorized to do so. The inoculation shall be valid for a two-year period from the day the dog or cat was last inoculated. The dog or cat shall be inoculated every two (2) years following the initial inoculation.

**Sec. 7-2-430. Attachment of tag; retention of certificate.**

Every owner or harbinger of a dog or cat shall attach a tag evidencing that the dog or cat is currently inoculated with antirabic vaccine to the collar or harness of the inoculated dog or cat, which collar or harness shall be worn by such dog or cat at all times or shall provide a certificate evidencing that the dog or cat is currently inoculated with antirabic vaccine. A copy of the certificate shall be retained by the owner or harbinger of the inoculated dog or cat for inspection by any member of the Police Department.

**Sec. 7-2-440. Quarantine generally.**

A dog or cat which is known to have bitten or injured any person, so as to cause an abrasion of the skin, or a dog or cat which, in the opinion of a member of the Police Department, appears to be inflicted with rabies, shall be closely confined by its owner, in accordance with the direction of a member of the Police Department, or otherwise impounded at the direction the Police Department for a period of not less than ten (10) days.

**Sec. 7-2-450. Quarantine; disposition.**

If the owner of a dog or cat referred to in the preceding Section cannot be determined or located, then a member of the Police Department shall otherwise confine such dog or cat for a period not less than ten (10) days. If the owner of such dog or cat is not determined, located or such dog or cat claimed from confinement within ten (10) days, then the City Manager may order such dog or cat destroyed; provided, however, that all costs incurred for the confinement of a dog or cat under this Section shall be paid for by the owner of such dog or cat. If, however, after ten (10) days of confinement, the dog or cat is not claimed or the owner thereof determined or located, then the cost of confinement shall be borne by the City.

**Sec. 7-2-460. Imported dogs and cats.**

All dogs or cats which are brought into the City shall be in compliance with the laws, rules and regulations of the State regarding the handling of the animals, and shall have been vaccinated not less than thirty (30) days nor more than twelve (12) months prior to importation. The metal tag denoting vaccination shall be firmly affixed to the collar or harness of the dog or cats, and shall be evidence of compliance with this Section.

**Sec. 7-2-470. Unlawful possession or use of certificate or tag.**

Only those persons who own or harbor a dog or cat duly vaccinated in accordance with the provisions of this Chapter shall be permitted or allowed to possess the certificates and tags

provided for in this Chapter. No person may affix a tag evidencing vaccination as provided in this Chapter to the collar or harness of any dog, except the tag issued for that dog or cat at the time of inoculation and registration.

**Sec. 7-2-480. Inspection.**

No person shall refuse to exhibit to an Officer, acting within the scope of his authority under this Chapter, any other provision of this code, or the laws of this state, any dog or cat tag, or rabies vaccination certificate which is in his/her possession when so directed by the Officer

**ARTICLE 3**  
***Impounding; Bonding.***

**Sec. 7-3-10. Generally.**

Unless required by the provisions of this Chapter, it shall be at the discretion of every officer, appointed by the City Manager, to catch and impound any animal in violation of the provisions of this Chapter in the animal shelter. Upon impounding any such animal, a record shall be made of the breed, color and sex of any such animal, where it was caught and the registered owner, if known.

**Sec. 7-3-20. Impounding and Redemption fees.**

(a) Except for animals that have been impounded pursuant to Section 7-2-330, the owner of any animal that has been impounded under the provisions of this Chapter at the animal shelter may be redeemed by its owner or an authorized representative of the owner within five (5) days of its impoundment by paying a redemption fee established, from time to time, by City Council or as set by the animal shelter, if privately owned or operated. Except for animals that have been impounded pursuant to Section 7-2-330, in the event that any impounded animal is not so redeemed within such five-day period, such impounded animal shall be deemed abandoned and may be made available for adoption or otherwise disposed of at the discretion of the shelter supervisor; except that the shelter supervisor may determine that an animal without identification, including, but not limited to, a microchip, identification tag or rabies tag, may be disposed of in three (3) days if such shelter supervisor determines the shelter has no additional resources for such animal or that such animal is dangerous.

(b) Unless an animal is impounded or delivered to the animal shelter pursuant to the provisions of this Chapter, the animal shelter, if privately owned or operated, shall dispose of all other animals as proscribed by law or pursuant to the animal shelter's policies and procedures. If the City owns and operates the animal shelter, the animal shelter shall dispose of animals as proscribed by this code or the laws of this state or pursuant to the animal shelter's policies and procedure as set from time to time by the City Manager.

**Sec. 7-3-30. Designation of pound and fee.**

Any animal in violation of any of the provisions of this Chapter shall be impounded in such place, at a fee for such impounding, as may be designated from time to time by the City Council or as set by the animal shelter, if privately operate or owned.

**Sec. 7-3-40. Notice or knowledge of violation not necessary for prosecution.**

For the purpose of prosecution for violations of this Chapter, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the animal in question that such animal was violating any of the provisions of this Chapter at the time and place charged; it being the purpose and intent of this Chapter to impose strict liability upon the owner, possessor or keeper of any animal for the actions, conduct and condition of such animal.

**Sec. 7-3-50. Bonding.**

(a) The owner of an animal that has been impounded pursuant to this Chapter may prevent disposition of the animal by requesting an administrative impoundment hearing and subsequently posting a bond with the court in an amount sufficient to provide for the animal's care and keeping at the impound agency for at least thirty (30) days, including the day on which the animal was taken into custody. Such bond shall be filed with the court within seventy-two (72) hours after the animal is impounded or, if the owner has requested a hearing, within twenty-four (24) hours of the conclusion of the administrative impoundment hearing. At the end of the time for which expenses are covered by the bond, if the owner or custodian desires to prevent disposition of the animal, the owner or custodian shall post a new bond with the court within seventy-two (72) consecutive hours of the prior bond's expiration. However, the court shall order the immediate disposition of the animal by euthanasia if, in the opinion of a veterinarian, the animal is experiencing extreme pain or suffering. At the end of the time for which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or custodian shall be liable for the cost of the care, keeping or disposal of the animal.

(b) An animal that is not claimed by its owner within five days after being eligible for release from impoundment for a charge of unlawful ownership of a vicious dog shall be deemed abandoned and may be disposed of as proscribed by this Chapter or the laws of this state or pursuant to the animal shelter's policies and procedures.

**Section 4. Validity.** If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts be declared invalid.

**Section 5. Repeal.** All or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 6. Interpretation.** This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance 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.

**Section 7. Certification.** The City Clerk shall certify to the passage of this Ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

**Section 8. Severability.** In the event any part of this Ordinance is found to be unenforceable by a Court of competent jurisdiction, it shall not affect the enforceability of the other portions of the Ordinance.

**Section 9. Effective date.** The City Council hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. This Chapter 7, "Animal and Fowl" shall be effective as to all violations of the Code committed five (5) days after final publication.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 21st day of February, 2012.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

/s/ Terry L. McAlister  
Mayor Terry McAlister

ATTEST:

/s/ John J. Brennan  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED the 6th day of March, 2012.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

/s/ Terry L. McAlister  
Mayor Terry McAlister

ATTEST:

/s/ John J. Brennan  
City Clerk

STATE OF COLORADO )  
COUNTY OF MORGAN )  
CITY OF FORT MORGAN )

**CERTIFICATE**

I, John Brennan, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **ORDINANCE NO. 1122** was, as a proposed Ordinance duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a regular meeting on the 21st day of February, 2012. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 24th day of February, 2012, published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed Ordinance was again taken up and read a second time, duly and legally passed, approved and adopted at a regular meeting of the City Council held on the 6th day of March, 2012. Within five (5) days after its final passage, said Ordinance was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ John J. Brennan  
City Clerk