

November 16, 2010

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Terry L. McAlister called the regular meeting to order at 7:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Terry L. McAlister  
Councilmember Sharol Lyn Deal  
Councilmember Debra J. Forstedt  
Councilmember Brent M. Nation  
Councilmember James A. Powers  
Councilmember Ronald Shaver

Councilmember Scott Bryan was absent.

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**SECOND AND FINAL READING OF AN ORDINANCE COMBINING CITY DEPARTMENTS**

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**ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE CONSOLIDATING CITY DEPARTMENTS**

**WHEREAS**, the City of Fort Morgan has undertaken a review of the various needs of the departments within the City organization; and

**WHEREAS**, the City Manager has recommended the consolidation of various departments in order to balance the 2011 budget; and

**WHEREAS**, the City Council has passed a motion directing the City Manager to make proposed budget modifications for the 2011 budget year that include consolidation of the Library and Museum Departments and the Parks, Cemetery and Golf Departments; and

**WHEREAS**, the consolidation of these departments are in the best interests of furtherance of the City's goals and objectives; and

**WHEREAS**, the City Charter, at Article V, Section 4(g) establishes the procedure for the consolidation and/or creation of departments with the recommendation of such consolidation and/or creation from the City Manager and final approval by ordinance from the City Council;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO:**

**SECTION 1.** The Departments of Library and Museum are hereby consolidated for the purpose of furthering the goals and objectives of the City Council to wit: the balancing of the 2011 budget and efficient operations of the City;

**SECTION 2.** The Departments of Parks, Cemetery and Golf are hereby consolidated for the purpose of furthering the goals and objectives of the City Council to wit: the balancing of the 2011 budget and efficient operations of the City.

**SECTION 3.** The names of the departments may be modified at the discretion of the City Manager.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the \_\_\_\_\_ day of October, 2010.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

ATTEST:

\_\_\_\_\_  
Mayor Terry McAlister

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

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED the \_\_\_\_ day of \_\_\_\_\_, 2010.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

ATTEST:

\_\_\_\_\_  
Mayor Terry McAlister

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

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

**CERTIFICATE**

I, \_\_\_\_\_, the duly appointed, qualified and acting Deputy City Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **ORDINANCE NO.** \_\_\_\_\_ 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 \_\_\_\_\_ day of September, 2010. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2010. 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.

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Deputy City Clerk

A resolution to approve the Ordinance combining City Departments and to publish by title only was made by Ron Shaver, seconded by Deb Forstedt and passed unanimously.

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**FIRST READING OF THE FISCAL YEAR 2011 BUDGET ORDINANCE AND SET THE PUBLIC HEARING DATE**

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After some discussion among council members and staff regarding questions about the draft budget, the council decided by consensus to move the first reading of the 2011 budget ordinance to the Nov. 23 meeting, which requires declaring that meeting a special meeting.

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**PUBLIC HEARING REGARDING THE YEAGER MINOR SUBDIVISION**

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City Attorney Jeffrey Wells noted that due to miscommunication between the city and the Fort Morgan Times the legal notice of this public hearing was not published in time to provide adequate notice for holding the hearing during this meeting. The public hearing was moved to the agenda for the Dec. 7, 2010 council meeting.

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**DISCUSSION REGARDING THE SETTING OF THE DATE, TIME AND LOCATION FOR THE EIGHTH AVENUE MEETING**

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City Manager Pat Merrill stated that the meeting with residents of the Eight Avenue area regarding perennial flooding problems in the neighborhood would be tentatively scheduled for January 12, 2011, at 6:30 p.m. at the Re-3 School District Support Center. Manager Merrill said he would contact the residents to see if this date and time are acceptable and advise the council further.

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**FIRST READING OF AN ORDINANCE ADOPTING THE MUNICIPAL CODE ORGANIZATIONAL UPDATE**

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Attorney Wells explained that the organizational update would allow the city to make revisions to the Municipal Code by reference only and was part of an ongoing effort to update and streamline the codes.

A resolution to approve the first reading of the Ordinance adopting by reference the Municipal Code Organizational Update and set a public hearing for the December 7, 2010 council meeting was made by Councilman James Powers, seconded by Brent Nation and passed unanimously.

**STATE OF COLORADO**

**CITY OF FORT MORGAN, COLORADO**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF FORT MORGAN, COLORADO, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE CITY OF FORT MORGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

*Be It Ordained by the City Council of the City of Fort Morgan, Colorado:*

*Section 1.* The Code entitled the Fort Morgan Municipal Code published by Colorado Code Publishing Company, consisting of Chapters 1 through 21, with Appendix, Tables and Index, is adopted.

*Section 2.* All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Fort Morgan Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

*Section 3.* The following codes were previously adopted by reference and incorporated in the Fort Morgan Municipal Code. One (1) copy of each is on file in the City Clerk's office:

(1) The *Model Traffic Code for Colorado*, 2010 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;

(2) The *International Building Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 21-2-10, et seq.;

(3) The *International Residential Code*, 2003 edition, published by the International Code Council, Inc., as adopted in Section 21-3-10, et seq.;

(4) The *National Electrical Code*, 2002 edition, published by the National Fire Protection Association, as adopted in Section 21-4-10;

(5) The *International Mechanical Code*, 2003 edition, published by the International Code Council, Inc., as adopted in Section 21-5-10;

(6) The *International Plumbing Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 21-6-10, et seq.;

(7) The *International Fire Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 21-7-10, et seq.;

(8) The *International Fuel Gas Code*, 2003 edition, published by the International Code Council, Inc., as adopted and amended in Section 21-8-10, et seq.;

(9) The *International Existing Building Code*, 2003 edition, published by the International Code Council, Inc., as adopted in Section 21-9-10;

(10) The *Uniform Code for the Abatement of Dangerous Buildings*, published by the International Conference of Building Officials, as adopted in Section 21-10-10; and

(11) The *International Energy Conservation Code*, 2003 edition, published by the International Code Council, Inc., as adopted in Section 21-11-10, et seq.

*Section 4.* The penalties provided by the Municipal Code of the City of Fort Morgan are hereby adopted as follows:

**(1) Sec. 1-4-10. General penalty; continuing violation. (Chapter 1, General Provisions; Article 4, General Penalty)**

(a) Whenever in this Code or any other ordinance of the City hereafter enacted, or in any section, rules or regulation promulgated under the provisions of this Code, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, any person who is convicted of the violation of any such provision of this Code or other ordinance of the City hereafter enacted or of such rules or regulations shall be punished in accordance with the provisions of Subsection (b) below.

(b) Except as otherwise noted below (\*) or (\*\*), the penalty provisions of the following sections concerning fines and penalties are hereby amended to provide that any person convicted of violating such section may be incarcerated for a period not to exceed one (1) year (if incarceration is currently provided as a penalty) or fined an amount not to exceed one thousand dollars (\$1,000.00), or both:

<i>Code Section</i>	<i>Short Title</i>
1-4-10	General Penalty
2-2-40	Prohibited Gifts to City Officials
2-4-160	Municipal Court Juror
2-4-240	Failure of Witness to Appear
2-4-270	Municipal Court – Fines, Methods of Payment
4-3-60	Use Tax
4-3-110	Use Tax
4-4-50	Occupational Tax
5-3-40	False Alarms
6-1-60	Abatement of Nuisance
7-2-20	Dogs Running at Large
8-1-30*	Model Traffic Code
8-1-40*	Model Traffic Code

<i>Code Section</i>	<i>Short Title</i>
10-1-20	Sentencing
10-3-20	Graffiti
10-4-40	Tobacco Products Use by Minor
10-4-60	Alcohol Possession by Minor
11-1-10	Sidewalk and Street Obstructions
11-2-90	Default in Assessment Payment
15-1-50	Garbage
15-1-90	Abatement of Nuisances
16-1-20	Public Utilities
17-7-90**	Sewer and Wastewater
18-2-120	Water Restrictions
18-3-70	Water Rates and Charges
21-1-90	Building Code Violation
21-4-20	Electrical Code
21-4-290	Electrical Inspector
21-5-20	Mechanical Code
21-6-30	Stop Work Orders
21-6-100	Plumbing Code
21-7-90	Fire Code
21-8-30	Fuel Gas Code
21-11-20	Energy Conservation Code
21-12-70	Building Contractors

\* Except traffic infractions

\*\* Incarceration only is amended; maximum fine is not amended.

(c) Every day any violation of this Code or any other ordinance of the City hereafter enacted or any rule or regulation promulgated under the provisions of this Code shall continue shall constitute a separate offense.

**(2) Sec. 1-4-30. Working City prisoners. (Chapter 1, General Provisions; Article 4, General Penalty)**

Any person committed to the City jail by commitment of the Municipal Judge, or justice of the peace so acting, upon his or her conviction for the violation of any provision of this Code or other ordinance of the City for the nonpayment of any fine or costs so imposed against him or her, shall be required when ordered so to do by the Chief of Police to work for the City, under the supervision of the Chief of Police, his or her deputy, the City Manager or his or her deputy, at such labor as his or her strength will permit within or without the jail, and at such work as

may be designated by the City Council and not exceeding eight (8) hours for each working day. For such the person so employed shall be allowed, exclusive of his or her board, a credit of two dollars (\$2.00) per day, for each day's work performed on account of such fine and costs for the nonpayment of which such person is so confined; provided that the same shall in no case exceed ninety (90) days for any one (1) offense.

**(3) Sec. 2-2-40. Prohibited gifts to City officials. (Chapter 2, Administration; Article 2, Mayor and City Council)**

(a) Definitions. As used in this Chapter, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates otherwise:

....

(d) Violations.

(1) It shall be unlawful for any City official to violate any provision of this Chapter. Proof of a violation shall be established by a preponderance of the evidence presented at trial.

(2) Any City official determined by the Municipal Court to have violated any provision of this Chapter shall be deemed to have committed a civil infraction and shall be punished by a civil fine not to exceed one thousand (\$1,000.00) dollars. In addition to any civil fine imposed, a judgment in the amount of twice the fair market value of the prohibited gift received shall also be entered by the Municipal Court against the City official. If the City official fails to pay the total judgment amount entered for the civil fine and for twice the fair market value of the prohibited gift within sixty (60) days of the entry of the final judgment, the City may pursue any legal means available to it for the collection of the judgment.

**(4) Sec. 2-4-160. Failure of juror to appear; penalty. (Chapter 2, Administration; Article 4, Municipal Court; Division 2, General Procedures)**

In all cases where a person shall be summoned as a juror to try any cause before the Municipal Court and shall fail to attend at the time and place appointed in such summons, the Municipal Judge shall have power to issue an attachment, directed to any police officer of the City, commanding him or her forthwith to bring before such court the body of such juror so failing to attend to show cause why he or she should not be fined for contempt; on the appearance of such juror on such attachment, it shall be lawful for the Municipal Judge to fine him or her in any sum not less than one dollar (\$1.00) nor more than twenty dollars (\$20.00) or wholly discharge him or her if satisfactory excuse be made.

**(5) Sec. 2-4-240. Failure of witness to appear. (Chapter 2, Administration; Article 4, Municipal Court, Division 2, General Procedures)**

In all cases where a witness shall be duly served with a subpoena and shall fail to attend at the trial, the Municipal Court shall have power to issue an attachment directed to any police officer of the City, commanding him or her forthwith to bring before such court the body of the witness so failing to attend to show cause why he or she should not be fined for contempt; and on the appearance of such witness on such attachment, it shall be lawful for the Municipal

Judge to fine him or her in any sum of not less than one dollar (\$1.00) nor more than twenty dollars (\$20.00) or wholly discharge him or her if satisfactory excuse be made.

**(6) Sec. 2-4-270. Fines, methods of payment and applicable administrative fees. (Chapter 2, Administration; Article 4, Municipal Court; Division 2, General Procedures)**

(a) When the Court imposes a fine on an individual, the Court may direct as follows:

....

(c) When the Court pronounces sentence ordering that the defendant be imprisoned until the fine is satisfied, the Court shall specify a maximum period of imprisonment subject to the following limits:

(1) Where the fine was imposed for a municipal offense or misdemeanor, the period shall not exceed thirty (30) days;

(2) Where the fine imposed for a traffic violation which is punishable by a jail sentence, the period shall not exceed fifteen (15) days;

(3) There shall be no imprisonment in those cases where no imprisonment is provided as a punishment alternative; and

(4) Where a sentence of imprisonment as well as a fine is imposed, the aggregate of the period and the term of the sentence shall not exceed the maximum term of imprisonment authorized for the offense.

(d) Where the defendant is unable to pay a fine imposed by the Court, the defendant may at any time apply to the Court for resentence. If the Court is satisfied that the defendant is unable to pay the fine, the Court shall:

(1) Adjust the terms of payment;

(2) Lower the amount of the fine;

(3) Where the sentence consists of probation or imprisonment and a fine, revoke the portion of the sentence imposing the fine; or

(4) Revoke the entire sentence imposed and resentence the defendant. Upon a resentence, the Court may impose any sentence it originally could have imposed; except that the amount of any fine imposed shall not be in excess of the amount the defendant is able to pay.

....

**(7) Sec. 4-3-60. Collection, administration and enforcement. (Chapter 4, Revenue and Finance; Article 3, Use Tax)**

(a) The tax herein imposed on motor or other vehicles on which registration is required shall be collected, administered and enforced as provided by Section 39-26-208, C.R.S., 1973.

(b) The tax herein imposed on the privilege of storing, using or consuming in the City any construction and building materials, purchased at retail, shall be collected as follows:

....

(3) If the procedure for payment of the use described in Subparagraph (2) above is approved by the City Manager, the use tax is due and payable at the time of the filing of the return, and if the tax is not paid when due, a penalty equal to ten percent (10%) of the amount due plus interest at the rate of eight percent (8%) per annum will be added to the principal amount of the tax. All such use tax returns and reports shall be subscribed by the taxpayer or his or her agent and shall contain a written declaration that it is made under penalties of perjury in the second degree. Failure to file the tax returns and reports required by the provisions of this Subsection or the willful filing of a false or fraudulent return or report and willful failure to pay the tax imposed by this Article are unlawful acts, a violation of this Article and punishable as provided by law and by the provisions of this Article.

....

**(8) Sec. 4-3-110. Neglect or refusal to make return or pay tax. (Chapter 4, Revenue and Finance; Article 3, Use Tax)**

If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the City Manager shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent (10%) thereof and interest on such delinquent taxes at the rate imposed under Section 4-3-130 below, plus one-half of one percent (.5%) per month from the date when due.

**(9) Sec. 4-4-50. Penalty clause. (Chapter 4, Revenue and Finance; Article 4, Occupational Tax for Telephone Utilities)**

If any officer, agent or manager of a telephone utility company which is subject to the provisions of this Article shall fail, neglect or refuse to make or file the annual statement of accounts provided in Section 4-4-30 above, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00); provided that each day after said statement shall become delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense

**(10) Sec. 5-3-40. False alarms. (Chapter 5, Business Licenses and Regulations; Article 3, Alarm System Permits)**

False alarms present a risk to emergency personnel responding thereto and to the general public; repeated incidents of false alarms at the same location shall be a basis for imposition of a fine or fines or suspension or revocation of the permit required to operate and maintain any emergency alarm device or system.

(1) False burglar, holdup or police emergency alarms. Except for alarms caused by an act of nature or through faulty telephone communications, a fine of fifty dollars

(\$50.00) shall be levied for each false burglar, holdup or police emergency alarm to which the police respond in excess of six (6) in any three-hundred-sixty-five-day period. Repeated false alarms in excess of six (6) alarms in such period for whatever reason shall also be grounds for suspension by the Chief of Police of the permit for such system as a faulty system. The Chief of Police shall at all times have the authority to suspend the permit for any such system until such time as suitable personnel practices are instituted or satisfactory repair or replacement is made correcting such faulty system. The Chief of Police, at any time, may also recommend to the City Council the termination of the permit required to operate and maintain such system for any violation of this Article or for any faulty system which cannot be made reliable against false alarms in keeping with the provisions of this Section. Any alarm system shall be deactivated if the permit therefor is suspended or terminated and shall remain deactivated until the suspension is terminated by reinstatement or a new permit for the system is issued.

(2) False fire alarms. Except for alarms caused by an act of nature or through faulty telephone communications, a fine shall be levied for each false fire or false emergency alarm at the same location to which the Fire Department responds in excess of six (6) in any three-hundred-sixty-five-day period in accordance with the following schedule:

a. One hundred fifty dollars (\$150.00) per vehicle owned and operated by the Fire Department responding to each false alarm;

b. Normal response shall consist of two (2) engines, one (1) ladder and one (1) rescue truck.

Repeated false alarms in excess of six (6) alarms in such period for whatever reason shall also be grounds for suspension by the Fire Chief of the permit for such system as a faulty system. The Fire Chief shall at all times have the authority to suspend the permit for any such system until such time as suitable personnel practices are instituted or satisfactory repair or replacement is made correcting such faulty system. The Fire Chief, at any time, may also recommend to the City Council the termination of the permit required to operate and maintain such system for any violation of this Article or for any faulty system which cannot be made reliable against false alarms in keeping with the provisions of this Section. Any alarm system shall be deactivated if the permit therefor is suspended or terminated and shall remain deactivated until the suspension is terminated by reinstatement or a new permit for the system is issued.

**(11) Sec. 6-1-60. Collection of costs of abatement. (Chapter 6, Nuisances and Sanitation; Article 1, Nuisances; Division 1, Administration and Abatement Procedures)**

(a) In the event the weeds on any lot, block or parcel of ground, or along the sidewalk adjoining the same or the alley behind the same, are cut by order or direction of the City Manager under the provisions of Section 6-1-250 below, the whole cost of cutting such weeds, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date of the cutting of the weeds until paid, and the amount thereof shall be paid to the City Manager within thirty (30) days after mailing by the City Manager to the owner of such lot, block or parcel of ground, by registered mail or certified mail, notice of the assessment of such cost and requiring payment of the amount of the City.

(b) If any such assessment is not paid within such thirty-day period, the same may be certified by the City Manager to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with interest on the total sum thereof at the rate of ten percent (10%) per year from the date initially due until certified to the County Treasurer for collection and with ten percent (10%) penalty to defray the cost of collection.

**(12) Sec. 7-2-20. Running at large. (Chapter 7, Animals and Fowl; Article 2, Dogs; Division 1, General Provisions)**

It shall be unlawful for any owner, possessor or person who keeps any dog to permit the same to run at large. A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper thereof, and not under the control of such owner, possessor or keeper or his or her agent or servant by means of a leash, cord or chain. Any dog found off such premises and not so under control may be impounded under the provisions of Sections 7-2-310 to 7-2-340 of this Article; and any such dog's owner, possessor or keeper violating the provisions of this Section shall, upon conviction thereof, be punished by a fine of not less than thirty-five dollars (\$35.00) or more than three hundred dollars (\$300.00) for each offense. The minimum fine shall be mandatory and the Court shall have no discretion to suspend any part thereof.

**(13) Sec. 7-2-330. Designation of pound and fee. (Chapter 7, Animals and Fowl; Article 2, Dogs, Division 3, Impoundment)**

Any dog in violation of any of the provisions of this Article shall be impounded in such place, at a fee for such impounding, as may be designated from time to time by the City Council.

**(14) Sec. 8-1-30. Additions or modifications. (Chapter 8, Vehicles and Traffic; Article 1, Model Traffic Code.**

The Model Traffic Code as adopted herein is subject to the following amendments, additions or modifications:

....

(15) Section 1214, Parking offenses; schedule of fines, is hereby added to the Model Traffic Code:

**"1214. Parking offenses; schedule of fines.**

"(1) Time limit parking. Except on Sundays or holidays, it shall be unlawful to park any vehicle for a longer consecutive period of time than that designated in any area designated as a limited parking area and so marked.

"(2) Signs. The Chief of Police or any other person authorized by the Mayor shall cause signs to be posted in all areas where parking is limited or prohibited by ordinance, indicating such limitations or prohibitions.

"(3) Penalty. Any person, firm or corporation owning or operating a motor vehicle parked in violation of any provision of this section shall be subject to fines in accordance with the fee schedule set by resolution of the City Council, a copy of which will be available in the office of the City Manager.

"(4) It shall constitute a separate offense each time a violation occurs or continues."

**(15) Sec. 8-1-40. Penalties. (Chapter 8, Vehicles and Traffic; Article 1, Model Traffic Code.**

Section 1701 of the Model Traffic Code is repealed and reenacted to provide for the following penalties, herewith set forth in full, which shall apply to all violations of the Model Traffic Code adopted herein:

**"1701. Traffic offenses classified - schedule of fines.**

"(1)(a) It shall be a traffic offense or a traffic infraction, as specified in the Common Code of Traffic Violations which is hereby adopted by reference and incorporated herein as if set forth in full, for any person to violate any provision of this code.

"(b) A traffic infraction shall constitute a civil matter. In all cases involving solely a traffic infraction, all questions of fact and law shall be heard and decided by the municipal judge without a jury and there shall be no trial by jury.

"(2)(a)(I) Except as provided in subsections (3) and (4) of this section, traffic infractions are divided into two (2) classes which shall be subject to the following penalties which are authorized upon entry of judgment against the defendant:

<i>"Class</i>	<i>Minimum Penalty</i>	<i>Maximum Penalty</i>
A	\$5.00	\$250.00
B	\$5.00	\$250.00

(II)(A) Except as provided in subsections (3) and (4) of this section, traffic offenses are divided into two (2) classes which are distinguished from one another by the following penalties which are authorized upon conviction:

<i>"Class</i>	<i>Minimum Sentence</i>	<i>Maximum Sentence</i>
1	10 days imprisonment or \$100.00 fine, or both	1 year imprisonment, or \$1,000.00 fine, or both
2	5 days imprisonment or \$10.00 fine, or both	90 days imprisonment, or \$300.00 fine, or both

(B) Any person convicted of a Class 1 or Class 2 traffic offense may be sentenced to perform a certain number of hours of community or useful public service in addition to any other sentence provided by Subparagraph (A) of this Subparagraph (II), subject to the conditions and restrictions of section 16-11-701, C.R.S.

"(3)(a)(I) Except as provided in paragraph (c) of subsection (4) of this section, every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this code to which the provisions of paragraph (a) or (b) of subsection (4) of this section shall apply shall be fined or penalized in accordance with the penalty schedule set out in the Common Code attached hereto and incorporated herein; or, if no penalty is specified in the schedule, the penalty for Class A and Class B traffic infractions shall be five dollars (\$5.00). These penalties shall apply whether the Defendant acknowledges the Defendant's guilt or liability in accordance with the procedure set forth in paragraph (a) of subsection (4) of this section or is found guilty by a court of competent jurisdiction or judgment by default has entered against the Defendant.

"(II) Any person convicted of violating sections 507 or 508 shall be fined pursuant to Table 1, Penalty for Overweight Violations (507 and 508), set out in the Common Code, whether the Defendant acknowledges Defendant's guilt pursuant to the procedure set forth in paragraph (a) of subsection (4) of this section or is found guilty by a court of competent jurisdiction.

"(III) Any person convicted of violating any of the provisions of section 510 shall be fined in accordance with Table 2, Penalty Chart for Weight in Excess of Weight Authorized by Special Permit (510), set out in the Common Code attached hereto and incorporated herein, whether the violator acknowledges the violator's guilt pursuant to the procedures set forth in paragraph (a) of subsection (4) of this section or is found guilty by a court of competent jurisdiction.

"(b)(I) The schedule in subparagraph (I) of paragraph (a) of this subsection (3) shall not apply when the provisions of paragraph (c) of subsection (4) of this section prohibit the issuance of a penalty assessment notice for a violation of the aforesaid traffic violation.

"(II) The schedules in subparagraph (II) and subparagraph (III) of paragraph (a) of subsection (3) shall apply whether the violator is issued a penalty assessment notice or a summons and complaint.

"(4)(a) At the time any person is arrested for commission of any traffic offenses set forth in this code, the arresting officer may, except when the provisions of paragraph (c) of this subsection (4) prohibit it, offer to give a penalty assessment notice to the Defendant. At any time that a person is charged with a commission of any traffic infraction, the officer shall, except when the provisions of paragraph (c) of this subsection (4) prohibit it, give a penalty assessment notice to the Defendant. Such penalty assessment notice shall contain all the information required by section 1707(3) or section 1709, whichever is applicable. The fine or penalty specified in the Common Code for the violation charged may be paid at the office of the Clerk of the Municipal Court, either in person or by postmarking such payment within ten (10) days from the date the penalty assessment notice is served upon the Defendant. The Clerk may accept late payment of any penalty assessment up to twenty (20) days after such payment becomes due. In the case of an offense other than a traffic infraction, a Defendant who otherwise would be eligible to be issued a penalty assessment notice but who does not furnish satisfactory

evidence of identity or who the arresting officer has reasonable and probable grounds to believe will disregard the summons portion of any such notice may be issued a penalty assessment notice if the Defendant consents to be taken by the officer to the nearest mailbox and to mail the amount of the fine or penalty thereon to the Clerk. The officer shall advise the person arrested or cited of the points to be assessed in accordance with section 42-2-127, C.R.S. Acceptance of a penalty assessment notice and payment of the prescribed fine or penalty thereon to the Clerk shall be deemed a complete satisfaction for the violation, and the Defendant shall be given a receipt which so states when such fine or penalty thereon is paid in currency or other form of legal tender within the time limits prescribed herein. A check tendered by the Defendant to and accepted by the Clerk and on which payment is received by the City shall be deemed sufficient receipt. If the person who receives the penalty assessment notice pays the fine and any surcharge for the violation on or before the date the payment is due, the points assessed for the violation shall be reduced as follows:

"(I) For a violation having an assessment of three (3) or more points, the points shall be reduced by two (2) points;

"(II) For a violation having an assessment of two (2) points, the points shall be reduced by one (1) point.

"Any person who pays the fine specified and who thereby is eligible for an automatic point reduction shall be assessed a ten-dollar administrative surcharge, in addition to the fine imposed.

"(b) In the case of an offense other than a traffic infraction, should the Defendant refuse to accept service of the penalty assessment notice when such notice is tendered, the officer shall proceed in accordance with section 1705 or section 1707. Should the Defendant charged with an offense other than a traffic infraction accept service of the penalty assessment notice but fail to post the prescribed penalty thereon within ten (10) days thereafter, the notice shall be construed to be a summons and complaint unless payment for such penalty assessment has been accepted by the Clerk as evidenced by receipt. Should the Defendant charged with a traffic infraction accept the notice but fail to post the prescribed penalty thereon within ten (10) days thereafter and should the Clerk not accept payment for such penalty as evidenced by receipt, the Defendant shall be allowed to pay such penalty thereon and the docket fee to the Clerk of the Court referred to in the summons portion of the penalty assessment notice during the two (2) business days prior to the time for appearance as specified in the notice. If the penalty for a traffic offense is not timely paid, the case shall thereafter be heard in the Municipal Court.

"(c)(I) The penalty schedules of subsection (3) of this section and the penalty assessment notice provisions of paragraphs (a) and (b) of this subsection (4) shall not apply to violations constituting traffic offenses not specified in section 42-4-1701(4), C.R.S., nor shall they apply to the violations constituting traffic offenses or traffic infractions as specified in said subsection (4), in any of the following cases:

"(A) In a violation of section 1101(2), the Defendant exceeded the maximum lawful speed limit by more than twenty-four (24) miles per hour;

"(B) In a violation of section 1101(1), the Defendant exceeded the reasonable and prudent speed under the conditions then existing by more than twenty-four (24) miles per hour;

"(C) The alleged violation has caused or contributed to the cause of an accident resulting in appreciable damage to property of another or in injury or death to any person;

"(D) Reckless driving;

"(E) Exhibition of speed or speed contest;

"(F) No proof of insurance;

"(G) Eluding a police officer;

"(H) Failed to stop for school bus.

"(II) In all cases where this paragraph (c) prohibits the issuance of a penalty assessment notice, the penalty schedule contained in the Common Code shall be inapplicable. In all cases where the penalty schedule is inapplicable, the provisions of subsection (2) of this section shall apply.

"(d) In addition to any other cases governed by this section, the penalty schedule contained in the Common Code shall apply in all cases in which an officer was authorized by the provisions of this subsection (4) to offer a penalty assessment notice for the commission of a traffic offense but such officer chose not to offer such penalty assessment notice.

"(5) The penalties and surcharges imposed for speeding violations under Part 11 of the Model Traffic Code are doubled if the speeding violation occurs within a maintenance, repair or construction zone that is so designated by the Colorado Department of Transportation or by the Fort Morgan Street Department pursuant to the requirements of section 42-4-614, C.R.S.

"(6) The penalty and surcharge imposed for any moving traffic violation under the Model Traffic Code is doubled if the violation occurs within a school zone so designated pursuant to section 42-4-615, C.R.S.

"(7) An officer coming upon an unattended vehicle which is in apparent violation of any provision of this code may place upon the vehicle a penalty assessment notice indicating the offense or infraction and directing the owner or operator of the vehicle to remit the penalty assessment provided for in the penalty schedule of the Common Code to the Clerk of the Municipal Court within ten (10) days. If the penalty assessment is not paid within ten (10) days of the issuance of the notice, the Clerk shall mail a notice to the registered owner of the vehicle, setting forth the offense or infraction and the time and place where it occurred and directing payment of the penalty assessment within twenty (20) days from the issuance of the notice. If the penalty assessment is not paid within such twenty (20) days from the

date of mailing of such notice, and the violator fails to appear on the return date on the penalty assessment notice, judgment shall be entered against the registered owner of the vehicle.

"(8) Notwithstanding the provisions of paragraph (b) of subsection (4) of this section, receipt of payment by mail by the Clerk or postmarking such payment on or prior to the tenth day after the receipt of the penalty assessment notice by the Defendant shall be deemed to constitute receipt on or before the payment was due."

**(16) Sec. 10-1-20. Sentencing. (Chapter 10, General Offenses; Article 1, General Provisions)**

(a) 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).

(b) Unless otherwise indicated when a violation under this Chapter is punishable by imprisonment in jail, the term of imprisonment shall not exceed one (1) year.

**(17) Sec. 10-3-20. Eradication of graffiti. (Chapter 10, General Offenses; Article 3, Offenses Against Property)**

(a) Legislative intent. The City Council finds and declares that the unauthorized inscription, word, figure or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is deemed a public nuisance by the City.

....

(e) Penalties.

(1) Fines and imprisonment. Any person violating this Section shall be punished by a fine, by imprisonment for a term not to exceed thirty (30) days, or by both fine and imprisonment at the discretion of the Municipal Court.

a. In the case of a minor, the parents or legal guardian shall be jointly and severally liable with the minor for payment of all fines.

b. Failure of the parents or legal guardian to make payment will result in either a contempt citation enforceable by the Municipal Court or the filing of a lien on the parents' or legal guardian's property that includes the fine and administrative costs.

(2) Restitution. In addition to any punishment specified in this Section, the Municipal Court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the Municipal Court. In the case of a minor, the parents or legal guardian shall be ordered jointly and severally liable with the minor to make the restitution.

(3) Community service. In lieu of, or as part of, the penalties specified in this Section, the Municipal Court may order a minor or adult to perform community service which may include the following minimum requirements:

a. The minor or adult shall perform at least fifteen (15) hours of community service.

b. At least one (1) parent or guardian of the minor shall be in attendance a minimum of fifty percent (50%) of the period of assigned community service.

c. Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal. If the offender is required to remove graffiti as part of the community service requirement, he or she shall purchase all materials necessary to remove or cover the graffiti. Said materials shall be approved by the public entity or private party for which the removal or cover is being provided.

(4) Any person who pleads or is otherwise found guilty of violating the provisions of this Section or is in violation of Section 10-3-10 of this Article shall pay a fifty-dollar graffiti abatement surcharge in addition to any other fine, cost or surcharge. Funds accumulated under the graffiti abatement surcharge shall be used by the City to remove graffiti from public and private property as authorized by the City Manager or his or her designee.

**(18) Sec. 10-4-40. Illegal possession or use of tobacco products by a minor. (Chapter 10, General Offenses; Article 4, Minors and Underage Persons)**

(a) Any minor who possesses or uses any tobacco product anywhere in the City commits illegal possession or use of a tobacco product by a minor. Illegal possession or use of a tobacco product by a minor is a strict liability offense.

....

(d) Penalties.

(1) Illegal possession or use of a tobacco product by a minor in the City is a petty offense. The Court, upon sentencing a defendant pursuant to this Paragraph may, in addition to any fine or penalty imposed pursuant to this Subsection, order that the defendant perform up to twenty-four (24) hours of useful public service or community service, subject to the conditions and restrictions of Section 18-1.3-507, C.R.S., and may further order that the defendant complete a Tobacco Education Program at the defendant's own expense. If useful public service or community service is ordered, the defendant shall be granted credit against the fine and court costs imposed at the rate of five dollars (\$5.00) for each hour of such service performed.

(2) Any person convicted for the first time of violating this Section shall be punished by a fine of not less than thirty-five dollars (\$35.00) and not more than one hundred dollars (\$100.00).

(3) Any person convicted more than once of violating this Section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two hundred fifty dollars (\$250.00). In the discretion of the Court, upon a second or subsequent

violation of this Section by a minor, the parent or guardians of the minor may also be fined in an amount not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).

(4) Whenever the Court requires that a person complete any amount of useful public service or community service pursuant to Paragraph (1) of this Subsection, the Court shall also impose upon that person, in addition to any other fine, cost or penalty, a public service fee in an amount approved by the Court.

(e) Upon the expiration of one (1) year from the date of a conviction for a violation of Subsection (a) of this Section, any person convicted of such violation may petition the Municipal Court in which the conviction was entered for an order sealing the record of such conviction. The Court shall grant such petition if the petitioner has not been arrested for, charged with or convicted of any felony, misdemeanor or petty offense during the period of one (1) year following the date of such petitioner's conviction for a violation of Subsection (a).

**(19) Sec. 10-4-60. Illegal possession or consumption of alcohol by an underage person.  
(Chapter 10, General Offenses; Article 4, Minors and Underage Persons)**

(a) Any underage person who possesses or consumes ethyl alcohol anywhere in the City commits illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) Upon sentencing a defendant pursuant to this Subsection, the Court may, in addition to any fine or penalty imposed, order that the defendant perform up to twenty-four (24) hours of useful public service, subject to the conditions and restrictions of Section 18-1.3-507, C.R.S., and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program or an alcohol treatment program at such defendant's own expense.

(k) Penalties.

(1) Any person convicted of violating this Section shall be punished by a fine.

(2) If the underage person has no prior convictions under this Section, then upon a plea of guilty or no contest (except when such plea is entered in conjunction with a deferred judgment and sentence), or a verdict of guilty by the Court or jury, to a violation of Subsection (a) of this Section, in addition to any other penalty, the Court shall require the offender to immediately surrender his or her driver's, minor driver's or provisional driver's license to the Court. The Court shall forward to the Colorado Department of Revenue a notice of conviction, together with the offender's license, not later than ten (10) days after the conviction becomes final.

(3) The Court may, at its discretion and as a part of the sentence to be imposed, require a person convicted of possession or consumption of alcohol within the City or in any other jurisdiction, to complete twenty-four (24) hours of Court-approved public service.

(4) Whenever the Court requires that a person complete any amount of public service pursuant to Subsection (b) of this Section, the Court shall also impose upon that person, in addition to any other fine, cost or penalty, a public service fee in an amount approved by the Court.

(5) In addition to any penalty imposed under this Section, the Court may order a person to complete an alcohol evaluation or assessment, or attend an alcohol education program in connection with a conviction under this Section. If the person so ordered fails to complete the evaluation, assessment or education program, the Court shall require the offender to immediately surrender his or her drivers, minor driver's or provisional driver's license to the Court. The Court shall forward to the Colorado Department of Revenue a notice of conviction, together with the offender's license, not later than ten (10) days after the conviction becomes final.

(1) Upon the expiration of one (1) year from the date of a conviction for a violation of Subsection (a) of this Section, any person convicted of such violation may petition the Municipal Court in which the conviction was entered for an order sealing the record of such conviction. The Court shall grant such petition if the petitioner has not been arrested for, charged with or convicted of any felony, misdemeanor or petty offense during the period of one (1) year following the date of such petitioner's conviction for a violation of Subsection (a) of this Section.

**(20) Sec. 10-6-460. Penalty. (Chapter 10, General Offenses; Article 6, Offenses Involving the Public; Division 4, Medical Marijuana)**

A violation of the provisions of this Article shall be punishable as follows:

(1) By a fine of not less than two hundred fifty dollars (\$250.00) but not more than one thousand dollars (\$1,000.00);

(2) Each and every day a violation of the provisions of this Section is committed, exists or continues shall be deemed a separate offense;

(3) The City Attorney is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate or remove the violation; and

(4) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.

**(21) Sec. 11-1-10. Right-of-way, sidewalk and sidewalk area defined; obstructions. (Chapter 11, Streets, Sidewalks and Public Places; Article 1, General Provisions)**

(a) A *right-of-way* is defined by this Code as a strip of land acquired by reservation, dedication, fenced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses. The *sidewalk* is defined by this Code as the paved, surfaced or leveled area, paralleling and usually separated from street, used as a pedestrian walkway.

The *sidewalk area* is defined by this Code as that portion of the right-of-way that lies between the right-of-way line and the curb line, regardless of whether the sidewalk exists. It shall be unlawful for any person to place upon any sidewalk or sidewalk area:

....

(d) If any such assessment is not paid within such thirty-day period, the same may be certified by the City Manager to the County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with interest on the total sum thereof at the rate of ten percent (10%) per year from the date initially due until certified to the County Treasurer for collection, and with an additional ten-percent penalty upon the amount then due to defray the cost of collection.

**(22) Sec. 11-2-90. Default in payment of assessment. (Chapter 11, Streets, Sidewalks and Public Places; Article 2, Sidewalks, Curbs and Gutters)**

If any assessment made under this Section is not paid within ten (10) days after the time fixed for hearing such objections, the City Manager shall certify such assessment to the County Treasurer, or other proper assessing officer then having possession of the tax list, to be placed by him or her upon such tax list for the current year, to be collected in the same manner as other taxes are collected, with ten-percent penalty thereon to defray the costs of collection and with interest on the total sum at the rate of ten percent (10%) per year from the date due until certified to the County Treasurer for collection.

**(23) Sec. 15-1-50. Use of containers by nonresident persons. (Chapter 15, Garbage and Refuse; Article 1, General Provisions)**

(a) For the purpose of facilitating the removal and disposal of refuse and garbage, securing proper sanitary conditions and regulating the disposal of garbage and refuse and the loading and transportation of the same over the public streets and alleys of the City, every owner or occupant of any house, hotel, restaurant, building, apartment, tenement or store within the City having garbage or refuse for disposal shall place all garbage and refuse for pickup and disposal in automatic loading and dumping containers or Dumpsters provided by and placed or located by the City in the streets and alleys, and in no other containers or types of containers. Tree limbs and branches and sticks of trees and shrubs shall be completely trimmed and cut to such length as to fit completely within such containers.

(d) Any person violating the provisions of Subsection (c) above shall be punished by the assessment of a penalty of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00). In any case in which a violation of Subsection (c) above is alleged, all questions of fact and law and the penalty to be assessed in accordance herewith shall be heard and decided by the Municipal Judge and there shall be no trial by jury.

**(24) Sec. 15-1-90. Abatement of nuisances. (Chapter 15, Garbage and Refuse; Article 1, General Provisions)**

Whenever the deposit, keeping or accumulating of garbage, refuse or both shall constitute a nuisance as hereinabove provided, the City, by its City Manager, its Health Officer or its Chief of Police, shall immediately notify the owner of such property, his or her agent or any

person having charge of such property, in writing, ordering the removal of any such refuse or garbage from the property or premises. Thereafter, if such garbage or refuse shall not be removed in accordance with the requirements of such order, the City Council may order that the same may be removed by the City, or its designated agent, and assess the cost thereof against the property or premises. The amount assessed shall constitute a lien upon such property until the same is paid; provided that in case of failure to pay such assessment within thirty (30) days after the same shall be made, the City Manager shall cause the notice of such assessment to be given to the owner of such property by publishing in a newspaper in the City for two (2) successive weeks; which publication shall contain a notice to such property owner of the amount assessed against his or her property and shall designate a time and place when the City Council will hear any objections as to the adjustment and correctness of the amount so assessed. If such assessment is not paid within ten (10) days after the time fixed for hearing such objections, the City Manager shall certify such amount to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty to defray the cost of collection, as provided by law.

**(25) Sec. 16-1-20. Penalties. (Chapter 16, Utilities; Article 1, Administration)**

(a) Unless a franchise or permit has been given or granted under the provisions of Section 16-1-10 above to so do, it shall be unlawful for any person:

....

(b) Any person violating the provisions of this Section shall, upon conviction, be punished by a fine of not less than one hundred fifty dollars (\$150.00) nor more than three hundred dollars (\$300.00). Each day that such violation occurs, exists or continues shall be deemed a separate offense which is separately punishable hereunder.

**(26) Sec. 17-5-20. Collection. (Chapter 17, Sewer and Wastewater, Article 5, Establishment and Collection of Charges)**

Each sewer charge levied pursuant to the provisions of this Article shall be charged against the property owner or, with the consent of the owner, any tenant in possession of the premises. All charges so levied shall be a lien upon the property served from the date the same became due until paid. Upon the failure or refusal of any owner or tenant of property to pay when due the sewer charges or penalties levied pursuant to this Chapter, the City Clerk may, after ten (10) days' written notice to the owner of the property, certify such unpaid charges to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) of the amount thereof and penalties due thereon in addition thereto to defray the cost of collection. The lien of such delinquent charges and penalties when so certified by the City Clerk as aforesaid shall be on a parity with the lien of the general taxes on the property.

**(27) Sec. 17-6-70. Administrative fines. (Chapter 17, Sewer and Wastewater, Article 6, Enforcement)**

(a) When the City Manager finds that a user has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may fine such user in an amount

not to exceed twenty-five thousand dollars (\$25,000.00). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges, fines and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of five percent (5%) per month. A lien against the user's property shall be sought for unpaid charges, fines and penalties.

**(28) Sec. 17-6-90. Termination of discharge. (Chapter 17, Sewer and Wastewater, Article 6, Enforcement)**

(a) In addition to the provisions in Section 17-3-180 of this Chapter, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of individual wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in Article 7 of this Chapter.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 17-6-30 of this Article why the proposed action should not be taken. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

**(29) Sec. 17-6-110. Civil penalties. (Chapter 17, Sewer and Wastewater, Article 6, Enforcement)**

(a) A user who has violated, or continues to violate, any provision of this Chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of twenty-five thousand dollars (\$25,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The City Manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including but not limited to the extent of harm caused by the violation,

the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

**(30) Sec. 17-6-120. Criminal prosecution. (Chapter 17, Sewer and Wastewater, Article 6, Enforcement)**

(a) A user who willfully or negligently violates any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this Chapter, individual wastewater discharge permit or order issued hereunder, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Chapter ,shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

**(31) Sec. 18-2-120. Restrictions on outside use of water. (Chapter 18, Water System; Article 2, Water Utility)**

(a) It shall be unlawful and an offense for any person to allow municipally supplied water for outside sprinkling or irrigation or other outside usages to be run or used at hours and days other than permitted by the provisions of this Chapter as then in effect as provided by Resolution of the Council.

(b) Any person who violates the restrictions imposed by this Section shall be punished by a fine of not less than fifty dollars (\$50.00), but not more than one thousand dollars (\$1,000.00) for each offense. Fines shall be progressive for repeat offenders with a prior conviction or convictions after September 1, 2002.

....

**(32) Sec. 18-3-70. Penalty for failure to pay. (Chapter 18, Water System; Article 3, Rates and Charges)**

Ten percent (10%) of the amount due on the water rents and rates shall be added if the rents and rates are not paid within five (5) days after the same became due. All officers of the City are expressly prohibited from allowing credit to anyone.

**(33) Sec. 20-2-50. Enforcement, violations and penalties. (Chapter 20, Land Development Code, Article 2, Administration)**

(a) Any person, whether as principal, agent, employee or otherwise, who violates any of the provisions of this Chapter shall be fined not exceeding one thousand dollars (\$1,000.00) for each offense. Each day of the existence of any violation shall be deemed a separate offense.

(b) The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained, contrary to any provisions of this Chapter is declared to be a violation and unlawful. The City Attorney shall have authority to institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. In addition, the City may refuse to issue any permit and may revoke any existing permit, for the use, development or construction on the subject property or any other property owned by the same person or entity.

(c) Any person, either as owner, lessee, occupant or otherwise, who violates any of the provisions of this Chapter or any amendment thereof or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him or her by the provisions of this Chapter shall be guilty of a violation of this Chapter. Each day a violation shall continue to occur shall constitute a separate offense. Multiple offenses may be charged on a single Municipal Court complaint.

(d) Any contractor, builder or tradesperson holding a City business license who violates any provision of this Chapter while engaged in work for which such license was issued shall, upon conviction thereof and in addition to the penalties set forth in this Section, have his or her license revoked or suspended.

....

**(34) Sec. 21-1-90. Penalties. (Chapter 21, Building Regulations; Article 1, General Provisions)**

(a) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the Building Code or any other construction code of the City.

(b) Any person, firm or corporation who shall violate any of the provisions of the Building Code, as adopted and amended herein, or any other construction code of the City; or who shall fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall build, construct, fabricate or install anything in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder; who shall fail to comply with such an order within the time fixed

therein and from which no appeal has been taken; or who fails to comply with such an order as affirmed or modified by the Board of Appeals or by a Court of competent jurisdiction, within the required time, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a violation occurs or that a prohibited condition is maintained shall constitute a separate offense.

(c) The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition.

**(35) Sec. 21-4-20. Penalties. (Chapter 21, Building Regulations; Article 4, Electrical Regulations; Division 1, National Electrical Code)**

(a) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, maintain or make electrical installations or cause or permit the same to be done in violation of the National Electrical Code.

(b) Upon notice from the Building Official that work on any electrical system is being done contrary to the provisions of the Electrical Code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, to the owner's agent or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

(c) Any person, firm or corporation who shall violate any of the provisions of the National Electrical Code; who shall fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall make an electrical installation in violation thereof; who shall fail to comply with such an order within the time fixed therein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a violation occurs or that a prohibited condition is maintained shall constitute a separate offense.

(d) The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition.

**(36) Sec. 21-4-290. Time limit for repairs; penalty. (Chapter 21, Building Regulations; Article 4, Electrical Regulations; Division 3, Electrical Inspector)**

Any person failing or refusing to have the necessary repairs or changes required by the Electrical Inspector completed within five (5) days or any longer period which may be deemed reasonable by the Electrical Inspector after the receipt of notice from and pay unto the City a sum of five dollars (\$5.00) for each day which shall elapse after the expiration of the period.

**(37) Sec. 21-5-20. Penalties. (Chapter 21, Building Regulations; Article 5, Mechanical Code)**

(a) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain mechanical systems or equipment or cause or permit the same to be done in violation of the Mechanical Code.

(b) Any person, firm or corporation who shall violate any of the provisions of the Mechanical Code; who shall fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall build, construct, fabricate or install anything in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder; who shall fail to comply with such an order within the time fixed therein, and from which no appeal has been taken; or who fails to comply with such an order as affirmed or modified by the Board of Appeals or by a Court of competent jurisdiction within the required time, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a violation occurs or that a prohibited condition is maintained shall constitute a separate offense.

(c) The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition.

**(38) Sec. 21-6-30. Stop work orders. (Chapter 21, Building Regulations; Article 6, Plumbing Code)**

Upon notice from the Building Official that work on any plumbing system is being done contrary to the provisions of this Code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a Stop Work Order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

**(39) Sec. 21-6-100. Penalties. (Chapter 21, Building Regulations; Article 6, Plumbing Code)**

(a) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain any plumbing or permit the same to be done in violation of the Plumbing Code or any of the provisions of this Chapter.

(b) Any person, firm or corporation who shall violate any of the provisions of the Plumbing Code; who shall fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall build, construct, fabricate or install anything in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder; who shall fail to comply with such an order within the time fixed therein and from which no appeal has been taken; or who fails to comply with such an order as affirmed or modified by the Board of Appeals or by a Court of competent jurisdiction, within the required time, or any of the provisions of this Chapter, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each separate day or portion thereof, during which any violation of the Plumbing Code occurs or continues or that a prohibited condition is maintained shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of the Plumbing Code. No permit presuming to give authority to violate or cancel any of the provisions of the Plumbing Code shall be valid, except insofar as the work or use which is authorized is lawful.

(c) The issuance or granting of a permit or approval of plans shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of the Plumbing Code or of any certificate of approval when issued in error.

**(40) Sec. 21-7-90. Penalties. (Chapter 21, Building Regulations; Article 7, Fire Code, Division 1; International Fire Code)**

(a) It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or mechanical systems or equipment or cause or permit the same to be done in violation of the Fire Code.

(b) Any person, firm or corporation who shall violate any of the provisions of the Fire Code; who shall fail to comply therewith; who shall violate or fail to comply with any order thereunder; who shall build, construct, fabricate or install anything in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder; who shall fail to comply with such an order within the time fixed therein, and from which no appeal has been taken; or who fails to comply with such an order as

affirmed or modified by the Board of Appeals or by a Court of competent jurisdiction, within the required time, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a violation occurs or that a prohibited condition is maintained shall constitute a separate offense.

(c) The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition.

**(41) Sec. 21-8-30. Penalties. (Chapter 21, Building Regulations; Article 8, Fuel Gas Code)**

(a) Any person violating any provision of the Fuel Gas Code shall be deemed guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or both fine and imprisonment. Each separate day or any portion thereof during which any violation of said Code occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof, shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorized is lawful.

(b) The issuance or granting of a permit or approval of plans shall not prevent the City Manager or his or her duly authorized representative from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of this Chapter or of any certificate of approval when issued in error.

(c) Upon notice from the Building Official or the Gas Department Superintendent that work is being done contrary to the provisions of this Chapter or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the Building Official or the Gas Department Superintendent shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

**(42) Sec. 21-11-20. Penalties. (Chapter 21, Building Regulations; Article 11, Energy Conservation Code)**

(a) It shall be unlawful for any person to erect, construct, renovate, enlarge, alter, repair, improve, convert, equip, use, occupy or maintain any building or structure in the City, or cause or permit the same to be done, contrary to or in violation of any of the provisions of the Energy Conservation Code.

(b) Any person violating any of the provisions of the Energy Conservation Code, or of this Article, shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding one (1) year, or by both fine and imprisonment. Each and every day or portion thereof during which any such violation is committed, continued or permitted shall be considered a separate offense.

(c) The application of the above penalty or penalties shall not be held to prevent the enforced removal of any prohibited condition.

**(43) Sec. 21-12-70. Violation; penalty. (Chapter 21, Building Regulations; Article 12, Building Contractors)**

In addition to the administrative remedy for suspension or revocation provided in the preceding Sections, any person violating or failing to comply with any of the provisions of this Article shall, upon conviction thereof, be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment; and provided further, each day or portion thereof during which any violation continues shall constitute a separate offense.

*Section 5.* Additions or amendments to the Code, when passed in the form as to indicate the intention of the City to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

*Section 6.* Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

*Section 7.* In the opinion of the City Council of the City of Fort Morgan, Colorado, this Ordinance is necessary for the preservation of the public peace, health, and safety, and shall become effective immediately.

INTRODUCED this \_\_\_\_\_ day of November, 2010.

COLORADO

CITY OF FORT MORGAN ,

ATTEST:

\_\_\_\_\_  
Mayor

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

(SEAL)

ADOPTED AND ORDERED PUBLISHED on this \_\_\_\_\_ day of December, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

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

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

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**CONSENT AGENDA**

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Treasurer Terri Schafer presented the Consent Agenda for Council consideration.

**CONSENT AGENDA**

A. Second and Final Reading of an Ordinance to combine and complete business development payments to businesses owned by Gary Harms.

All matters listed under the Consent Agenda, are considered to be routine business by the Council and will be enacted with a single motion and a single vote by roll call. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.

A resolution to approve the consent agenda as presented was made by Councilwoman Deb Forstedt, seconded by Lyn Deal and passed unanimously.

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**PUBLIC COMMENT / AUDIENCE PARTICIPATION**

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None.

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**BIDS, MEETINGS AND ANNOUNCEMENTS**

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Treasurer Schafer announced upcoming bids and meetings and other announcements.

Mayor McAlister adjourned the Nov. 16, 2010 regular meeting at 8:25 p.m.

/s/ Terry L. McAlister  
Mayor

/s/ John J. Brennan

City Clerk