

## ORDINANCE NO. 1232

### AN ORDINANCE AMENDING THE FORT MORGAN MUNICIPAL CODE TO GIVE THE CITY COUNCIL DISCRETION TO ALLOW ALCOHOL ON PUBLIC PROPERTY UNDER CERTAIN LIMITED AND CONTROLLED CIRCUMSTANCES

**WHEREAS**, the City of Fort Morgan, Colorado (the "City"), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

**WHEREAS**, the City Council (the "Council") has authority pursuant to the Home Rule Charter and C.R.S. §31-16-101, et seq. to adopt and enforce all ordinances; and

**WHEREAS**, pursuant to that authority, the City has previously enacted Chapter 5, Article 4 and Chapter 10, Article 6 of the Fort Morgan Municipal Code (the "Code") regarding alcoholic beverage licenses and offenses involving the public, respectively; and

**WHEREAS**, the Council recognizes that there may be times when it may be appropriate and in the public interest for the City to authorize public consumption of alcohol on City and public property, such as parks, streets and alleys, on a case-by-case basis where a special event liquor permit has been obtained; and

**WHEREAS**, a public hearing on this Ordinance at second reading, and proper notice thereof, was provided in accordance with Colorado Revised Statutes section 31-16-203; and

**WHEREAS**, the Council therefore desires to adopt the below referenced Code amendments to authorize public consumption of alcohol in limited and controlled circumstances and where a special event liquor permit has been duly and lawfully obtained.

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

**SECTION 1.** The Fort Morgan Municipal Code section 5-4-20, concerning Sale or consumption in public or unlicensed premises, is hereby amended as follows:

**Sec. 5-4-20. - Sale or consumption in public or unlicensed premises.**

Except for the sale of medicinal liquors as hereinafter provided in Article II of this Chapter, or where the City Council has specifically authorized public consumption related to a particular special event liquor permit, it shall be unlawful for any person to sell, give away or consume any beverage having any alcoholic content whatever upon any street, avenue, alley, park or other public place

within the City or at, in or upon the premises of any place of public resort within the City not licensed by the City and State to sell fermented malt beverages, malt, vinous or spirituous liquors.

**SECTION 2.** The Fort Morgan Municipal Code section 10-6-50, concerning Offenses, Open containers of alcoholic beverages, is hereby amended as follows:

**Sec. 10-6-50. - Open containers of alcoholic beverages.**

- (a) Except as permitted by Section 12-47-421 44-3-423, C.R.S., or where the City Council has specifically authorized public consumption related to a particular special event liquor permit, it shall be unlawful for any person to possess or carry any open container of any fermented malt beverage, malt, vinous or spirituous liquor in any public park or on any public street, sidewalk, alley or other public way in the City or in any vehicle or conveyance thereon or on the grounds of any public school in the City.
- (b) Any person found guilty of violating this Section shall be punished for each violation by a fine.
- (c) It shall be an affirmative defense to a charge under this Section that the person charged was in possession of one (1) opened but resealed container of not more than seven hundred fifty (750) milliliters of partially consumed vinous liquor which was lawfully removed from the licensed premises of a hotel and restaurant licensee pursuant to Section 12-47-421 44-3-423, C.R.S., or Subsection (d) below.
- (d) A hotel and restaurant licensee who permits a customer to remove a partially consumed bottle of vinous liquor from the licensed premises shall reseal the bottle with the original cork or other commercially manufactured stopper, and shall package the resealed bottle in another sealable container (bag or box).

**SECTION 3.** If any section, provision, paragraph, clause or phrase of this Ordinance is held, or decided to be unconstitutional, invalid or enforceable for any reason, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Ordinance.

**SECTION 4.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 5.** The City Council finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety of the residents of the City.

**INTRODUCED, READ, ADOPTED ON FIRST READING AND ORDERED  
PUBLISHED** on the 4th day of June, 2019.



THE CITY COUNCIL OF THE CITY OF FORT  
MORGAN, COLORADO



By: Ronald Shaver  
Mayor

Attest:



John Brennan  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED  
PUBLISHED this 18<sup>th</sup> day of June 2019.



THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO



By: Ronald Shaver  
Mayor

Attest:



John Brennan  
City Clerk

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

CERTIFICATE

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing **Ordinance No. 1232** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 4th day of June, 2019. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 7th day of June, 2019, 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 18<sup>th</sup> day of June, 2019. Within five (5) days after its final passage, said **Ordinance No. 1232** 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.



John Brennan  
City Clerk