

ORDINANCE NO. 1263

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO AMENDING CHAPTER 17 OF THE FORT MORGAN MUNICIPAL CODE, REGARDING SEWERS AND WASTEWATER, TO BRING THE CODE INTO COMPLIANCE WITH FEDERAL PRETREATMENT REGULATIONS

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

WHEREAS, pursuant to its Charter, C.R.S. § 31-15-701 *et seq.*, and 40 C.F.R. § 403, the City has the authority to implement national pretreatment standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works ("POTWs");

WHEREAS, under such authority, the City Council has previously adopted standards to control pollutants which pass through or interfere with treatment processes in POTWs, codified as Chapter 17 of the Fort Morgan Municipal Code (the "Code");

WHEREAS, a recent audit of the City's pretreatment program by the U.S. Environmental Protection Agency (the "EPA") identified a number of provisions within the Code which need to be updated to ensure compliance with federal pretreatment regulations;

WHEREAS, the recent EPA pretreatment audit also identified a number of omissions in the Code which need to be included to ensure compliance with federal pretreatment regulations;

WHEREAS, this Ordinance updates the Code in accordance with the federal requirements for pretreatment programs and has been formally approved by the EPA; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its citizens to amend Chapter 17 of the Code, as it relates to sewers and wastewater, to update the City's pretreatment provisions to bring the Code into compliance with federal pretreatment regulations.

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

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Section 17-1-20 of the Fort Morgan Municipal Code, concerning definitions, is hereby amended to read as follows:

Sec. 17-1-20. - Definitions.

The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this Chapter. Terms not herein defined shall have the meaning customarily assigned to them:

...

Significant industrial user means any industrial user subject to pretreatment standards **Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. chapter I, subchapter N**; or (a) any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); (b) contributes a process waste stream, which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (c) is ~~designed~~ **designated** as such by the City, the Colorado Department of Public Health and Environment, the U.S. Environmental Protection Agency (EPA), or other jurisdictional authority, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

...

Slug discharge means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

Section 3. Section 17-3-40 of the Fort Morgan Municipal Code, concerning permit conditions, is hereby amended to read as follows:

Sec. 17-3-40. - Permit conditions.

(a) An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Both minor discharge permits and major discharge permits shall be expressly subject to all provisions of this Article and all other applicable

regulations, user charges, and fees established by the City. Without limiting the matters that may be expressly covered in the permits, the permits may address any or all of the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- ~~(4) Requirements for installation and maintenance of inspection and sampling facilities;~~
- ~~(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;~~
- ~~(6) Compliance schedules;~~
- ~~(7) Requirements for submission of technical reports or discharge reports by permittee;~~
- ~~(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City and affording City access thereto;~~
- (9) (4) Requirements for notification of the City on any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) (5) Requirements for immediate notification of slug discharges; and
- ~~(11) Effluent limits, including Best Management Practices, based on applicable General Pretreatment Standards in part 403, this Chapter, Categorical Pretreatment Standards, local limits, and state and local law; and~~
- (12) (6) Other conditions as deemed appropriate by the City to ensure compliance with this Article or 40 C.F.R. § 403.

(b) An individual wastewater discharge permit, whether major or minor, shall include the following conditions:

- (1) Statement of duration, which in no case shall exceed five (5) years;**

(2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in 40 C.F.R. § 403, Categorical Pretreatment Standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40 C.F.R. § 403, Categorical Pretreatment Standards, local limits, and State and local law;

(5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and

(6) Requirements to control slug discharges, if determined by the POTW to be necessary.

(b) (c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in Article 6 of this Chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law.

Section 4. Section 17-3-190 of the Fort Morgan Municipal Code, concerning wastewater discharge permit reissuance, is hereby amended to read as follows:

User **Any user** with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 17-3-30 of this Article, a minimum of ~~ninety (90) days~~ **one hundred and eighty (180) days** prior to the expiration of the user's existing individual wastewater discharge permit.

Section 5. Section 17-4-100 of the Fort Morgan Municipal Code, concerning inspection and sampling, is hereby amended to read as follows:

Sec. 17-4-100. - Inspection and sampling.

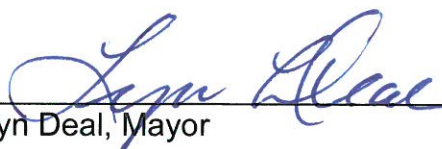
The City may inspect the facilities of any user to ascertain whether or not this Article and all its requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, recording, or for examination or in the performance of any of their duties. The City, State, and EPA shall have the right to use or set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations, including the use of digital photography equipment. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, State, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Section 6. Severability. The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.


INTRODUCED, READ, AND ADOPTED ON FIRST READING AND ORDERED
PUBLISHED ON THE 1st DAY OF MARCH, 2022.



THE CITY COUNCIL OF THE CITY OF FORT
MORGAN, COLORADO


Lyn Deal, Mayor

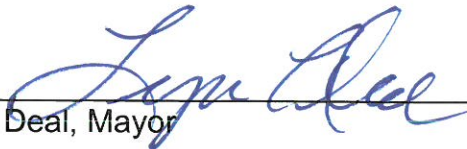
ATTEST:


John Brennan, City Clerk

PASSED, APPROVED, AND ADOPTED ON THE SECOND AND FINAL READING AND
ORDERED PUBLISHED THIS 15th DAY OF MARCH, 2022.



THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO


Lyn Deal, Mayor

ATTEST:


John Brennan, City Clerk

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

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing Ordinance No. 1263 was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 1st day of March, 2022. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 4th day of March, 2022, 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 15th day of March, 2022. Within five (5) days after its final passage, said Ordinance No. 1263 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