

ORDINANCE NO. 1266

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO AMENDING CHAPTER 10 OF THE FORT MORGAN MUNICIPAL CODE, REGARDING HARASSMENT, TO UPDATE THE OFFENSE IN CONFORMANCE WITH A RECENT COLORADO SUPREME COURT DECISION

WHEREAS, the City of Fort Morgan, Colorado (the "City") has been duly organized and is validly existing as a home rule city under Article XX, Section 6 of the Colorado Constitution and the City Charter;

WHEREAS, pursuant to this authority, the City has proscribed a variety of criminal conduct, including harassment, codified within Chapter 10 of the Fort Morgan Municipal Code (the "Code");

WHEREAS, the Colorado Supreme Court recently heard a case concerning the constitutionality of the state crime of harassment, codified as C.R.S. 18-9-111;

WHEREAS, in rendering its decision, the Colorado Supreme Court held that a portion of the state crime of harassment was unconstitutionally overbroad in violation of the First Amendment, as it inadvertently prohibited a substantial amount of protected speech;

WHEREAS, in overturning this portion of the offense, the Colorado Supreme Court upheld the validity of the remainder of the state crime of harassment;

WHEREAS, the City's prohibition on harassment is modeled after the state offense and includes the exact language which the Colorado Supreme Court recently overturned; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general safety and welfare of its residents, to amend Chapter 10 of the Code, as it relates to harassment, to update the offense in conformance with the recent Colorado Supreme Court decision.

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 10-2-40 of the Fort Morgan Municipal Code, concerning harassment, is hereby amended to read as follows:

Sec. 10-2-40. - Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

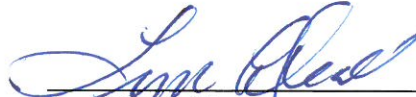
(4) Initiates communication with a person, anonymously or otherwise, by telephone, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone which is obscene;


Section 3. *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 19th DAY OF APRIL, 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 3rd DAY OF MAY, 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. 1266 was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 19th day of April, 2022. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 22nd day of April, 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 3rd day of May, 2022. Within five (5) days after its final passage, said Ordinance No. 1266 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