

ORDINANCE NO. 1278

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO, AMENDING THE PREVIOUSLY ADOPTED 2020 MODEL TRAFFIC CODE

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, also pursuant to that authority, the City previously adopted by reference the 2020 edition of the Model Traffic Code for Colorado in Chapter 8 of the Fort Morgan Municipal Code; and

WHEREAS, the City Council recognizes the value of the Model Traffic Code for Colorado, as providing commonly-adopted uniform standards for traffic regulations; 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, certified copies of the Code adopted hereby were filed with the City Clerk at least fifteen (15) days prior to the public hearing on this Ordinance, and such codes remain open to public inspection and purchase; and

WHEREAS, this Ordinance is intended to amend the currently adopted 2020 Edition of the Model Traffic Code for Colorado, subject to the identified additions, modifications, and deletions.

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

Section 1. Chapter 8, "Motor Vehicles and Traffic" is hereby Amended.

Section 2. The Sections referenced below of the Chapter 8, "Motor Vehicles and Traffic" are hereby amended to read as follows:

CHAPTER 8 MOTOR VEHICLES AND TRAFFIC ARTICLE 1 – Model Traffic Code

1202. Parking or abandonment of vehicles.

- (1) No person shall stop, park, or leave standing any vehicle, either attended or unattended, outside of a business or a residential district, upon the paved or improved and main-traveled part of the highway. Nothing contained in this section shall apply to the driver of any vehicle which is disabled while on paved or improved and main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position, subject, when applicable, to the emergency lighting requirements set forth in section 230.
- (2) No individual shall leave or abandon a motor vehicle classified as an "Abandoned Motor Vehicle" according to the definition provided in Section 1802.
- (3) Any person who violates any provision of this section commits a class B traffic infraction.

1203. – repealed.

1802. Definitions. Are modified to include the following:

- (1) "Abandoned Motor Vehicle" means any of the following:
 - (a) A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates; or
 - (b) Two or more wheels/tires or other parts which render the vehicle totally inoperable; or
 - (c) A vehicle that has remained illegally on public property for more than twenty-four hours; or
 - (d) Any vehicle has been sitting for more than 30 days; or
 - (e) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, outside the limits of any incorporated town or city for a period of forty-eight hours or longer; or
 - (f) Any motor vehicle stored in an impound lot at the request of a law enforcement agency and not removed from the impound lot within seventy-two hours after the time the law enforcement agency notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees;
 - (g) A motor vehicle fitted with an immobilization device that is on public property and deemed to be abandoned pursuant to section 1105 (7) (c); or
 - (h) Any motor vehicle left unattended at a regional transportation district parking facility, as defined in section 32-9-119.9 (6), C.R.S., that is deemed to be abandoned pursuant to section 32-9-119.9 (4) (b), C.R.S.

1803. Abandonment of motor vehicles - public property.

- (1) No person shall abandon any motor vehicle classified as an "Abandoned Motor Vehicle" as defined by Section 1802, on public property, or leave a vehicle parked, standing, or abandoned under the conditions prescribed by Part 18 of Article 4 of

Title 42, C.R.S. Any sheriff, undersheriff, deputy sheriff, police officer, marshal, Colorado state patrol officer, agent of the Colorado bureau of investigation, or agency employee who discovers a motor vehicle that they have reasonable grounds to believe is abandoned or in violation of Part 12 or 18 of this Model Traffic Code may require the said motor vehicle to be removed or initiate its removal and placement in storage at an impound lot designated or maintained by the employing law enforcement agency.

- (a) If an operator is used by the responsible law enforcement agency to tow or impound the motor vehicle pursuant to this subsection (1), the operator shall be provided with written authorization to possess the motor vehicle on a document that includes, without limitation, the year, make, model, vehicle identification number, and storage location.
- (2) Whenever any officer or agency employee finds a motor vehicle, attended or unattended, standing upon any portion of a street, highway right-of-way, or in such a manner as to constitute an obstruction to traffic or proper highway maintenance, such officer or agency employee is authorized to cause the motor vehicle, vehicle, cargo, or debris to be moved to eliminate any such obstruction. Neither the officer, the agency employee, nor anyone acting under the direction of such officer or employee shall be liable for any damage to such motor vehicle, vehicle, cargo, or debris occasioned by such removal. The removal process is intended to clear the obstruction, but such activity should create as little damage as possible to the vehicle, or cargo, or both. No agency employee shall cause any motor vehicle to be moved unless such employee has obtained approval from a local law enforcement agency of a municipality, county, or city and county, the Colorado bureau of investigation, or the Colorado state patrol.
- (3) The operator shall be responsible for removing the motor vehicle and the motor vehicle debris from the site pursuant to this section but shall not be required to remove or clean up any hazardous or commercial cargo the motor vehicle carried. The commercial carrier shall be responsible for the removal or clean-up of the hazardous or commercial cargo.
- (4) Vehicles removed from streets or highways within this municipality and placed in storage as provided in this section 1803 shall be disposed of in accordance with the provision of state law, Part 18 of Article 4, Title 42, C.R.S.
- (5) Notwithstanding the authority granted by subsection (1) of this section 1803 to remove and store any vehicle left parked, standing, or abandoned, any person, firm, or corporation who shall leave any vehicle parked, standing, or abandoned contrary to the provisions of subsection (1) of this section 1803 shall be deemed guilty of a traffic infraction.

1804. Report of abandoned motor vehicles - owner's opportunity to request hearing.

- (1)(a) Upon having an abandoned motor vehicle towed, the responsible law enforcement agency shall ascertain, if possible, whether or not the motor vehicle has been reported stolen, and, if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this part 18. The responsible law enforcement agency and the towing carrier shall have the right to recover from the owner their reasonable costs and fees for recovering and securing the motor vehicle. Nothing in this section shall be construed to authorize fees for services that were not provided or that were provided by another person or entity.
- (b) As soon as possible, but in no event later than ten working days after having an abandoned motor vehicle towed, the responsible law enforcement agency shall report the same to the department by first-class or certified mail, by personal delivery, or by internet communication. The report shall be on a form prescribed and supplied by the department.
- (c) The report shall contain the following information:
- (I) The fact of possession, including the date possession was taken, the location of storage of the abandoned motor vehicle and the location from which it was towed, the identity of the responsible law enforcement agency, and the business address, telephone number, and name and signature of a representative from the responsible law enforcement agency;
 - (II) If applicable, the identity of the operator possessing the abandoned motor vehicle, together with the operator's business address and telephone number and the carrier number assigned by the public utilities commission; and
 - (III) A description of the abandoned motor vehicle, including the make, model, color, and year, the number, issuing state, and expiration date of the license plate, and the vehicle identification number.
- (2) Upon its receipt of a report made under subsection (1) or (6) of this section, the department shall search its records to ascertain the last-known owner of record for the abandoned motor vehicle and any lienholder as those persons are represented in department records. In the event the vehicle is determined by the department not to be registered in the state of Colorado, the report required by this section shall state that no Colorado title record exists regarding the vehicle. Within ten working days after such receipt, the department shall complete its search and shall transmit such report, together with all relevant information, to the responsible law enforcement agency.
- (3) The responsible law enforcement agency, upon its receipt of the report required under subsection (2) of this section, shall determine, from all available information and after reasonable inquiry, whether the abandoned motor vehicle has been

reported stolen, and, if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this part 18. The responsible law enforcement agency and the operator shall have the right to recover from the owner their reasonable costs to recover and secure the motor vehicle.

- (4) (a) If the responsible law enforcement agency, does not use an operator to store the motor vehicle, the responsible law enforcement agency, within ten working days after the receipt of the report from the department within ten working days after the receipt of the report from the department required in subsection (2) of this section, shall notify by certified mail the owner of record, if ascertained, and any lienholder, if ascertained, of the fact of such report and the claim of any lien under section 1806 and shall send a copy of such notice to the operator. The notice shall contain information that the identified motor vehicle has been reported abandoned to the department, the location of the motor vehicle and the location from which it was towed, and that, unless claimed within thirty calendar days after the date the notice was sent as determined from the postmark on the notice, the motor vehicle is subject to sale.
- (b) If the responsible law enforcement agency uses an operator to store the motor vehicle, the responsible law enforcement agency within ten working days after the receipt of the report from the department required in subsection (2) of this section, shall notify by first class mail the owner of record, if ascertained, and any lienholder, if ascertained, of the fact of the report and the claim of any lien under section 1806. The notice shall contain information that the identified motor vehicle has been reported abandoned to the department, the location of the motor vehicle and the location from where it was towed, and that from the postmark on the notice, the motor vehicle is subject to sale.
- (c) The responsible law enforcement agency shall include in the notices sent pursuant to either paragraph (a) or (b) of this subsection (4), a statement informing the owner of record of the opportunity to request a hearing concerning the legality of the towing of the abandoned motor vehicle, and the responsible law enforcement agency to contact for that purpose.
- (d) If an owner or lienholder requests a hearing, the owner or lienholder shall make the request in writing to the responsible law enforcement agency within ten days after the notice was sent, as determined by the postmark. Such hearing, if requested, shall be conducted pursuant to the provisions of section 24-4-105, C.R.S., if the responsible law enforcement agency is the Colorado state patrol. If a local political subdivision is the responsible law enforcement agency, such hearing shall be conducted pursuant to local hearing procedures. If it is determined at the hearing that the motor vehicle was illegally towed upon request from a law enforcement agency, all towing charges and storage fees assessed against the vehicle shall be paid by such law enforcement agency.

- (5) The department shall maintain department-approved notice forms satisfying the requirements of subsection (4) of this section and shall make them available for use by local law enforcement agencies.
- (6) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), an operator or its agent shall, no less than two days, but no more than ten days after a motor vehicle has been towed, determine who the owner is and if there is a lienholder and send a notice by certified mail, return receipt requested, to the last address of the owner, and any lienholder, as determined from the records of the department or from a national search performed by the department.
- (II) If the department conducts a national title search in accordance with paragraph (b) of subsection (2) of this section, each day elapsing between the department being notified and the department returning information on the motor vehicle as a result of the search does not count against the tow operator's ten-day deadline to contact the motor vehicle's owner or any lienholder. This subparagraph (II) does not affect daily storage fees.
- (III) The cost of complying with this paragraph (a) is a cost of towing; except that the total of all costs of complying with this section shall not exceed one hundred fifty dollars. To comply with this subsection (6), the notice to the owner and lienholder must be sent within five days after the operator receives the information from the department and must contain the following information:
 - (A) The fact of possession, including the date possession was taken, the location of storage of the motor vehicle, and the location from which it was towed;
 - (B) The identity of the operator possessing the abandoned motor vehicle, together with the operator's business address and telephone number and the carrier number assigned by the public utilities commission; and
 - (C) A description of the motor vehicle, including the make, model, color, and year and the number, issuing state, and expiration date of the license plate, or any other indicia of the motor vehicle's state of origin.
- (b) The operator shall not be entitled to recover any daily storage fees from the day the vehicle is towed until the day the owner and lienholder are notified, unless the operator reasonably attempts to notify the owner and lienholder by the date specified in paragraph (a) of this subsection (6). Sending a notice by certified mail, return receipt requested, to the owner and the lienholder as represented in department records shall be deemed a reasonable attempt to notify the owner and the lienholder. Failure to notify the owner and the lienholder due to the receipt of erroneous information from the department or a failure of the law enforcement agency to comply with this section shall not cause the loss of such storage fees accrued from the date the vehicle is towed until the owner and the lienholder receive such notice.

- (7) If the owner of the abandoned motor vehicle claims the vehicle from the impound lot within the first five days after it has been towed, the reporting requirements specified in subsection (1)(b) and paragraphs (a) and (b) of subsection (4) of this section shall not apply.

Section 3. The City Clerk shall cause at least one certified copy of the Code adopted by reference by this Ordinance to be on file in his office at least fifteen (15) days prior to the public hearing on this Ordinance and, after adoption, shall maintain a reasonable supply of copies of such Codes available for purchase by the public at a moderate price.

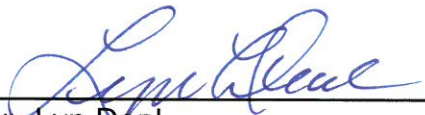
Section 4. If any section, provision, paragraph, clause or phrase of this Ordinance is held, or decided to be unconstitutional, invalid or enforceable for any reason, such decision shall not affect the constitutionality, validity or enforceability of the remaining portion of this Ordinance.

Section 5. 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.


**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED
PUBLISHED** on the 21ST day of March, 2023.



THE CITY COUNCIL OF THE
CITY OF FORT MORGAN, COLORADO


By: Lyn Deal
Mayor

Attest:


John Brennan
City Clerk

**PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED
PUBLISHED** this the 4th of April, 2023

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO



Attest


John Brennan
City Clerk


By: Lyn Deal
Mayor

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. 1278** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 21st day of March 2023, said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same 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. 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 4th of April. Within five (5) days after its final passage, said **Ordinance No. 1278** 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