

ORDINANCE NO. 1281

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO, AMENDING CHAPTER 6, NUISANCES AND SANITATION, CHAPTER 7, ANIMALS AND FOWL, AND CHAPTER 11, STREETS, SIDEWALKS, AND PUBLIC PLACES OF THE FORT MORGAN MUNICIPAL 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, pursuant to C.R.S. § 31-15-401, the City by and through its City Council ("Council"), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, the City Council recognizes the value of clear and enforceable codes within the City; and

WHEREAS, through a revision of Chapter 6 of the Fort Morgan Municipal Code ("Code") the offenses that constitute a nuisance violation and the remedies available will be made more understandable; and

WHEREAS, revision of Chapter 7 and Chapter 11 is necessary to bring the Code in line with the current practices of the City; and

WHEREAS, this Ordinance is intended to amend and clarify the currently existing codes for the health and safety of the citizens of the City.

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

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

Section 2. Article 1 - Nuisances is repealed in its entirety and is hereby replaced to read as follows:

Article 1 - Nuisances

Sec. 6-1-10. - Definitions.

For the purpose of the provisions of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Garbage means animal and vegetable waste resulting from the handling, preparation, cooking, storage or consumption of food.

Inoperable vehicle means any vehicle not in working order or that lacks current legal registration.

Junk shall be defined to include, but is not limited to, any old or discarded material, such as metal, paper or rags or anything that is regarded as worthless or trash.

Noxious weed means any plant species listed on the Colorado Agricultural Commissioner's "A," "B" or "C" noxious weed list, as amended.

Officer means any peace officer, code enforcement officer or any other City Officer to whom the Chief of Police has delegated the power and authority granted under this Chapter.

Refuse means all putrescible and nonputrescible solid wastes, including garbage, rubbish, debris, ashes, street cleanings, dead animals, grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, containers, boxes, glass, cans, bottles; waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding; sacks or loose discarded or unused material; abandoned or inoperable automobiles; abandoned or inoperable household appliances; moveable furniture not designed for or modified to withstand the elements and outdoor use; solid market wastes and industrial wastes; and all rubbish of any kind or nature whatsoever and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

Sec. 6-1-20. Public Nuisance Defined.

- (a) As used in this Chapter, a *public nuisance* shall mean any act, thing, occupation, condition or use of property which shall be of such a nature and shall continue for such length of time as to do any of the following:
 - (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
 - (2) Greatly offend the public morals or decency.
 - (3) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

Sec. 6-1-30. – Nuisance Prohibited.

- (a) No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.
- (b) It shall be unlawful to interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by an officer of the City.
- (c) The procedures and remedies set forth in this Chapter may be used in the alternative or in conjunction with Section 6-1-190 below or in lieu of any other remedy or procedure authorized by law for the removal of violations or nuisances.

Sec. 6-1-40. – Scrap Metal.

All accumulations of scrap metal and other pieces of metal, whether ferrous or nonferrous, discarded equipment, inoperable machinery or parts thereof, automotive parts, salvage materials and junk within the City shall be deemed a nuisance.

Sec. 6-1-50. – Unsanitary Sale of Food.

Any decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

Sec. 6-1-60. – Unauthorized Slaughter within City Limits

The killing or slaughter of any animal within the City, either for market or for private consumption, except in that portion of the City zoned for such use is prohibited. The provisions of this Paragraph shall not apply to animals that are killed outside the City limits and subsequently transported into the City, or the killing or slaughter of domestic fowl for any such purpose.

Sec. 6-1-70. – Garbage and Refuse Violation.

It shall be deemed a nuisance to allow any of the follow conduct:

- (a) Accumulations of garbage in a manner in which flies, mosquitoes, disease-carrying insects, rodents or other vermin may breed or may reasonably be expected to breed.
- (b) Accumulations of refuse in which disease-carrying insects, rodents or other vermin may breed or may reasonably be expected to breed.
- (c) Containers with garbage or refuse which are not covered by solid, tight-fitting lids or which have any uncovered holes or for which at least weekly removal of garbage and refuse is not provided.

Sec. 6-1-80. – Offensive Locations.

No person shall allow the following:

- (a) The permitting of stagnant water in which mosquitoes, flies or other insects can multiply is hereby declared a nuisance.
- (b) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.

Sec. 6-1-90. – Dangerous Conditions.

Any inanimate object upon public or private property that, by reason of its location and condition, constitutes an imminent danger to any person or property is unlawful and will constitute a public nuisance.

Sec. 6-1-100. – Undesirable Vegetation.

It is unlawful for any property owner to allow vegetation or woody perennial which:

- (a) Harbors or aids in harboring rats, snakes or vermin;
- (b) Harbors or hosts diseases or insects which may reasonably be expected to injure other forms of life (except the harboring of insects, such as those commonly called ladybugs, used for pest control);
- (c) Are prohibited by law or ordinance, including but not limited to noxious weeds;
- (d) By reason of its location or condition, constitutes an imminent danger to any person or property;
- (e) Hinders the removal of accumulations of junk, garbage and debris;
- (f) Is unmanaged and in excess of six (6) inches in height, provided that cultivated flowers, ornamentals or food plants shall be presumed to be managed vegetation; provided further that vegetation in excess of six (6) inches in height shall be presumed unmanaged (unless predominantly composed of cultivated flowers, ornamentals, cultivated wildflowers or food plants), including vegetation which interferes with or obstructs the view or passage on any street, alley or other public way. This Section shall not apply to property designated as part of a storm water drainage system or property that is governed by a political subdivision of the State designated by the state or local government as a conservation area or natural preserve.

Sec. 6-1-110. – Annoying Conditions.

Allowing the following conditions shall constitute nuisances:

- (a) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits or within one (1) mile thereof in such quantities as to endanger the health of persons or to threaten or cause substantial injury to property, but excluding smoke emanating from residential fireplaces.
- (b) Any use of property, substances or things within the City, or within one (1) mile thereof, emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

Sec. 6-1-120. – Construction Materials.

All refuse created in the process of constructing, reconstructing or wrecking any building or part of building, fence or sidewalk or other improvement upon the premises must be promptly removed. Failure to do so is unlawful.

Sec. 6-1-130. – Defective Buildings.

It shall be unlawful to allow any structure or building that is in a state of dilapidation, deterioration or decay; is of faulty construction; is open to intrusion, abandoned or

damaged by fire to the extent as not to provide shelter; is extremely unsound; is in danger of collapse or failure; and endangers the health and safety of the public.

Sec. 6-1-140. – Building Maintenance.

No person shall allow any building maintenance issues where the owner fails to comply with the following standards:

- (a) General: The exterior of every building, accessory structure and all fences and walls shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other condition reflective of deterioration or inadequate maintenance;
- (b) Exterior walls: Exterior building walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface-coated where required to prevent deterioration;
- (c) Roofs and drainage: The roof and flashing shall be sound, tight and free from defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall be discharged in a manner that preserves public safety and does not destabilize adjoining foundations.

Sec. 6-1-150. – Vehicle Violation.

- (a) Any inoperable, unlicensed or abandoned vehicle which is stored outside, except evidencing signs of an intent to repair or those stored at a place of business licensed to store junk vehicles.
- (b) Any vehicle parked on private property except on a weed-free surface made of gravel, crushed stone, asphalt or Portland cement concrete.

Sec. 6-1-160. – Dumpsters on Public Land.

It shall be unlawful to allow dumpsters, trash containers or trash container stands located on a public right-of-way unless the dumpster is owned, leased or under the control of the City; provided further that trash containers may be placed on the publicly owned area adjacent to the pavement on the day the trash in the container is scheduled for removal by a trash hauler.

Sec. 6-1-170. – Violations and Remedies.

- (a) In addition to the procedures and remedies set forth in Article 2 below, a summons and complaint may be filed in the Municipal Court for any violation of this Chapter.
- (b) A separate offense shall be deemed committed on each day during or on which a violation of this Chapter continues unabated ten (10) days after the mailing of a notice pursuant to this Chapter. Any person violating this provision shall be fined.

- (c) The provisions for remedying violations of this Chapter are in addition to other applicable remedies, including but not limited to an action in court for an injunction.

Section 3. Article 2 – Reserved of Chapter 6, is hereby repealed and a new Article 2 – Nuisance Abatement is added to read as follows:

Article 2 – Nuisance Abatement

Sec. 6-2-10. – Filing Complaints.

All complaints alleging the existence of a public nuisance shall be filed with the Chief of Police or his/her designee.

Sec. 6-2-20. – Inspections of Abatement.

The Chief of Police or his/her designee shall promptly inspect the premises or cause them to be inspected and shall make a written report of the findings of the inspection. Whenever practical, photographs of the premises shall be attached to the written report.

Sec. 6-2-30. – Notice to Abate.

- (a) Upon determining that a public nuisance exists on private property and that there is danger to the public health, safety, peace, morals or decency, the Chief of Police or his/her designee shall cause a notice to be delivered to the owner and the occupant of the private property where the public nuisance exists or to the person causing, permitting or maintaining such nuisance, if such owner, occupant or person causing the nuisance can be found, and shall post a copy of the notice on the premises where the public nuisance exists.
- (b) Such notice shall specifically describe the public nuisance and shall direct the owner and the occupant of the private property where the public nuisance exists or the person causing, permitting or maintaining such nuisance to abate or remove such nuisance within twenty-four (24) hours of service or posting of the notice. Such notice shall contain a telephone number and a name of the City officer or employee who made the inspection resulting in the notice and shall state that telephone inquiries may be made. If the owner, occupant or person cannot be located after reasonable inquiry, posting shall be sufficient notice. The notice shall state that, unless such nuisance is so abated or removed, the City will cause it to be abated or removed; that the cost thereof will be charged to the owner, occupant or person causing, permitting or maintaining the nuisance; and that such cost shall be a lien on the real property where the nuisance was abated or removed. Such notice shall also state that the failure of such owner, occupant or person to abate the nuisance as required by such notice shall be deemed an implied consent for the City to abate or remove such nuisance. Such implied consent shall be deemed to form a contract between such owner, occupant or person and the City. If the public nuisance does not

constitute a great and immediate danger to the public health, safety or welfare, the Chief of Police or his/her designee may serve the owner or occupant of such premises or the person in whose name such real estate was last billed for property tax purposes a notice to demand the abatement or removal of the violation within ten (10) days. Service may be had by certified mail, personal service or posting the notice on the property and mailing notice by first-class mail.

Sec. 6-2-40. – Failure to Abate; Abatement by the City.

- (a) If a nuisance is not abated or removed after notice pursuant to this Section and within the time specified in the notice, the Chief of Police or his/her designee may cause the abatement or removal of such public nuisance. The reasonable cost thereof shall be a lien on the real property where the nuisance was abated or removed.
- (b) The owner or occupant of the private property where the public nuisance exists who fails to abate or to remove the nuisance required by this Section thereby consents, under the terms of this Section, to have the City abate or remove the nuisance at the expense of the owner or occupant.

Sec. 6-2-50. – Emergency Abatement.

Where, in the opinion of the Chief of Police, a nuisance constitutes an immediate and serious danger to the public health, safety or welfare, or, in the case of any nuisance in or upon and street, or other public way or public ground of the City, the designated official shall have authority to summarily abate the nuisance without notice of any kind.

Sec. 6-2-60. – Appeal.

The person upon whom a notice to abate a nuisance is served, the property owner, tenant or other affected person may appeal the determination of the nuisance in writing to the Chief of Police. The written appeal must be made within the time period in which to abate the nuisance is given in the notice. The Chief of Police or his/her designee shall meet with the appellant within five (5) working days of the receipt of the written appeal. The Chief of Police or his/her designee may extend the time in which the nuisance must be abated, determine that a nuisance does not or no longer exists or that the nuisance must be abated within the time period set out in the notice, or immediately if the period set out in the notice has run out; provided, however, that, if the nuisance was determined to be an emergency and that the opportunity for an appeal was not available due to the short period of time to abate the nuisance, an appeal may be heard after the abatement of the nuisance by the City. In that event, the Chief of Police or his/her designee may determine that the appellant is liable for the costs or that, upon good cause shown, the appellant is not liable for the costs and that a lien shall not be filed by the City upon the property. The notice to abate shall contain a statement as to the right of appeal.

Sec. 6-2-70. – Right of Entry.

The Officer may, where reasonable cause exists and at the direction of the Chief of Police, with or without a warrant issued by a court of competent jurisdiction, including the Municipal Court, enter upon any land to examine the same to ascertain whether any nuisance exists, or to abate a nuisance in the manner provided in this Chapter. If the owner or keeper thereof refuses to permit entry the Chief of Police may apply to the Municipal Court for a search warrant for the purpose of ascertaining whether a nuisance exists upon any premises within the City. The City and the Code Enforcement Officer shall be free from any action or liability on account thereof. Such authority does not allow entry into any building or structure without consent or a court order, or under other circumstances allowed by law.

Section 4. Section 7-1-10(a) concerning purpose and jurisdiction is hereby amended to read as follows:

Sec. 7-1-10. – Purpose; jurisdiction.

- (a) The purpose of this Chapter is to protect the public health, safety and welfare of the residents of the City by prescribing the types of animals that can be kept in the City and the conditions under which they can be kept, limitations on keeping animals that create a nuisance by being safety or health hazards and the procedures by which the **Chief of Police** ~~City Manager~~ or an authorized agent may impound and dispose of animals kept in violation of the Chapter.

Section 5. Section 7-1-20 concerning definitions is hereby amended as follows:

For the purposes of this Chapter, the following definitions shall apply:

...

Officer shall be defined to include any peace officer, code enforcement officer or any other City officer to whom the **Chief of Police** ~~City Manager~~ has delegated the power and authority granted under this Chapter.

Section 6. Section 7-2-440 concerning quarantine is hereby amended to read as follows:

If the owner of a dog or cat referred to in Section 7-2-430 above cannot be determined or located, a member of the Police Department shall otherwise confine such dog or cat for a period not less than ten (10) days. If the owner of such dog or cat is not determined or located or such dog or cat is not claimed from confinement within ten (10) days, the **Chief of Police** ~~City Manager~~ may order such dog or cat destroyed; provided, however, that all costs incurred for the confinement of a dog or cat under this Section shall be paid for by the owner of such dog or cat. If, however, after ten (10) days of confinements, the dog or cat is not claimed or the owner thereof determined or located, then the cost of confinement shall be borne by the City.

Section 7. Section 7-3-10 is hereby amended to read as follows:

Unless required by the provisions of this Chapter, it shall be at the discretion of every officer appointed by the **Chief of Police** ~~City Manager~~ to catch and impound at the animal shelter any animal in violation of the provisions of this Chapter. Upon impounding any such animal, a record shall be made of the breed, color and sex of any such animal, where it was caught and the registered owner, if known.

Section 8. Section 7-3-20(b) concerning impounding and redemption fees are hereby amended as follows:

- (b) Unless an animal is impounded or delivered to the animal shelter pursuant to the provisions of this Chapter, the animal shelter, if privately owned or operated, shall dispose of all other animals as proscribed by law or pursuant to the animal shelter's policies and procedures. If the City owns and operates the animal shelter, the animal shelter shall dispose of animals as proscribed by this Code and the laws of the State or pursuant to the animal shelter's policies and procedures as set from time to time by the **Chief of Police** ~~City Manager~~.

Section 9. Section 11-1-10 concerning sidewalk obstructions is hereby amended as follows:

...

- (c) Any obstruction, tree, shrub or planting of any kind, trellis, lattice, decorative fencing, terrace or other landscaping feature or structure, or any other thing so placed or installed upon the sidewalk shall be removed by the owner of the adjacent premises whenever the **Chief of Police** ~~City Manager~~ shall determine that it is necessary that the same be done and orders that the same be removed, unless a Revocable Permit shall have previously been approved and issued for encroachments in the public right-of-way and upon the sidewalk by the City. If said obstruction shall not be removed by the owner within three (3) days or within such additional time, not to exceed thirty (30) days, as the **Chief of Police** ~~City Manager~~ shall allow and specify, the **Chief of Police** ~~City Manager~~ shall cause the removal thereof by the most expedient means available, using either such employees of the City or private persons or contractors as the **Chief of Police** ~~City Manager~~ shall determine.
- (d) In the event that an obstruction is removed from the sidewalk or sidewalk area adjacent to any lot, block or parcel of land by order or direction of the **Chief of Police** ~~City Manager~~ pursuant to the provisions of Subsection (b) of this Section, the whole cost of such removal, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date any obstruction is removed, until paid. Such amount shall be due and payable to the ~~City Manager~~ within thirty (30) days after the mailing by the **Chief of Police** ~~City Manager~~ by registered mail or certified mail, to the owner of such lot, block or parcel of ground, notice of the assessment of such cost and requiring payment of the amount to the City.

Section 10. Section 11-1-40 concerning snow and ice removal is hereby amended to read as follows:

...

(c) Further, in addition to liability for punishment pursuant to Subsection (b) of this Section, if any owner, tenant or agent in charge shall fail to remove ice, mud, dirt, rubbish, filth or snow from the sidewalk as required by this Section within twenty-four (24) hours after being notified in writing to do so by the Police Department or by the City Manager or his or her deputy (which notice may be served personally or by posting the same in a conspicuous place upon the premises), the **Chief of Police** ~~City Manager~~, at any time thereafter, may cause any ice, mud, dirt, rubbish, filth and snow to be removed from the sidewalk by the most expedient means available, using either such employees of the City or private persons or contractors as the City Manager shall determine.

(d) In the event that any ice, mud, dirt, rubbish, filth and snow is removed from the sidewalk adjacent to any lot, block or parcel of land by order or direction of the **Chief of Police** ~~City Manager~~ pursuant to the provisions of Subsection (c) of this Section, the whole cost of such removal, together with ten percent (10%) for inspection and other incidentals, shall constitute a lien upon the property from the date any such ice, mud, dirt, rubbish, filth and snow is removed, until paid. Said amount shall be due and payable to the City Manager within thirty (30) days after mailing by the **Chief of Police** ~~City Manager~~ by registered mail or certified mail, to the owner of such lot, block or parcel of ground, notice of the assessment of such cost and requiring payment of the amount to the City.

Section 11. 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 12. 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 13. 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 2nd day of May, 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 16th day of May, 2023.



THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO
By: 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. 1281** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 2nd day of May, 2023. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 5th day of May, 2023, 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 16th day of May, 2023. Within five (5) days after its final passage, said **Ordinance No. 1281** 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