

## **CHAPTER 1**

### **General Provisions**

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**Sec. 1-1. Designation of Code.**

The ordinances embraced in this and the following Chapters and Sections shall constitute and be designated "The Fort Morgan Municipal Code," and may be so cited. (Ord. 802, 1994)

**Sec. 1-2. Definitions and rules of construction.**

(a) In the construction of this Code and of all ordinances of the City, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any Section or ordinance, or unless inconsistent with the manifest intent of the City Council, or unless the context clearly requires otherwise:

*City* shall mean the City of Fort Morgan, Colorado.

*City Council* shall mean the City Council of Fort Morgan, Colorado.

*Code* shall mean the Fort Morgan Municipal Code.

*Computation of time* means that the time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Sunday or a legal holiday, that shall be excluded.

*County* shall mean the County of Morgan, Colorado.

*Court* includes courts not of record, as well as courts of record.

*Gender.* When any subject matter, party or person is described or referred to by words importing the masculine, females as well as males, and associations and bodies corporate as well as individuals, shall be deemed to be included.

*Hereafter* shall mean any time after the effective date of this Code.

*Heretofore* shall mean any time previous to the day when this Code shall take effect.

*Laws and ordinances now in force* and words of similar import shall mean laws and ordinances in force at the time that the ordinance containing the words takes effect.

*Mayor* shall apply to the "acting mayor."

*Month* shall mean a calendar month.

*Number.* When any subject matter, party or person is described or referred to by words importing the singular number, the plural and separate matters and person and bodies corporate shall be deemed to be included.

*Oath* shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.

*Officer, office, employee, board, commission or department* shall mean an officer, office, employee, board, commission or department of the City unless the context clearly requires otherwise.

*Owner*, applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

*Person* shall include a corporation, firm, partnership, association, organization and any other group acting as a unity, as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word *person* is used in any Section of this Code prescribing a penalty or fine, as to partnerships or associations, the word shall include the officers, agents or members thereof who are responsible for any violation of such Section.

*Preceding and following* shall mean next before and next after, respectively.

*Property* shall include real, tangible and intangible personal property.

*Public way* shall include any street, alley, boulevard, parkway, highway, sidewalk or other public thoroughfare.

*Real property, premises, real estate or lands* shall be deemed to be coextensive with lands, tenements and hereditaments.

*Sidewalk* shall mean the paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

*Signature*. Where the written signature of any person is required, the proper handwriting of such person or his or her mark shall be intended.

*State* shall mean the State of Colorado.

*Street* shall mean and include any public way, right-of-way, highway, street, avenue, boulevard, parkway, sidewalk area, alley or other public thoroughfare, and each of such works shall include all of them.

*Tangible personal property* shall include goods, chattels and all personal property, except intangible personal property.

*Tenant or occupant*, applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

*Tense*. Words in the present tense include the future.

*Writing and written* shall include printing, lithographing or any other mode of representing words and letters.

*Year* shall mean a calendar year, unless otherwise expressed, and the word *year* shall be equivalent to the words *year of our Lord*.

(b) All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out. (Ord. 802; Ord. 828)

**Sec. 1-3. Effective date of repealing ordinances.**

Whenever any ordinance or part of any ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying the same shall take effect, unless therein otherwise expressly provided.

**Sec. 1-4. Repeal not to revive original ordinance.**

When any ordinance repealing any former ordinance, clause or provision shall itself be repealed, such last repeal shall not be construed to revive the former original ordinance, clause or provision, unless therein so expressly provided.

**Sec. 1-5. Applicability and effect of new ordinance.**

No new ordinance shall be construed to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against the former ordinance, or as to any act done, any penalty, forfeiture or punishment incurred or any right accrued or claim arising under to former ordinance, or in any way whatever to affect any such offense or act or any penalty, forfeiture or punishment so incurred, or any claim arising before the new ordinances takes effect, save only that the proceedings thereafter shall conform, so far as practicable, to the ordinances at the time of such proceeding. If any penalty, forfeiture or punishment be mitigated by the provisions of a new ordinance, such provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect. This Section shall extend to all repeals herewith by express words or by implication.

**Sec. 1-6. Offense against multiple sections or ordinances.**

In all cases when the same act or offense may be punishable under different sections of this Code or other ordinances or different clauses of the same section or ordinance, the City attorney may elect under which of the sections, ordinances or clauses to proceed, but not more than one (1) conviction shall be had against the same person for the same offense.

**Sec. 1-7. Continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

**Sec. 1-8. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such

sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

**Sec. 1-9. Severability.**

It is hereby declared to be the intention of the City Council that the Sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or Section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Code since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or Section.

**Sec. 1-10. General penalty; continuing violations.**

(a) Whenever in this Code or any other ordinance of the City hereafter enacted, or in any section, rules or regulation promulgated under the provisions of this Code, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any such provision of this Code or other ordinance of the City hereafter enacted or of such rules or regulations shall be punished by a fine of not more than three hundred dollars (\$300.00).

(b) Every day any violation of this Code or any other ordinance of the City hereafter enacted or any rule or regulation promulgated under the provisions of this Code shall continue shall constitute a separate offense. (Ord. 598, §1)

**Sec. 1-11. Designation and description of wards.**

The City shall be and is divided into three (3) wards, numbered First, Second and Third, such wards being described and encompassing an area as follows:

(1) First Ward. The First Ward shall consist of that area being within the City, lying west of the center line of Main Street, north of the center line of the railroad right-of-way for the Burlington Northern and Santa Fe Railroad from Main Street to West Street, and west of the center line of West Street south of the Burlington Northern and Santa Fe Railroad right-of-way.

(2) Second Ward. The Second Ward shall consist of that area being within the City, lying east of the center line of West Street and south of the center line of the railroad right-of-way for the Burlington Northern and Santa Fe Railroad.

(3) Third Ward. The Third Ward shall consist of that area being within the City, lying east of the center line of Main Street and north of the center line of the railroad right-of-way for the Burlington Northern and Santa Fe Railroad. (Ord. 371, §1; Ord. 953, §1)

**Sec. 1-12. Seal of the City.**

The City Council shall cause to be provided for the Clerk's office a seal, which shall be the seal of the corporation, in the center of which shall be the word *seal* and around the margin the words *The City of Fort Morgan, Colorado*. Such seal shall be affixed to all transcripts, orders or certificates which may be necessary or proper to authenticate under the provisions of the laws of the State or the provisions of this Code and other ordinances of the City. (1949 Comp., §1.0208)

**Sec. 1-13. Working City prisoners.**

Any person committed to the City jail by commitment of the Municipal Judge thereof, or justice of the peace so acting, upon his or her conviction for the violation of any provision of this Code or other ordinance of the City for the nonpayment of any fine or costs so imposed against him or her, shall be required when ordered so to do by the Chief of Police to work for the City, under the supervision of the Chief of Police, his or her deputy, the City Manager or his or her deputy, at such labor as his or her strength will permit within or without the jail, and at such work as may be designated by the City Council and not exceeding eight (8) hours for each working day. For such the person so employed shall be allowed, exclusive of his or her board, a credit of two dollars (\$2.00) per day, for each day's work performed on account of such fine and costs for the nonpayment of which such person is so confined; provided that the same shall in no case exceed ninety (90) days for any one (1) offense. (1949 Comp., §8.0601; Ord. 1058, §2; Ord. 1102, §2)