

CHAPTER 18A

Municipal Court

Article I

General

| | |
|-------------|--|
| Sec. 18A-1 | Qualifications of jurors; exceptions |
| Sec. 18A-2 | Jury trial |
| Sec. 18A-3 | Issuance of summons to jurors form |
| Sec. 18A-4 | Service of summons, appointment of special constable |
| Sec. 18A-5 | Qualifications of special constable |
| Sec. 18A-6 | Failure of juror to appear; penalty |
| Sec. 18A-7 | Disqualification for cause; completion of panel |
| Sec. 18A-8 | Disqualification for opinion |
| Sec. 18A-9 | Verdict; sentencing and judgment |
| Sec. 18A-10 | Juror's fee |
| Sec. 18A-11 | Special constable's fee |
| Sec. 18A-12 | Subpoena of witnesses |
| Sec. 18A-13 | Witness fee |
| Sec. 18A-14 | Failure of witness to appear |
| Sec. 18A-15 | Fees and costs upon conviction; surcharges |
| Sec. 18A-16 | Issuance of summons and complaint by peace officers |
| Sec. 18A-17 | Fines, methods of payment and applicable administrative fees |

Article II

Administration

| | |
|-------------|------------------------------------|
| Sec. 18A-18 | Municipal Court |
| Sec. 18A-19 | Police Magistrate |
| Sec. 18A-20 | Clerk of the Municipal Court |
| Sec. 18A-21 | Fines and Penalties |
| Sec. 18A-22 | Costs and surcharges |
| Sec. 18A-23 | Administrative fees and surcharges |
| Sec. 18A-24 | Useful Public Service program |

(Ord. 729, §2)

Sec. 18A-4. Service of summons, appointment of special constable.

The venire for a jury shall be directed to any person authorized by law to serve writs or other process issued in cases in the Municipal Court or, upon timely request of the defendant, by a special constable appointed by a written endorsement under the signature and seal of the court on the venire which the constable is to execute. (Ord. 421)

Sec. 18A-5. Qualifications of special constable.

Any constable appointed pursuant to the terms of this Chapter shall be at least twenty-one (21) years of age, shall be a resident and citizen of the City and shall not be an official or employee of the City. (Ord. 421)

Sec. 18A-6. Failure of juror to appear; penalty.

In all cases where a person shall be summoned as a juror to try any cause before the Municipal Court and shall fail to attend at the time and place appointed in such summons, the Police Magistrate shall have power to issue an attachment, directed to any police officer of the City, commanding him or her forthwith to bring before such court the body of such juror so failing to attend to show cause why he or she should not be fined for contempt; on the appearance of such juror on such attachment, it shall be lawful for the Police Magistrate to fine him or her in any sum not less than one dollar (\$1.00) nor more than twenty dollars (\$20.00) or wholly discharge him or her if satisfactory excuse be made. (Ord. 421)

Sec. 18A-7. Disqualification for cause; completion of panel.

If any jurors summoned shall be interested in the event of the case or kin to a defendant or shall, for any cause to be judged by the Police Magistrate, be considered as a partial or improper juror, such juror shall be discharged; and when, by such discharge or by the failure of any juror to attend, the jury shall not be complete, the Police Magistrate shall direct any person authorized by law to serve writs or any process issued in cases in the Municipal Court or a special constable, as the case may be, to summon as many persons as shall be required to complete such jury instantly from among the bystanders or other persons in the City, which summons shall be verbal; and the person so summoned shall be bound to serve on such jury and on refusal or failure to do so may be attached and punished for contempt. In all cases under the Charter and provisions of this Code or other ordinances of the City wherein a jury trial is had, each party shall be entitled to three (3) peremptory challenges. (Ord. 421)

Sec. 18A-8. Disqualification for opinion.

No person summoned as a juror shall be disqualified to serve as such by reason of a previously formed or expressed opinion with reference to the guilt or innocence of the accused; provided, however, that the court shall be satisfied from the examination of the juror or from other evidence that

he or she will render an impartial verdict, according to the law and evidence submitted to the jury in the trial of such cause. (Ord. 421)

Sec. 18A-9. Verdict; sentencing and judgment.

Upon the jury returning a verdict of guilty, the Police Magistrate shall receive and record the same and shall, within the limits prescribed by law, proceed to fix or determine the punishment or sentence and to render judgment upon such verdict for the punishment or sentence so determined by him or her and for costs; but if the jury shall return a verdict of not guilty, the Police Magistrate shall receive and record the same and discharge the defendant without cost. (Ord. 421)

Sec. 18A-10. Juror's fee.

Jurors attending before the Municipal Court as provided in this Chapter shall be paid the sum of six dollars (\$6.00) per day for actual jury service and three dollars (\$3.00) for each day of service on the jury panel alone. (Ord. 421; Ord. 838, §6)

Sec. 18A-11. Special constable's fee.

Special constables appointed pursuant to the provisions of this Chapter to summon jurors shall be entitled to a fee of seventy-five cents (\$.75) for each juror so summoned. (Ord. 421)

Sec. 18A-12. Subpoena of witnesses.

Subpoenas may be issued at the instance of the City or of the defendant to compel the attendance of witnesses in any trial before or in the Municipal Court. A defendant may have subpoenas issued for and served upon witnesses upon deposit with the court of witness fees of three dollars (\$3.00) and mileage as provided in C.R.S. §13-33-103, for each witness, but if a defendant shall make a satisfactory affidavit and prove that he or she is unable to pay such witness fees, then he or she may have subpoenas issued for and served upon such persons as he or she shall desire to have testify without advancing witness fees therefor. Service of the subpoenas issued pursuant to the provisions hereof may be made by any person authorized by law to serve writs or other process issued in cases of the Municipal Court or by a special constable appointed by the Police Magistrate. For service of each subpoena under the provisions hereof, the defendant will pay a fee therefor in the sum of seven dollar and fifty cents (\$7.50). (Ord. 421; Ord. 838, §7)

Sec. 18A-13. Witness fee.

Every witness subpoenaed as provided herein who makes claim therefor in writing at the time of his or her appearance before the Municipal Court shall be entitled to receive a witness fee of three dollars (\$3.00) for each session of court attended under such subpoena; or pursuant to the order of court, such witness shall be paid out of the funds appropriated for the operation of the Municipal Court upon voucher approved by the Court Clerk. Officers and employees of the City shall not be entitled to a witness fee for attending under subpoena. (Ord. 421; Ord. 838, §8)

Sec. 18A-14. Failure of witness to appear.

In all cases where a witness shall be duly served with a subpoena and shall fail to attend at the trial, the Municipal Court shall have power to issue an attachment directed to any police officer of the City, commanding him or her forthwith to bring before such court the body of the witness so failing to attend to show cause why he or she should not be fined for contempt; and on the appearance of such witness on such attachment, it shall be lawful for the Police Magistrate to fine him or her in any sum of not less than one dollar (\$1.00) nor more than twenty dollars (\$20.00) or wholly discharge him or her if satisfactory excuse be made. (Ord. 421)

Sec. 18A-15. Fees and costs upon conviction; surcharges.

(a) Any and all fees and costs payable or chargeable under the provisions of this Chapter, including jury fees, witness fees and fees for the service of summons, writs and other process mentioned in this Chapter, as well as a docket fee in the sum of twenty dollars (\$20.00), shall be taxed against the defendant found guilty in any action before or in the Municipal Court.

(b) In any action involving a charge of Domestic Violence, Section 20-16, or Assault and Battery, Section 20-2, the Court shall also impose a surcharge of thirty dollars (\$30.00) against the defendant found guilty in such action.

(c) In any action in which the Court determines that a natural person was the victim of the crime charged, and the action involves a charge of Breach of Peace, Section 20-3, Defacing Property, Section 20-9, False Reporting, Section 20-13, Theft, Section 20-30, or Trespass, Section 20-32, the Court shall also impose a surcharge of thirty dollars (\$30.00) against the defendant found guilty in such action. (Ord. 729, §3; Ord. 838, §9; Ord. 912; Ord. 947)

Sec. 18A-16. Issuance of summons and complaint by peace officers.

Fort Morgan police officers, building and zoning code enforcement officers, animal wardens, motor vehicle parking enforcement officers, traffic accident investigators, police report technicians, Fire Chief and Fire Marshal shall be deemed to be peace officers of the City and authorized and empowered to issue a summons and complaint for an offense constituting a violation which was committed in his or her presence, or, if not committed in his or her presence, when he or she has reasonable grounds for believing that the offense was committed in fact and that the offense was committed by the person charged. (Ord. 661, §1; Ord. 831, §2)

Sec. 18A-17. Fines, methods of payment and applicable administrative fees.

(a) When the court imposes a fine on an individual, the court may direct as follows:

- (1) That the defendant pay the entire amount of the fine at the time sentence is pronounced;
- (2) That the defendant pay the entire amount of the fine at some later date;
- (3) That the defendant pay a specified portion of the fine at designated periodic intervals, and in such case the court may also direct that the fine be remitted to a designated official who shall report to the court on any failure to comply with the order;

(4) When the court directs either the payment of the entire amount of the fine at some later date, or directs that the fine be paid at designated periodic intervals, a thirty-day grace period may be granted to allow payment of the fine in full within that thirty-day period. Should payment in full not be received within the time allowed, a Stay of Execution fee of ten dollars (\$10.00) shall be imposed if a payment plan is implemented. Once a payment plan has been implemented and the ten-dollar Stay of Execution fee imposed, this matter shall be subject to review by the court in ninety (90) days, at which time, if the amount due has not been paid in full, additional fees and surcharges may be imposed in the court's discretion.

(5) Where the defendant is sentenced to a period of probation as well as a fine, that payment of the fine be a condition of probation.

(b) Where the court imposes a fine at the time the court pronounces sentence, the sentence shall provide that if the defendant fails to pay the fine in accordance with the direction of the court, the defendant shall be imprisoned until the fine is satisfied or the defendant is released after serving the period of imprisonment specified by the court in accordance with Subsection (c) of this Section. If the defendant fails to pay a fine as directed, the court may issue a warrant for the defendant's arrest.

(c) When the court pronounces sentence ordering that the defendant be imprisoned until the fine is satisfied, the court shall specify a maximum period of imprisonment subject to the following limits:

(1) Where the fine was imposed for a municipal offense or misdemeanor, the period shall not exceed thirty (30) days;

(2) Where the fine imposed for a traffic violation which is punishable by a jail sentence, the period shall not exceed fifteen (15) days;

(3) There shall be no imprisonment in those cases where no imprisonment is provided as a punishment alternative; and

(4) Where a sentence of imprisonment as well as a fine is imposed, the aggregate of the period and the term of the sentence shall not exceed the maximum term of imprisonment authorized for the offense.

(d) Where the defendant is unable to pay a fine imposed by the court, the defendant may at any time apply to the court for resentencing. If the court is satisfied that the defendant is unable to pay the fine, the court shall:

(1) Adjust the terms of payment;

(2) Lower the amount of the fine;

(3) Where the sentence consists of probation or imprisonment and a fine, revoke the portion of the sentence imposing the fine; or

(4) Revoke the entire sentence imposed and resentence the defendant. Upon a resentencing, the court may impose any sentence it originally could have imposed; except that the amount of any fine imposed shall not be in excess of the amount the defendant is able to pay.

(e) Notwithstanding that the defendant was imprisoned for failure to pay a fine or that he or she has served the period of imprisonment imposed, a fine may be collected in the same manner as a judgment in a civil action. The City Attorney may, in his or her discretion, and shall, upon order of the court, institute proceedings to collect such fine.

(f) Nothing contained within this Section shall be construed to limit or curtail or in any manner affect the inherent powers of the court to hold persons in contempt of the court for nonpayment of a fine or by a failure to make restitution as ordered or by the failure to comply with any other order of court. (Ord. 707, §1; Ord. 934 §1)

ARTICLE II

Administration

Sec. 18A-18. Municipal Court.

A qualified Municipal Court of record is hereby created and established to hear, try and determine all causes arising under any of the provisions of the Charter or of the ordinances of the City for any violation thereof and to operate in conformity with the provisions of this Chapter. (Ord. 838, §1)

Sec. 18A-19. Police Magistrate.

(a) The Municipal Court shall be presided over by a Police Magistrate who shall be appointed by the City Council for a specified term of not less than two (2) years and who may be reappointed for a subsequent term.

(b) The Police Magistrate for the Municipal Court shall be admitted to, and currently licensed in, the practice of law in the State.

(c) The Police Magistrate shall be paid a salary for his or her services. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. Such compensation is hereby established at eighteen thousand dollars (\$18,000.00) per year, payable at a rate of one thousand five hundred dollars (\$1,500.00) per month, subject to future modification by Resolution of the City Council from time to time as subsequent appointments are made. (Ord. 838, §2)

Sec. 18A-20. Clerk of the Municipal Court.

(a) The position of Clerk of the Municipal Court is hereby established. The Clerk of the Municipal Court shall be appointed by the presiding Police Magistrate and shall have such duties as are delegated to him or her by law, Court Rule, or the presiding Police Magistrate.

(b) The Clerk of the Municipal Court shall be required to keep a verbatim record of the proceedings and evidence at trials by either electronic devices or stenographic means. (Ord. 838, §3)

Sec. 18A-21. Fines and penalties.

Any person convicted of violating a municipal ordinance in the Municipal Court of the City may be incarcerated for a period not to exceed one (1) year or fined an amount not to exceed one thousand

dollars (\$1,000.00), or both. From and after the effective date of the Ordinance codified herein, the foregoing provision concerning fines and penalties shall apply to the existing ordinances of the City. Except as otherwise noted below (*) or (**), the penalty provisions of the following sections concerning fines and penalties are hereby amended to provide that any person convicted of violating such section may be incarcerated for a period not to exceed one (1) year (if incarceration is currently provided as a penalty) or fined an amount not to exceed one thousand dollars (\$1,000.00), or both:

| <u>Code Section</u> | <u>Short Title</u> |
|---------------------|--|
| 1-10 | General Penalty (Ord. 598) |
| 20-1 | Advertising on Public Property (Ord. 597, §1) |
| 16-68 | Alarms (Ord. 534, §1) |
| 3-19 | Alcoholic Beverages (Ord. 423) |
| 3-20 | Alcoholic Beverages – Medicinal (Ord. 423) |
| 20-29 | Alcoholic Beverages – Open Containers (Ord. 596, §1) |
| 20-2 | Assault and Battery (Ord 643, §1) |
| 7-15 | Building Code Violation (Ord. 629, §3) |
| 7-27 | Buildings (Ord 564, §1) |
| 7-34 | Buildings (Ord. 612, §1) |
| 23A-14 | Cable Distribution (Ord. 452) |
| 9-13 | Civil Defense (Ord. 375, §9) |
| 5-12 | Dogs (Ord. 432; Ord. 584) |
| 9B-89 | Elections (Ord. 426) |
| 9B-121 | Elections (Ord. 782, §4) |
| 10-16 | Electrical Inspector (Ord. 100 – 1949 Comp.) |
| 18A-17 | Fire Code - Fines, Methods of Payment (Ord. 707, §1) |
| 11-57 | Fire Code Amendment (Ord. 830) |
| 11-61 | Fire Code - Penalties (Ord. 830) |
| 20-34 | Garage Sales (Ord. 783, §1) |
| 13-5 | Garbage (Ord. 740, §1) |
| 13-16 | Garbage and Refuse (Ord. 740, §2) |
| 14-2 | National Fuel Gas Code (Ord. 824) |
| 7-37 | Mechanical Code (Ord. 678, §1) |
| 6-16 | Mobile Homes (Ord. 468) |
| 18-3* | Model Traffic Code (Ord. 829) *except traffic infractions |
| 18A-6 | Municipal Court Juror (Ord. 421) |
| 20-22 | Obstructing Police (Ord. 643) |
| 25A-18 | Occupational Tax (Ord. 571, (part)) |
| 22-4 | Plumbing Code (Ord. 677, §4) |
| 22-12 | Plumbing Code (Ord. 466, §1) |
| 22B-2 | Public Utilities (Ord. 662, §1) |
| 13-59** | Sewage Works (Ord. 759, §2) **incarceration only is amended; maximum fine is not amended. |
| 25-11 | Streets & Sidewalks (Ord. 112 – 1949 Comp.) |
| 20-30 | Theft (Ord. 642, 1; Ord. 695, §1) |
| 25A-13 | Taxation (Ord. 522) |
| 26-23 | Water – Sprinkling (Ord. 613, §7) |
| 26-24 | Water Utility (Ord. 613, §8) |
| 26-43 | Water – Cross-Connection and Backflow Control (Ord. 679, §1) |
| 27-2 | Zoning (Ord. 708, §1) |

(Ord. 838, §4)

Sec. 18A-22. Costs and surcharges.

(a) The Municipal Judge is empowered in his or her discretion to assess costs against any defendant who pleads guilty or nolo contendere ("no contest"), who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation. Such court costs are hereby established at twenty dollars (\$20.00).

(b) In any case set before the Court on a "Show Cause" hearing or a "Noncompliance" hearing, the Municipal Judge is empowered in his or her discretion to assess a fee of ten dollars (\$10.00), in addition to all other fines, costs and surcharges.

(c) An additional ten-dollar surcharge shall be assessed for all speeding violations within the City for any citation issued on or after 12:01 a.m. on January 1, 2004, to be transmitted to the State Treasurer and credited to the Colorado Traumatic Brain Injury Trust Fund created pursuant to Section 26-1-309, C.R.S., within fourteen (14) days after the end of each calendar quarter, to be used for the purposes set forth in Sections 26-1-301 to 26-1-310, C.R.S.

(d) In all cases filed in Municipal Court, a regular administrative surcharge of ten dollars (\$10.00) shall also be imposed in addition to the costs and surcharges described in Subsections (a), (b) and (c) hereof. (Ord. 838, §5; Ord. 935 §1; Ord. 991, §1)

Sec. 18A-23. Administrative fees and surcharges.

Any defendant entering into a disposition with the City Attorney's office, including but not limited to a Stipulation for Deferred Judgment and Sentence, a Stipulation for Deferred Prosecution or a Plea Agreement, shall pay an administrative fee of twenty-five dollars (\$25.00), in addition to regular court costs, the regular administrative surcharge of ten dollars (\$10.00) and the special surcharge of ten dollars (\$10.00) for all speeding violations. (Ord. 936 §1; Ord. 991, §2)

Sec. 18A-24. Useful Public Service program.

(a) Purpose. The purpose of this Section is to authorize the Municipal Court Judge and staff to implement a Useful Public Service (UPS) program for municipal defendants. The Useful Public Service program assigns and monitors sentenced offenders to complete public service work pursuant to this Code, court policies and state and national practices. The program must maintain self-sufficiency through client-paid fees and other program charges, while providing a wide range of services to the community. The program shall be administered by the Municipal Court through the Judge and Court Administrator.

(b) Philosophy. The philosophy of the program is that, through restorative justice principles and practices, court-ordered community service work can and should be beneficial for all involved parties: the community's charitable organizations, the courts, the program and the defendant.

(c) Procedure. Any defendant ordered by the Municipal Court to serve UPS as part of his or her sentence shall report to the Probation Department. All UPS shall be monitored by the Court, as directed by the Municipal Court Judge through the Court Administrator. UPS shall only be performed for an I.R.S. Code 501(c)(3) organization approved by the Probation Department. The Court will prepare all forms necessary to effectively administer the program.

(d) Prohibitions. The Court shall not be authorized under this Section to allow for any "buy out" program in the administration of the UPS program. *Buy out* means allowing a defendant to pay the Court or any organization an established amount of money in lieu of serving his or her UPS sentence.

(e) Fees. The Court Administrator, with approval of the Municipal Court Judge, shall have authority to assess or modify an appropriate fee to pay for the administration of the UPS program. Such fees shall also be subject to final approval of City Council during the budget process or during the midterm budget amendment process.

(f) Falsification of information. The falsification of UPS forms, including but not limited to forged signatures, claimed time and work information, shall constitute a violation of this Section and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) and/or up to one (1) year in jail. (Ord. 1072)