

## **ORDINANCE NO. 1107**

### **AN ORDINANCE AMENDING SECTIONS 18A-17 TO ALLOW THE AUTHORITY TO CONTRACT WITH A COLLECTION AGENCY; ASSESS FEES IN RELATION TO SUCH COLLECTION; TO INCREASE PAYMENT PLAN FEES; AND TO REMOVE PROVISION ALLOWING THE COURT IMPRISON A DEFENDANT UNTIL PAYMENT OF FINES UNDER THE *CODE OF THE CITY OF FORT MORGAN***

**WHEREAS**, the City Council desires to contract with collection agencies to collect past due fines and court costs fees and to permit such agency to assess additional costs and fees associated with that collection service; and,

**WHEREAS**, the City Council desires to increase the payment plan fee; and,

**WHEREAS**, the City Council desires to clarify provisions related to the conversion of fines into satisfaction of a jail sentence.

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

**SECTION 1.** Section 18A-17 is hereby amended as follows:

**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 fourteen-day grace period may be granted to allow payment of the fine in full within that fourteen-day period. Should payment in full not be received within the time allowed, a Stay of Execution fee of twenty-five dollars (\$25.00) shall be imposed if a payment plan is implemented. Once a payment plan has been implemented and the twenty-five 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, and applicable court costs and fees, 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 court may convert the fine, or any applicable court costs and fees, to a jail sentence to satisfy the outstanding balance. If the defendant fails to pay a fine, or any applicable court costs and fees, as directed, the court may issue a warrant for the defendant's arrest.

(c) 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 resentence, 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.

(d) In addition to converting such fines to a jail sentence or adjusting such fines in accordance with subsection (c), a fine may be collected in the same manner as a judgment in a civil action.

(e) Should a defendant fail to pay a fine, or any associated court costs and fees, the court is hereby granted authority, subject to Article IV, Sec. 2 (d), *Charter of the City of Fort Morgan*, to contract with a collection agency. If the Municipal Court Judge orders any fine that is in arrears to be sent to a collection agency, the total amount delinquent shall also include any additional fees assessed by the collection agency, so long as such fees are an amount equal to the industry standard charged by private collection agencies. 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.

**Section 3. Validity.** If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts be declared invalid.

**Section 4. Repeal.** All or parts of Ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 5. Interpretation.** This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section thereof.

**Section 6. Certification.** The City Clerk shall certify to the passage of this Ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

**Section 7. Severability.** In the event any part of this Ordinance is found to be unenforceable by a Court of competent jurisdiction, it shall not affect the enforceability of the other portions of the Ordinance.

**Section 8. Effective date.** The City Council hereby finds, determines, and declares that this ordinance is necessary for the fiscal management of the municipal court and therefore Sec. 18A-17 (e) shall be applicable to all current and future fines assessed including such fines that are in arrears as of the effective date of this ordinance.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 21st day of September, 2010.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

ATTEST:

/s/ Terry L. McAlister  
Mayor Terry McAlister

/s/ Yolanda L. Eurich  
Deputy City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED the 19th day of October, 2010.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

ATTEST:

/s/ Terry L. McAlister  
Mayor Terry McAlister

/s/ Yolanda L. Eurich

Deputy City Clerk

STATE OF COLORADO            )  
COUNTY OF MORGAN            )  
CITY OF FORT MORGAN         )

**CERTIFICATE**

I, Yolanda L. Eurich, the duly appointed, qualified and acting Deputy City Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **ORDINANCE NO. 1107** was, as a proposed Ordinance duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a regular meeting on the 21st day of September, 2010. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 30th day of September, 2010, 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 19th day of October, 2010. Within five (5) days after its final passage, said Ordinance 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.

/s/ Yolanda L. Eurich  
Deputy City Clerk