

ORDINANCE NO. 1127

AN ORDINANCE VACATING THAT ENTIRE PORTION OF THE EXISTING 20 FOOT-WIDE ALLEYWAY LOCATED SOUTH OF EAST RIVERVIEW AVENUE, AND SITUATED WEST OF LOTS 1 THROUGH 8, AND EAST OF LOTS 15 THROUGH 22 OF BLOCK 16, OF THE OLD FORT ADDITION, A SUBDIVISION IN THE NE ¼ OF SECTION 6, TOWNSHIP 3 NORTH, RANGE 57 WEST

WHEREAS, The owner of lots 1 through 8 and lots 15 through 22 of Block 16 , of the Old Fort Addition, a Subdivision in the NE ¼ of Section 6, Township 3 North, Range 57 West, all as depicted in Exhibit A, has requested a vacation of the alleyway as part of the owner's planned development of the area; and,

WHEREAS, in accordance with the Subdivision Improvement Agreement, dated August 1, 2012, which is attached hereto and incorporated hereby this reference, the Owner shall comply with Sec. 20-3-160 of the *Fort Morgan Municipal Code* and Sec. 43-2-301, *et seq.*, C.R.S. to vacate the dedicated public right-of-way, which shall include approval of such vacation by the City Council by Ordinance; and,

WHEREAS, City Staff recommends that the identified section of land be vacated subject to the conditions contained herein.

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

Sec. 1. That portion of the existing 20 foot-wide alleyway located south of East Riverview Avenue, and situated west of lots 1 through 8, and east of lots 15 through 22 of Block 16, of the Old Fort Addition, a subdivision in the NE ¼ of Section 6, Township 3 North, Range 57 West, which is attached hereto and incorporated herein by this reference, is hereby vacated as a public street, the same being no longer needed for a public purpose as a surface thoroughfare, but RESERVING therein and thereon an exclusive right of way and easement for installation, maintenance, repair, replacement and continued use of poles, pipes, cables, wires and equipment for lines of communications, electricity, gas, water and sewer and other utilities and services, and a surface access easement to permit ingress and egress thereon and over and across the same.

Sec. 2. That the Owner may use the vacated street to consolidate the property, subject to the easements described herein.

Sec. 3. That the Owner may, at his election and expense, alter the surface of said vacated street provided however, all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

Sec. 4. That the Owner shall not place any improvement upon, over, or in the area(s) vacated without: 1) lawful permit from the Planning and Zoning Department of the City of Fort Morgan; 2) obtaining written consent of the utilities, governmental service entities and franchise holders, present or future. The written consent with the terms and conditions thereof shall be filed in writing with the City of Fort Morgan by each of the above agencies as needed and approved by the City prior to construction.

Sec. 5. The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owner's interests more than is reasonably required.

Sec. 6. If the Owner elects to alter the vacated area pursuant to Section 3 and 4 and should the City exercise its right to access the land pursuant to Section 5, the City shall not be responsible for the payment or restoration of any surface alterations or improvements that are removed, damaged, or destroyed in the process of exercising said rights.

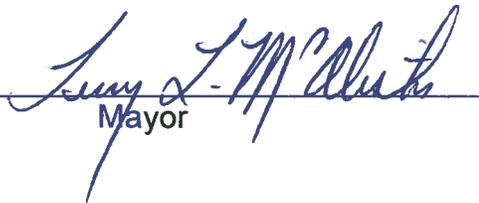
Sec. 7. The Street Department of the City shall not pay any expenses required for the adjustments of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s).

Sec. 8. The present and future owner or owners of the vacated alleyway, according to the recorded plat thereof, shall assume sole and complete financial responsibility for the operation and maintenance of the property.

READ AND PASSED ON FIRST READING AND ORDERED PUBLISHED IN FULL on the 15th day of May, 2012.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO



BY: 
Mayor


City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED
PUBLISHED by title only the 7th day of August, 2012.



THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

BY: Tommy L. McAlister
Mayor

ATTEST:

John Brennan
City Clerk

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

CERTIFICATE

I, John Brennan, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1127** 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 15th day of May, 2012. Said **Ordinance**, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 22nd day of May, 2012, 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 7th day of August, 2012. 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.

John Brennan
City Clerk