

## **ORDINANCE NO. 1148**

### **AN ORDINANCE AMENDING SECTION 240 OF CHAPTER 18 ARTICLE 2 OF THE FORT MORGAN MUNICIPAL CODE**

**WHEREAS**, the City of Fort Morgan adopted updates to Chapter 18 of the Fort Morgan Municipal Code, the "Water Code"; and

**WHEREAS**, the Water Code requires water users who have voluntarily or involuntarily discontinued water usage to pay a monthly service charge; and,

**WHEREAS**, the Water Code made no distinction for residential property owners who have multiple water taps servicing a single property who utilize some taps solely for irrigational use; and,

**WHEREAS**, the owners of such properties pay a base rate year round for taps servicing the residential use of the property; and,

**WHEREAS**, the City Councils finds and determines that this Ordinance is necessary for the preservation of the public peace, safety, and welfare.

**THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN,**

**Section 1:** The Fort Morgan Municipal Code Chapter 18 Article 2 section 240 is hereby amended as follows:

**Sec. 18-2-240. Cessation of operations; voluntary abandonment.**

- (a) No refund shall be given if, after transferring water to the City, the operation of a multi-family housing project, commercial business or an industrial use is terminated. In the event that a use is terminated, no EHR units attributable to the property shall be transferable from property to property or assignable by or between persons, firms or corporations.
- (b) All users with active or inactive water accounts contained within the City's utility billing system who voluntarily or involuntarily discontinue water services shall be subject to a monthly service charge and must continue to pay the current base rate as set from time to time by the City Council. Water service shall not be reestablished to a property until the monthly service charges have been made current for the time period starting on March 6, 2011, or the beginning date of delinquency, whichever period is shorter. These payments in arrears shall be calculated by the current monthly service charge. Failure to pay the monthly service charge may result in liens on the serviced property.
- (c) Owners of water taps not contained within the City's utility billing system who have an inactive water account may, upon sufficient evidence to the City

Manager that a water tap is associated with the lot requesting service and verification of such by the City, reestablish a water tap within the City's utility billing system. Upon reestablishment of a water tap, the owner shall begin to pay the current base rate beginning upon the date the account is reestablished.

(d) Owners of water taps seeking to cease responsibility to pay the monthly service charge may voluntarily abandon interests in the water tap by doing so in writing and causing such to be recorded. If one or more liens have already been placed on the property, the liens shall be removed by the City.

(e) NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, OWNERS OF MULTIPLE WATER TAPS ON A SINGLE RESIDENTIAL PROPERTY MAY DESIGNATE CERTAIN WATER TAPS AS IRRIGATIONAL, SO LONG AS AT LEAST ONE TAP REMAINS ACTIVE YEAR ROUND SUBJECT TO PART (B) ABOVE. UPON BEING DESIGNATED AS IRRIGATIONAL, THE WATER ACCOUNT ASSOCIATED WITH THE IRRIGATIONAL TAP MAY BE DISCONTINUED AND REESTABLISHED WITHOUT PAYMENT OF THE CURRENT BASE RATE DURING INACTIVITY OF THE ACCOUNT. DURING ACTIVITY, THE OWNER OF IRRIGATIONAL TAP ACCOUNTS MUST PAY THE CURRENT BASE RATE FOR EACH SUCH IRRIGATIONAL TAP.

(f) DESIGNATION OF A WATER TAP AS IRRIGATIONAL MUST BE DONE BY WRITTEN AGREEMENT OF THE OWNER AND PROPERLY RECORDED. AN IRRIGATIONAL TAP MAY ONLY BE USED TO IRRIGATE. IN ORDER TO REPURPOSE A TAP DESIGNATED IRRIGATIONAL, THE OWNER SHALL BE REQUIRED TO PURCHASE A NEW TAP PRIOR TO THE EXPANDED USE AND RESTORATION OF THE WATER TAP.

**Section 2. 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 3. 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 4. 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 5. 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 6. 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 7. Effective date.** The City Council hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. This change shall be effective five (5) days after final publication of this ordinance.

**INTRODUCED, READ, ADOPTED ON FIRST READING AND ORDERED PUBLISHED** on the 18<sup>th</sup> day of February, 2014.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister

By: Terry McAlister  
Mayor

Attest:

/s/ John J. Brennan

John Brennan  
City Clerk

**PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED** this 4<sup>th</sup> day of March, 2014.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister

By: Terry McAlister  
Mayor

Attest:

/s/ John Brennan

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. 1148** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 18th day of February, 2014. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 21st day of February, 2014, 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 4<sup>th</sup> day of March, 2014. Within five (5) days after its final passage, said **Ordinance No. 1148** 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/ John Brennan

John Brennan  
City Clerk