

ORDINANCE NO. 1085

AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE PROPOSED AMENDMENTS TO CHAPTER 20 AND CHAPTER 3 OF THE *CODE OF THE CITY OF FORT MORGAN*.

WHEREAS, the citizens of Fort Morgan have indicated the desire to allow the sale and consumption of alcoholic beverages in Riverside Park during special events; and,

WHEREAS, currently no alcoholic beverages can be sold or consumed in any city park; and,

WHEREAS, 12-48-105 and 12-48-107, C.R.S. provides municipalities with the authority to grant or deny a liquor license provided that the same standards for approval and denial applicable to the state licensing are used; and,

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

Section 1: That the following proposed changes to Chapter 20 and Chapter 3 of the *Code* of the City of Fort Morgan be submitted to the registered electors of the City as "Proposed *Code* Amendments No. 1" at the regular municipal election to be held on Tuesday, November 3, 2009:

Chapter 20

Sec. 20-29. CONSUMPTION AND Open containers of alcoholic beverages; penalty.

(a) Except as permitted by Section 12-47-411(3.5), C.R.S. AND THIS SECTION (e), it shall be unlawful for any person to possess or carry any open container of any fermented malt beverage, malt, vinous or spirituous liquor in any public park or on any public street, sidewalk, alley or other public way in the City or in any vehicle or conveyance thereon or on the grounds of any public school in the City.

(b) Any person found guilty of violating this Section shall be punished for each violation by a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00).

(c) It shall be an affirmative defense to a charge under this Section that the person charged was in possession of one (1) opened, but resealed container of not more than seven hundred fifty (750) milliliters of partially consumed vinous liquor which was lawfully removed from the licensed premises of a hotel and restaurant licensee pursuant to Section 12-47-411 (3.5), C.R.S. or Subsection (d) below.

(d) A hotel and restaurant licensee who permits a customer to remove a partially consumed bottle of vinous liquor from the licensed premises shall reseal the bottle with the original cork or other commercially manufactured stopper, and shall package the resealed bottle in another sealable container (bag or box).

e) IT SHALL BE LAWFUL FOR A PERSON TO POSSESS OR CARRY AND CONSUME A FERMENTED MALT BEVERAGE, MALT, VINOUS OR SPIRITUOUS LIQUOR IN A LICENSED AREA OF RIVERSIDE PARK SO LONG AS THE PERSON:

- (1) IS ATTENDING A SPECIAL EVENT;
- (2) HAS PURCHASED THE FERMENTED MALT BEVERAGE, MALT, VINOUS OR SPIRITUOUS LIQUOR FROM A VENDER WHO HAS OBTAINED A SPECIAL EVENT PERMIT UNDER TITLE 12, ARTICLE 48, C.R.S. AND A LIMITED PERMIT UNDER SECTION 3-2; AND,
- (3) AT ALL TIMES, POSSESS OR CARRIES AND CONSUMES THE BEVERAGE ONLY WITHIN THE LICENSED AREA OF RIVERSIDE PARK.

Chapter 3

Sec. 3-2. Sale or consumption in public or unlicensed premises.

(a) Except for the sale of medicinal liquors as hereinafter provided in Article II of this Chapter AND ALCOHOLIC BEVERAGES SOLD PURSUANT TO SUBDIVISION (b) OF THIS SECTION, it shall be unlawful for any person to sell, give away or consume any beverage having any alcoholic content whatever upon any street, avenue, alley, park or other public place within the City or at, in or upon the premises of any place of public resort within the City not licensed by the City and State to sell fermented malt beverages, malt, vinous or spirituous liquors.

(b) A LIMITED PERMIT FOR THE LAWFUL SALE OF ALCOHOL IN A DESIGNATED AREA OF RIVERSIDE PARK MAY BE GRANTED TO AN ORGANIZATION, AS DEFINED BY 12-48-102, C.R.S., THAT OBTAINS AND PROVIDES DOCUMENTATION OF THE FOLLOWING TO THE CITY CLERK:

- (1) A SPECIAL USE PERMIT UNDER TITLE 12, ARTICLE 48, C.R.S.;
- (2) DOCUMENTATION CONTAINING THE FOLLOWING INFORMATION:
 - (I) A DESCRIPTION OF THE EVENT;
 - (II) THE DATE AND TIME OF THE EVENT OR SERIES OF EVENTS;
 - (III) THE TIME THE SALE OF ALCOHOL WILL BEGIN AND END; AND
 - (IV) A DESCRIPTION OR IDENTIFICATION OF THE ALCOHOLIC BEVERAGE TO BE SOLD AND THE CONTAINERS IN WHICH IT WILL BE SUPPLIED; AND

(3) A SECURITY PLAN DEVELOPED WITH AND APPROVED BY THE FORT MORGAN POLICE DEPARTMENT THAT SETS FORTH THE PROCEDURE OR PLAN THE PERMIT HOLDER SHALL FOLLOW TO ADDRESS ISSUES INCLUDING BUT NOT LIMITED TO PUBLIC SAFETY AND ENFORCEMENT OF I.D. CHECKS.

(c) THE CITY CLERK SHALL ISSUE A LIMITED PERMIT FOR THE SALE OF ALCOHOL TO ANY ORGANIZATION THAT COMPLIES WITH SUBSECTION (b).

(d) (1) FOR PURPOSES OF THIS SECTION ONLY, A "LIMITED PERMIT" SHALL BE VALID FOR ONE SPECIAL EVENT AS DEFINED IN TITLE 12, ARTICLE 48, C.R.S. AND SHALL ON ITS FACE INDICATE THE EFFECTIVE DATE(S) AND THE NAME OF THE ORGANIZATION AUTHORIZED UNDER THE PERMIT FOR THE SALE OF ALCOHOL.

(2) A LIMITED PERMIT UNDER THIS SECTION MAY BE VALID FOR MORE THAN ONE (1) TWENTY-FOUR (24) HOUR DAY PROVIDED THAT THE SPECIAL EVENT IS AN EVENT THAT IS HELD ON MORE THAN ONE (1) TWENTY-FOUR (24) HOUR DAY. IF THE SPECIAL EVENT IS HELD ON MULTIPLE OCCASIONS OR IS A SERIES OF EVENTS, A LIMITED PERMIT MUST BE OBTAINED FOR EACH OCCASION OR INDIVIDUAL EVENT WITHIN THE SERIES PROVIDED THAT EACH OCCASION OR EVENT IS HELD NO LESS THAN TWO (2) DAYS APART, EXCLUDING FROM CALCULATION THE DAYS ON WHICH THE FIRST OR PERVIOUS OCCASION OR EVENT AND THE SUBSEQUENT OCCASION OR EVENT ARE HELD.

Section 2. That the following ballot language is hereby adopted for submitting Proposed Amendment to *Fort Morgan Municipal Code* to the voters at said election:

PROPOSED AMENDMENT TO FORT MORGAN MUNICIPAL CODE REGARDING ALCOHOL AT SPECIAL EVENTS AT RIVERSIDE PARK	
<p>Shall Sec. 20-29 and Sec. 3-2 of the <i>Fort Morgan Municipal Code</i> (1994) be amended so that commencing on the fifth day after certification of the election alcohol will be permitted to be possessed and consumed in Riverside Park in designated areas as prescribed in a special event permit granted to a nonprofit organization for the sale of alcohol and whereas said permit must be obtained through application and approval by the local liquor licensing authority or City Council?</p>	<p>YES _____</p> <p>NO _____</p>

INTRODUCED AND PASSED UPON FIRST READING this 21st day of July, 2009, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: */s/ Jack Darnell*
Mayor

ATTESTED:

/s/ Andrea Strand
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this 4th day of August, 2009, for publication once in the newspaper of the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: */s/ Jack Darnell*
Mayor

ATTESTED:

/s/ Andrea Strand
City Clerk

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

CERTIFICATE

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1085** 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 July, 2009. Said **Ordinance**, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 24th day of July, 2009, 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 4th day of August, 2009. 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/ Andrea Strand
City Clerk