

ORDINANCE NO. 1176

AN ORDINANCE AMENDING SECTION 300 OF CHAPTER 4 ARTICLE 7 OF THE FORT MORGAN MUNICIPAL CODE.

WHEREAS, the Colorado Constitution Article XX Section 6 provides the City authority to “the full right of self-government in both local and municipal matters”; and

WHEREAS, the Fort Morgan Charter Article I Section 2 provides the City authority to “possess and hold all the property, real and personal . . . and shall succeed to all the rights and assume all liabilities thereof”; and

WHEREAS, Fort Morgan Charter Article IV Section 4 further provides the City authority for the construction and disposition of public improvements and the establishment of parks, cemeteries and public grounds; and

WHEREAS, Fort Morgan Charter Article XII Section 7 provides the City authority to supersede any law of the State of Colorado insofar as it applies to local or municipal affairs when acting by ordinance; and

WHEREAS, the Fort Morgan Municipal Code § 4-7-300 currently provides a process for the sale of real property that is burdensome and outdated for use in the current economic development environment and practices; and

WHEREAS, several sections of the code deal exclusively with the disposition of property located at the industrial park, which has no lots owned by the City at this time, and these sections are therefore unnecessarily cumbersome; and

WHEREAS, the Colorado Revised Statutes § 31-15-713 requires any sale of real property used for a governmental purpose, including but not limited to “waterworks, ditches, gasworks, geothermal systems, solar systems, electric light works, or other public utilities, public buildings, real property used or held for park purposes” to require approval at a regular or special election; and

WHEREAS, several home rule municipalities across Colorado, like the City of Fort Morgan, provide for the authority for the sale of any real property held by the municipality; and

WHEREAS, the City Council finds and determines that additional clarity and updates in the Fort Morgan Municipal Code are needed to define the authority and conditions required for the sale of property owned and held by the City; and

WHEREAS, the City Council 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Section 1: The Fort Morgan Municipal Code Chapter 4 Article 7 section 300 is hereby repealed and replaced as follows:

Sec. 4-7-300. Disposition of City-owned real property.

(a) Purpose. The purpose of this Section is to set forth the rules and regulations to enable the Mayor and members of City Council to establish a uniform procedure for the disposition of City-owned real property to ensure that such property will be developed for the most appropriate benefit for the public.

(b) Objectives. The objectives of this Section are as follows:

- (1) To establish a uniform procedure for the disposition and sale of City-owned real property; and
- (2) To encourage the development and sale of real property in a manner beneficial to the residents of the City; and
- (3) To encourage development that will maximize the public investment in existing and future capital improvements; and
- (4) To provide additional opportunities and options in the development of public-private partnerships.

(c) Procedure for disposition of property. The following procedure shall govern the sale or disposition of City-owned real property.

(1) The City Council has authority to determine whether it is in the best interests of the City to sell or dispose of City-owned real property and to determine the appropriate terms thereof according to the following considerations:

- a. The significance of the positive economic impact on the City, including, but not limited to, the number of jobs (number of full-time, part-time and seasonal), average salary, benefits, etc.;
- b. The potential of the development for providing quality employment or community enrichment opportunities;
- c. The monetary value of the land, as well as the monetary value of the proposed development upon completion;
- d. The request and value of economic development incentives by a potential developer;
- e. The elimination of blighted property or efforts to expand tax base for the City.
- f. Additional criteria the City Council may wish to consider in making its determination.

(2) The City Manager, in performance of his or her duties, may develop site-specific recommendations to the City Council for the sale or disposition of such real property pursuant to part (1) of this section.

(3) The City Manager may prepare a list of real property for sale or disposition annually and recommend to the City Council the approval of placing the property for sale to the public for no less than the fair market value.

a. Upon approval of the property list, the City Manager shall have authority to authorize the appraisal and sale of surplus property at, or above, the fair market value without further approval from the City Council.

b. The approved list shall be provided to the public, and the City Manager shall consider and negotiate offers on the property at any time following the appraisal. The City Manager shall use his or her best efforts to maximize the value received by the City for the disposition of the property.

(d) Notwithstanding the authority of City Council to authorize the sale or disposition of City-owned real property, any property conveyed to the City by grant, deed, or trust that contains a specific use pursuant to the conveying document(s), with which the City (without undue burden or economic hardship) has the ability to comply, shall be subject to prior approval through a regular or special election.

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.

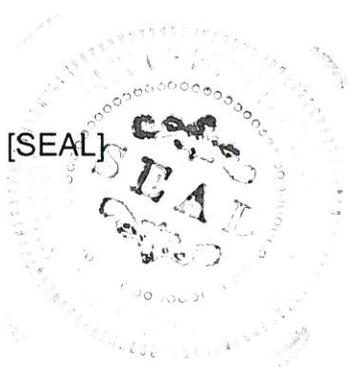
Section 4. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Article and section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any Article or Section 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 7th day of July, 2015.



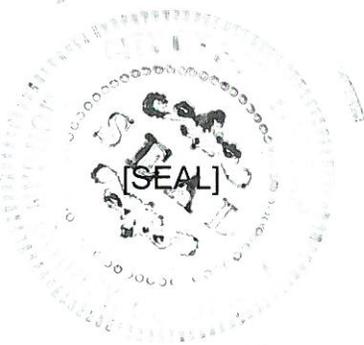
THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

By: Terry McAlister ~~TERRY McALISTER~~ **RON SHAVETZ**
Mayor **PRO TEM**

Attest:

John Brennan
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED this 21st day of July, 2015.



THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

By: Terry McAlister ~~TERRY McALISTER~~ **RON SHAVETZ**
Mayor **PRO TEM**

Attest:



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. 1176** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 7th day of July, 2015. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 10th day of July, 2015, 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 21st day of July, 2015. Within five (5) days after its final passage, said **Ordinance No. 1176** 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