

ORDINANCE NO. 1115

AN ORDINANCE AMENDING THE EXISTING ARTICLE 7, CHAPTER 4, "UNCLAIMED PROPERTY" CODE OF THE CITY OF FORT MORGAN, (2010)

WHEREAS, this Ordinance is intended to amend Article 7, Chapter 4 of the Fort Morgan Municipal Code, (2010)

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

Section 1. Article 7, Chapter 4, "Unclaimed Property" is hereby amended to read as follows:

Article 7

Disposition of Real, Personal and Intangible Property

Division 1

Custody, Notification, Reclamation and Disposal of Personal Property

Sec. 4-7-10	Definitions
Sec. 4-7-20	Custodian of property
Sec. 4-7-30	Property held as evidence
Sec. 4-7-40	Disposition generally
Sec. 4-7-50	Notification of owner
Sec. 4-7-60	Reclaiming property
Sec. 4-7-70	Failure to claim property
Sec. 4-7-80	Disposal of unclaimed property
Sec. 4-7-90	Disposal of surplus property
Sec. 4-7-100	Sale of personal property
Sec. 4-7-110	Proceeds from sale
Sec. 4-7-120	Exceptions
Sec. 4-7-130	Firearms
Sec. 4-7-140	Destruction of certain property
Sec. 4-7-150	Specific exceptions
Sec. 4-7-160	Rights of finder

Division 2

Notification and Reclamation of Intangible Property

Sec. 4-7-200	Intangible property defined
Sec. 4-7-210	Unclaimed intangible property presumed abandoned; custodian
Sec. 4-7-220	Notice and publication
Sec. 4-7-230	Notice mailed
Sec. 4-7-240	Filing proof of claim
Sec. 4-7-250	Separate fund not required

Division 3
City Owned Real Property

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

Division 1
Custody, Notification, Reclamation and Disposal of Personal Property

Sec. 4-7-10. Definitions.

As used in this Division 1, the following term shall have the meaning herein set forth:

Custodian means the City Manager.

Surplus Property means personal property owned by the City that is not being utilized and that which cannot be utilized by any City department.

Personal Property shall read to include to surplus, lost, stolen, confiscated or abandoned tangible property within the custody and control of the *Custodian*.

Property is limited to only tangible property items including, but not limited to, equipment, furniture, firearms, office supplies and valuables.

Public Sale means a sale that is open to the public and disposition of the items is done through a competitive bidding process. A public sale may include an Internet auction website, a public auction or other process that allows the City to acquire the maximum price for the property.

Sec. 4-7-20. Custodian of property.

Except as is provided in Section 4-7-210 of this Article, the City Manager is designated as the official Custodian of each and every article or object of personal property purchased, lost, stolen, confiscated or abandoned that is not in the lawful custody of any other person or court and that has been acquired by or delivered to the City Manager or one of his or her subordinates for care, custody and control.

Sec. 4-7-30. Property held as evidence.

The Custodian shall keep in his or her custody all articles of personal property seized or held as evidence, which property has been delivered to the Custodian, for care, custody and control, for use in any pending or perspective trial, until the final disposition of any prospective or pending charges, including appeals or the lapse of time for filing an appeal. Thereafter, unless ordered to the contrary by the City Council or a court having jurisdiction, the Custodian or his or her designee shall make disposition of such property in accordance with the provisions of this Article.

Sec. 4-7-40. Disposition generally.

All personal property that has been delivered to the Custodian for care, custody and control, and not being held pending the disposition of charges or civil litigation pursuant to Section 4-7-30 above, shall be subject to disposition according to the provisions of Section 4-7-80 and Section 4-7-100 below unless otherwise provided in this Article or ordered to the contrary by the City Council or by any court.

Sec. 4-7-50. Notification of owner.

The Custodian shall examine all personal property, which has not been purchased or acquired through gift or bequeath, and if the identity of the owner is readily available to the Custodian from public records known to and used by him or her, the Custodian shall notify the apparent owner by telephone or if unable to contact by telephone, by United States first-class mail, postage prepaid, to the last known address of such apparent owner, mailed within a reasonable time after identification of the apparent owner, describing the property and stating that the same is held by the Custodian and may be sold or otherwise disposed of unless claimed within sixty (60) days of the giving or mailing of such notice.

Sec. 4-7-60. Reclaiming property.

All property may be reclaimed by the lawful owner upon proof of identity and ownership satisfactory to the Custodian, if claimed before the donation or sale thereof.

Sec. 4-7-70. Failure to claim property.

Failure to make a claim of ownership within the time limits prescribed in this Article and before the sale or donation of any article shall forever bar the owner or any person claiming ownership by, through or under the owner from making any subsequent claim of ownership. Further, if any property has been advertised for sale and for any reason not sold, the same may be donated, destroyed, kept, or used by the City without further notice if a claim of ownership is not made within the time limit prescribed in such notice, and the owner or any person claiming ownership by, through or under the owner shall thereafter be barred from making any claim of ownership to such property.

Sec. 4-7-80. Disposal of unclaimed property.

If any such personal property remains unclaimed sixty (60) days after the same is no longer required to be held in evidence, pursuant to Section 4-7-30 above or sixty (60) days after the mailing of any letter of notice, such property may be retained by the Custodian and kept for use by the City, including but not limited to, for training programs

or otherwise disposed of in accordance with the procedures governing the sale of personal property pursuant to Section 4-7-100.

Sec. 4-7-90. Disposal of surplus property.

Any personal property within the possession and control of any City department may be designated as surplus property and disposed of in accordance with Section 4-7-, subject to the following procedure:

(a) Designation as surplus property.

1. By January 1, of each year, the head of every department shall have prepared a list of all property within the possession and control of his or her department that is no longer being utilized by that department;
2. The list shall identify both the department that possesses the property and the property by including, if available, the serial number, item description, make, model year, etc;
3. Once completed, but no later than January 1, the list shall be e-mailed to the Custodian. The Custodian shall then distribute the list to all City department heads and to the City Clerk as an official record of the property being declared as surplus;
4. Any department head wishing to obtain the property shall contact the head of the department that is declaring the item surplus and the property shall be transferred to the department at no cost;
5. Once delivered, the department receiving the item shall notify the Director of Risk Management and the Director of Finance about the transfer. These items shall then be transferred to the receiving department on the fixed assets and insurance roles.
6. If any property on the list is not transferred to another department, the property shall be sold by public sale pursuant to Sec. 4-7-100.

Sec. 4-7-100. Sale of personal property.

(a) Disposal of all personal property may be sold at public sale, provided that the Custodian shall cause to be published once, not less than ten (10) days before such sale, a notice setting forth a description of each article to be sold, the time, date and place of sale and a statement that any person who claims to be the owner of or claims any interest in any article so described may appear before the time and date set for the

commencement of the public sale to reclaim the same upon presentation of satisfactory proof of identity and ownership of such article. The means of making the notice known to the public may include posting in public places, a newspaper of general circulation, the City's internet website, etc.

(b) If disposal of the personal property is unsuccessful through subsection (a), then the personal property may be disposed of by donation to any non-profit or governmental organization or destroyed or disposed of in a manner determined by the Custodian.

Sec. 4-7-110. Proceeds from sale.

All proceeds of a sale shall be paid to the Custodian, who shall deposit the same in the general fund of the City.

Sec. 4-7-120. Exceptions.

Notwithstanding the foregoing provisions, objects and articles of property as described in Sections 4-7-110 and 4-7-120 below may be kept, held or disposed of as hereinafter provided without compliance with the provisions of Sections 4-7-40 to 4-7-90 above relating to donation or sale.

Sec. 4-7-130. Firearms.

Unless ordered to the contrary by a court of competent jurisdiction or otherwise required by state or national law, firearms and other weapons which may not lawfully be kept, possessed or retained by the owner or person otherwise entitled to the possession thereof or which may not otherwise lawfully be returned to the owner thereof or which are unclaimed after notice to the owner pursuant to Section 4-7-50 of this Article or the owner of which is not know, may be kept and retained by the Police Department for use in its training programs, or otherwise, or may be donated to museums or historical societies as the City Manager may order for purposes of historical preservation. If such firearms are declared surplus by the Police Department, disposition of the same may be made as otherwise provided in this Article.

Sec. 4-7-140. Destruction of certain property.

If the property consists of burglar tools of any description, unlawful firearms, cartridges or explosives, armored or bulletproof clothing, other dangerous weapons, gambling apparatus, instruments or articles, narcotics or controlled drugs, medicines for the purpose of inducing abortion or preventing conception, beer, wine, spirituous liquors or fermented malt beverages, soiled, bloody or unsanitary clothing, solids or liquids of unknown or uncertain composition, drugs, hallucinogenic substances, hypodermic

syringes and needles, obscene pictures, prints, effigies, statues, or any other property which reasonably might result in injury to the health or safety of the public or which might be subject to unlawful use, the City Manager may destroy each and every article of any such nature or provide such articles to other governmental agencies for lawful use.

Sec. 4-7-150. Specific exceptions.

Motor vehicles, lost or stray animals and other property which is required to be disposed of otherwise than as provided in this Article, by the terms of any law or ordinance, shall not be disposed of according to the terms of this Article.

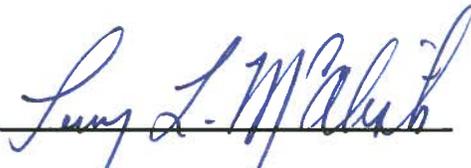
Sec. 4-7-160. Rights of finder.

Notwithstanding any other provision of this Article, whenever any item of lost or abandoned property has been found and delivered to the Custodian or one (1) of his or her subordinates, for care, custody and control, such item shall be returned to the original finder whenever claim has been made by the finder and the following conditions have been met:

- (1) The claimant is the person who originally found the lost or abandoned property;
- (2) The claimant, after surrendering the property to the Custodian, has served written notice of his or her intention to make a claim on that item within sixty (60) days of the surrender of the item;
- (3) The lost or abandoned property has remained unclaimed by the owner or person having a right to such property for sixty (60) days after the surrender of the same to the Custodian;
- (4) The lost or abandoned property is not stolen or confiscated property, nor is it property held under the exceptions outlined in Sections 4-7-110 to 4-7-130 of this Article, nor is it property held as evidence pursuant to Section 4-7-30 of this Article.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 17th day of May, 2011.

THE CITY COUNCIL OF THE CITY
OF FORT MORGAN, COLORADO



Mayor Terry McAlister

ATTEST:



City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED
PUBLISHED the 7th day of June 2011.

THE CITY COUNCIL OF THE CITY
OF FORT MORGAN, COLORADO



Mayor Terry McAlister

ATTEST:



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. 1115** 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 17th day of May, 2011. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 21st day of May, 2011, 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 June, 2011. 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.



City Clerk