

ORDINANCE NO. 1142

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 deems water taps abandoned after twenty-four (24) months of nonpayment of the monthly service charge; and,

WHEREAS, the Water Code requires users to purchase a new tap and the required water rights to be transferred to the City in order to reestablish water service to the property; and,

WHEREAS, some property owners purchase property that has been subject to foreclosure or bankruptcy proceedings, or other delays have resulted in the owner not being made aware of the abandonment requirements of the Water Code; and,

WHEREAS, many of these properties also have abandoned the water taps associated with the property requiring the purchase of a new tap and water rights, which makes the properties less marketable; 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 VOLUNTARY 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. ~~Payment of such monthly service charge is required to retain the right to the water attributed to a specific property. All users who discontinue use and payment of the monthly service charge for a period of twenty-four (24) months shall be required to purchase a new tap and the required EHR attributable to the use of the property upon reestablishing water services. Should the user be in arrears for a period of time less than twenty-four (24) months, the user may pay the amount in arrears, plus any interest and associated fees, and reestablish water service to the subject property without having to purchase a new tap.~~

Section 2. Validity. If any part or parts or 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 6th day of August, 2013.

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 3rd day of September, 2013.

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

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. 1142** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 6th day of August, 2013. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 9th day of August, 2013, 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 3rd day of September, 2013. Within five (5) days after its final passage, said **Ordinance No. 1142** 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 J. Brennan

John Brennan
City Clerk