

## ORDINANCE NO. 1259

### AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO, AMENDING CHAPTER 17, ARTICLE 8 OF THE FORT MORGAN MUNICIPAL CODE, REGARDING THE STORMWATER DEPARTMENT, TO PROVIDE FOR A PROCEDURE TO IMPOSE LIENS ON PROPERTIES FOR THE NONPAYMENT OF STORMWATER CHARGES

**WHEREAS**, the City of Fort Morgan, Colorado (the "City") is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

**WHEREAS**, the City Council (the "Council") has authority pursuant to the Home Rule Charter and C.R.S. § 31-16-101, et seq. to adopt and enforce ordinances; and

**WHEREAS**, the City is responsible for the management of stormwater within its jurisdiction; and

**WHEREAS**, the Council previously adopted Ordinance No. 1251, codified as Chapter 17, Article 8 of the Fort Morgan Municipal Code (the "Code"), which established a Stormwater Department and adopted a system of charges to fund the development of stormwater facilities; and

**WHEREAS**, procedures for imposing liens on properties are necessary for the operation and funding of the Stormwater Department, and it is standard practice for liens to be imposed on properties for the nonpayment of utility charges; and

**WHEREAS**, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its citizens, to amend Chapter 17, Article 8 of the Code, as it relates to the establishment of a procedure to impose liens on properties for the nonpayment of stormwater charges.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, AS FOLLOWS:**

**Section 1.** The above and foregoing recitals are incorporated as conclusions, facts, determinations, and findings by the City Council.

**Section 2.** Section 17-8-80 of the Fort Morgan Municipal Code, concerning collection of stormwater charges, is hereby created to read as follows:

**Sec. 17-8-80. - Collection.**

Each stormwater charge levied pursuant to the provisions of this Article shall be charged against the property owner or, with the consent of the owner, any tenant in possession of the premises. All charges so levied shall be a lien upon the property served from the date the same became due until paid. Upon the failure or refusal of any owner or tenant of property to pay when due the stormwater charges or penalties levied pursuant to this Chapter, the City Clerk may, after ten (10) days' written notice to the owner of the property, certify such unpaid charges to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) of the amount thereof and penalties due thereon in addition thereto to defray the cost of collection. The lien of such delinquent charges and penalties when so certified by the City Clerk as aforesaid shall be on a parity with the lien of the general taxes on the property.

**Section 3.** Section 17-8-50 of the Fort Morgan Municipal Code, concerning the designation of stormwater use category, is hereby partially repealed and renumbered to read as follows:

**Sec. 17-8-50. - Designation of Stormwater Use Category.**

(a) Upon the passing of this enabling ordinance all property located within the corporate limits of the City of Fort Morgan, and any other property desiring to join in stormwater mitigation and control that can be served by the City's infrastructure, shall be assessed a fee collected on a monthly basis, as is customary with other utilities provided by the City of Fort Morgan, for stormwater collection, maintenance and expansion of stormwater infrastructure. Such fee rates and structure shall be adjusted from time to time by Resolution of the City Council of the City of Fort Morgan. Each property shall be assessed in accordance with the zoning designated on the City Official Zoning Map as amended through the Land Use Code.

~~(b) Collection of charges for stormwater shall be handled in the same manner as charges for sewer charges provided in Section 17-5-20 of this Code.~~

(c) ~~(b)~~ The City Manager or his/her designee, upon notice of a Property Action as defined in this Article, shall reassess the stormwater classification of the property affected by the Property Action pursuant to the zoning or applicable use of the property. Once a determination has been made, the property shall be assessed stormwater fees in accordance with the fee schedule.

**Section 4.** **Severability.** The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

Introduced, read, and adopted on first reading and ordered published on the 16<sup>th</sup> day of November, 2021.



ATTEST:

  
John Brennan, City Clerk

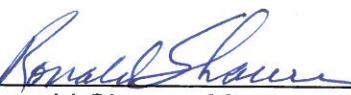
THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

  
Ronald Shaver, Mayor

Passed, approved, and adopted on the second and final reading and ordered published this 7<sup>th</sup> day of December, 2021.



THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

  
Ronald Shaver, Mayor

ATTEST:

  
John Brennan, City Clerk

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

CERTIFICATE

I, John Brennan, the duly appointed, qualified Clerk of the City of Fort Morgan, Colorado, do hereby certify that the foregoing Ordinance No. 1259 was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 16<sup>th</sup> day of November, 2021. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 19<sup>th</sup> day of November, 2021, 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 7<sup>th</sup> day of December, 2021. Within five (5) days after its final passage, said Ordinance No. 1259 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