

ORDINANCE NO. 1267

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO AMENDING CHAPTER 11, ARTICLE 4, REGARDING LOCAL IMPROVEMENT DISTRICTS, TO IMPLEMENT STATE-LEVEL BEST PRACTICES

WHEREAS, the City of Fort Morgan, Colorado (the "City") has been duly organized and is validly existing as a home rule city under Article XX, Section 6 of the Colorado Constitution and the City Charter;

WHEREAS, pursuant to this authority, the City has previously adopted procedures related to the creation of local improvement districts, the construction of improvements therein, and the assessment of costs on the properties especially benefitted, codified as Chapter 11, Article 4 of the Fort Morgan Municipal Code (the "Code");

WHEREAS, state law also provides for similar procedures for local governments to create local improvement districts, construct improvements therein, and assess the cost on the properties especially benefitted, codified as § 31-25-501 *et seq.*, Colorado Revised Statutes;

WHEREAS, the procedures outlined in the Code differ slightly from those set forth at the state level, specifically with respect to notice and bonding requirements;

WHEREAS, the state-level local improvement provisions require that notice be mailed directly to the property owners within the proposed district in addition to publication in a newspaper of general circulation, thereby further advancing the due process interests of those property owners;

WHEREAS, the state-level local improvement provisions are permissive with respect to whether the local government must use bond financing, thereby increasing a local government's freedom with respect to financing options;

WHEREAS, the City's current local improvement provisions only require notice to be published in a newspaper of general circulation and mandate that the City issue bonds to finance the construction of local improvements;

WHEREAS, the aforementioned state-level local improvement provisions reflect the best practices with respect to the establishment and financing of local improvement districts;

WHEREAS, other clerical errors have been identified in the City's current local improvement provisions that warrant revision; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general welfare of its residents to amend Chapter 11, Article 4 of the Code,

as it relates to local improvement districts, to implement state-level best practices and to correct clerical errors.

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

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

Section 2. Chapter 11, Article 4 of the Code, concerning local improvement districts, is hereby amended to read as follows:

Sec. 11-4-70. - Publication of improvement details.

The City Council shall, by advertisement for two (2) weeks in a newspaper of general circulation published in the City and by mail to each property owner to be assessed for the cost of the improvements within the district, give notice to the owners of real estate in the district and to all persons interested generally of the following information:

- (1) The kind or kinds of improvement proposed, without mentioning minor details or incidentals.
- (2) The number of installments and time in which the cost of the improvement will be payable.
- (3) The rate of interest on unpaid installments.
- (4) The extent of the district to be assessed by boundaries or other brief description.
- (5) The probable cost as shown by the estimate of the City Manager.
- (6) The maximum share of the total estimate per front foot, or per square foot on ordinary lots, specifying the size where to assessment is made according to area, that will be assessed upon any lot or lands in the district. In case the assessment shall be made otherwise than per front foot or per square foot, the maximum share to be assessed upon any lot or lands in the district, or to any person, shall be stated according to the method of assessment adopted in the district.
- (7) The time, not less than thirty (30) days after the first publication, when the City Council will consider the ordering of the proposed improvements and hear all complaints and objections that may be made in writing concerning the proposed improvements, by the owner of any real estate to be assessed or any persons interested.

(8) That the map and estimate and all proceedings of the City Council in the premises are on file, and can be seen and examined, at the office of the City Manager, during business hours, at any time within the period of thirty (30) days by any person interested.

Sec. 11-4-190. - Sale of bonds generally.

All local improvements shall may be paid for in cash out of the proceeds derived from the sale of the public improvement bonds of the City, of such date and in such form as will be prescribed by the City Council, the bond bearing the name of the district improved and payable to bearer in a sufficient period of years to cover the period of payments, but subject to call as provided for in Section 11-4-210 below in convenient denominations of not more than one thousand dollars (\$1,000.00) each. All such bonds shall be issued by the City Council in sufficient amount to provide funds to pay for the local improvements, expenses, necessary interest before the first assessment can be collected and rights-of-way contemplated by this Article, and the City Manager shall preserve a record of the same in suitable book kept for that purpose. The bonds shall be subscribed by the Mayor, attested by the City Manager, under the seal of the City and registered by the City Manager, the bonds to be payable only out of the moneys collected on account of the assessments made for the improvements respectively, and all moneys collected on account of the assessments for any improvement shall be applied to the total payment of the bonds, and the City Council shall, at public or private sale, upon such terms and conditions as it may determine, sell sufficient of the bonds to raise the funds required to carry out the provisions of this Chapter.

Sec. 11-4-360. - Notice of hearing.

The City Manager shall mail to each property owner to be assessed for the cost of the improvements within the district and publish once each week for three (3) consecutive weeks in a newspaper of general circulation published in the City notifying the owners of the real estate to be assessed and all persons interested, generally and without naming such owners or persons, that improvements have been or are about to be completed and accepted, specifying the whole cost of the improvements and the share so apportioned to each lot or tract of land or person. Said notice shall also specify that any complaints or objections that may be made in writing by such owners or persons to the City Council, and filed with the City Manager, on or before a date specified in the notice (which date shall be no earlier than the fourth day after the last publication of said notice) will be heard and determined by the City Council at its first regular meeting after the last day for filing objections and before the passage of any ordinance assessing the cost of the improvements.

Sec. 11-4-400. - Assessment rolls prepared.

The City Manager shall, from the statement required by Section 11-4-350 above and the assessing ordinance required by Section 17-28 11-4-370, prepare a local assessment roll, in book form, showing in suitable columns each piece of real estate assessed, the total amount of the assessment, the amounts of each installment of principal and interest, if in pursuance of Section 11-4-470 of this Article the same is payable in installments and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount or of any installment or penalty.

Sec. 11-4-410. - Delivered for collection.

After the lapse of thirty (30) days from the final publication of the assessment ordinance required by Section 17-28 11-4-370, the City Manager will deliver the assessment rolls required by the preceding Section to the County Treasurer for collection. The assessment rolls shall be certified by the City Manager under the seal of the City, with his or her warrant for the collection of the same. The City Manager shall charge the amount of the assessment roll to the County Treasurer, who shall receipt to the City Manager for the same.

Sec. 11-4-460. - When payable.

All assessments made pursuant to this Article shall be due and payable within thirty (30) days after the final publication of the assessing ordinance, as required by Section 11-4-70 11-4-370 of this Article, without demand.

Section 3. 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 17th DAY OF MAY, 2022.



THE CITY COUNCIL OF THE CITY OF FORT
MORGAN, COLORADO


Lyn Dear, Mayor

ATTEST:


John Brennan, City Clerk

PASSED, APPROVED, AND ADOPTED ON THE SECOND AND FINAL READING AND ORDERED PUBLISHED THIS 7th DAY OF JUNE, 2022.



THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO



Lyn Deal, Mayor

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. 1267 was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 17th day of May, 2022. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 21st day of May, 2022, 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, 2022. Within five (5) days after its final passage, said Ordinance No. 1267 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