

## ORDINANCE NO. 1279

### AN ORDINANCE AMENDING CHAPTER 4, REVENUE AND FINANCE, OF THE FORT MORGAN MUNICIPAL CODE ADDRESSING AND REGULATING THE IMPOSITION AND COLLECTION OF USE TAX

**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, as a Home Rule City, has broad plenary authority in the areas of use and sales tax; and

**WHEREAS**, the City has for years required collection of sales and use taxes on construction and building materials; and

**WHEREAS**, the City sales and use tax ordinances incorporate State statutory definitions, which do not provide adequate guidance to taxpayers as to what materials have been and remain subject to tax; and

**WHEREAS**, it is in the best interest of the City, the business community and taxpayers that this matter be clarified; and

**WHEREAS**, this clarification is not anticipated to alter the City's revenue, as this change simply clarifies long-standing City tax practices, and an election is therefore not needed or required under Article 10 Section 20 of the Colorado Constitution; and

**WHEREAS**, the Colorado Municipal League has created a "standard" definition of "construction and building materials" that has been adopted by virtually all home rule municipalities in Colorado; and

**WHEREAS**, adoption of this standard definition would clarify and simplify the City's tax code;

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

**SECTION 1.** Findings. The above and foregoing are hereby incorporated by this reference as specific findings and determinations of the Council.

**SECTION 2.** Section 4-3-20, is hereby amended by the addition of the following subsection as follows:

**Sec. 4-3-20. - Definitions.**

...

(c) *Construction and Building Materials* means tangible personal property which, when


combined with other tangible personal property, loses its identity to become an integral and inseparable part of a structure or project including public and private improvements. Construction and Building Materials include, but are not limited to, such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wallpaper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms, or other items which do not remain as an integral and inseparable part of completed structure or project are not construction materials.

**SECTION 3.** If any section, provision, paragraph, clause or phrase of this Ordinance is held, or decided to be unconstitutional, invalid or enforceable for any reason, such decision shall not affect the constitutionality, validity or enforceability of the remaining portions of this Ordinance.

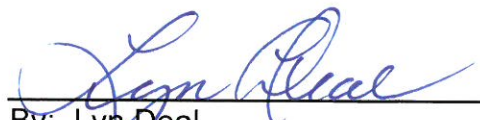
**SECTION 4.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED  
PUBLISHED** on the 21<sup>st</sup> day of March, 2023.



Attest:  
  
John Brennan  
City Clerk

THE CITY COUNCIL OF THE CITY OF FORT  
MORGAN, COLORADO

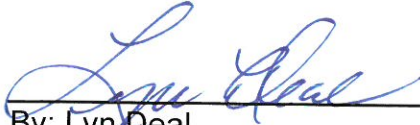
  
By: Lyn Deal  
Mayor

**PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED  
PUBLISHED** this 4<sup>th</sup> day of April, 2023

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

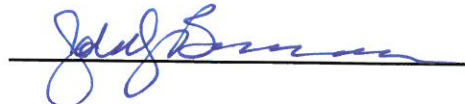


Attest:  
John Brennan  
City Clerk

  
By: Lyn Deal  
Mayor

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. 1279** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, on the 21<sup>st</sup> day of March 2023, said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same 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. 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 4<sup>th</sup> of April, 2023. Within five (5) days after its final passage, said **Ordinance No. 1279** 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