

## ORDINANCE NO. 1306

### AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF FORT MORGAN, COLORADO AMENDING SECTION 1-2-10 ENTITLED DEFINITIONS IN THE FORT MORGAN CITY CODE AND AMENDING VARIOUS SECTIONS OF THE CODE FOR CONSISTENCY THEREWITH

**WHEREAS**, the City of Fort Morgan, Colorado (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; and

**WHEREAS**, pursuant to C.R.S. § 31-15-401, the City possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

**WHEREAS**, the Fort Morgan City Council (Council) recognizes the value of having clear regulations and standards to inform residents and those conducting business in the City as to what is required per the City's Municipal Code (Code);

**WHEREAS**, from time to time, it becomes evident that definitions in the City's ordinances require amendment in order to enhance clarity and applicability;

**WHEREAS**, timely publication of items in the local newspaper, as dictated by the City Charter and Code provisions, has become impossible due to recent changes in the frequency of publication of the City's only newspaper and its deadlines for submission of legal notices; and

**WHEREAS**, Fort Morgan citizens primarily look to the City's website for information about meetings of the City Council and City Council work product; and

**WHEREAS**, timely publication on the City's website, instead of in a newspaper of the City, would now better serve the public interest and allow the City to continue to adhere to the longstanding publication guidelines set forth in the Charter and Code; and

**WHEREAS**, on November 5, 2024, the City electors adopted a ballot question modifying the City Charter to permit publication of ordinances on the City website; and

**WHEREAS**, the passing of this ballot question resulted in the amendment of Charter Section 4 – Ordinances, Resolutions, and Motions – and Charter Section 5 – Publication and Record, etc. by removing the requirement for ordinances to be published in newspapers and, instead, requiring ordinances to be published on the City's website; and

**WHEREAS**, the Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents to amend Section 1-2-10 of the

Code (the "Code"), through the addition of the definition of the term "publish" so that the term mirrors the requirements set forth in the aforementioned Charter amendment; and

**WHEREAS**, the Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents to amend Code Sections 2-1-30(a), 2-1-50(a)-(b), 4-7-100(a), 4-7-220, 6-3-80(a)(5), 6-3-90(b), 11-2-80, 11-4-70, 11-4-210, 11-4-360, 20-3-40, and 20-3-140(c) for consistency purposes in light of the addition of the definition of the term "publish" in Section 1-2-10.

**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.** Section 1-2-10 of the Fort Morgan Municipal Code, entitled Definitions, is hereby amended to read as follows:

**Sec. 1-2-10. - Definitions.**

**"Publish" means to make publicly available for review. Whenever the words "publish," "published," or "publication" are used in this Code, such words shall be interpreted to permit publication on the City's website and shall no longer be interpreted to require publication in a newspaper of the City.**

**Section 3.** Section 2-1-30(a) entitled *Notice of Elections* shall be amended to read as follows:

(a) The City Clerk shall give notice in writing of each regular or special election, in which shall be stated the time when it will be held, the polling place of each precinct and the officers then to be elected and the questions to be voted upon, by causing the same to be published or posted as is provided for in Section 2-1-60 below **Section 1-2-10** at least sixty (60) days before any general election day and at least forty-five (45) days before any special election day. A copy of such notice shall also be sent by mail to the judges of election in each precinct to be posted at the place of voting, at least twenty-five (25) days before election day.

**Section 4.** Section 2-1-50(a)-(b) entitled *List of Candidates to be Published* shall be amended to read as follows:

(a) The City Clerk shall give notice by publishing ~~in not less than one (1) nor more than two (2) newspapers published within the City a list of all nominations to offices filed with him or her as provided in Section 1-2-10.~~ If there be no newspaper published within the limits of the City, the City Council may provide by resolution for publication in some newspaper or newspapers of general circulation in the City. Such publication shall be made one (1) time only and at least

ten (10) days before election, except as otherwise provided in this Section. Such publication shall contain only the names of each candidate and shall be, as far as possible, in the form in which such nominations shall appear upon the official ballot, except that reference to ward shall be made where applicable.

(b) ~~The City Clerk shall select the paper or papers for such publication which have the largest circulation within the City. For the purpose of ascertaining which paper has the largest circulation, the City Clerk may require a sworn certificate showing the number of bona fide subscribers to each newspaper. In making additional publications, the City Clerk shall keep in view the object of giving information as far as possible to the largest number of voters. Should the City Clerk find it impossible to make the publication ten (10) days before the election day, he or she shall make the same at the earliest possible day thereafter, and the publications in any weekly newspaper shall be in the last issue thereof before the day of election except that, in any event, with such the publication being shall be made at least four (4) days prior to election day.~~

**Section 5.** Section 4-7-100(a) entitled *Sale of Personal Property* shall be amended to read as follows:

(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 are set forth in Section 1-2-10. may include posting in public places, a newspaper of general circulation, the City's Internet website, etc.

**Section 6.** Section 4-7-220 entitled *Notice and publication* shall be amended to read as follows:

Commencing with the year 2025 1993, the City Manager shall cause a notice to be published twice, for two (2) successive weeks, not later than July 1st of each year, as set forth in Section 1-2-10. in a newspaper of general circulation in the City. The notice shall be entitled Notice of Persons Appearing to be Owners of Abandoned Property and must contain:

- (1) The names, in alphabetical order and any last known address of persons to whom, according to the records of the City, abandoned property is apparently distributable;
- (2) A statement that any person claiming an interest in the property must file a proof of claim with the City Manager, pursuant to Section 4-7-200 of this Article.

(3) The City Manager shall not be required to publish notice if no distributable intangible property shall become abandoned during the preceding year. Neither shall the City Manager be required to publish notice regarding any item of abandoned intangible property with a value of less than twenty-five dollars (\$25.00), unless the City Manager considers such publication to be in the public interest.

**Section 7.** Section 6-3-80(a)(5) entitled *Procedure upon order to trim or remove; appeal* shall be amended to read as follows:

(a) When the City Forester shall find it necessary to order the trimming or removal of trees upon private property as authorized by the provisions of this Chapter, a written order to do the work or correct the condition shall be served upon the owner, operator, occupant or other person responsible for the premises. The order shall be served in one (1) of the following ways:

- (1) By making personal service of the order upon the person responsible; such service may be made by the Police Department;
- (2) By leaving the order with an adult member of the family of the person responsible; such service may be made by the Police Department;
- (3) By securely affixing the order to the door at the entrance of the premises;
- (4) By mailing a copy of the order to the last known address of the owner of the premises; or
- (5) By publishing a copy of the order as set forth in Section 1-2-10 in the local newspaper three (3) times, once a week for three (3) successive weeks.

**Section 8.** Section 6-3-90(b) entitled *Failure to comply; assessment of cost for compliance* shall be amended to read as follows:

(b) If the cost of remedying a condition is not paid within ten (10) days or such other additional time as may be allowed by the City Manager, the City Manager shall cause a notice of such assessment to be mailed, by first class mail, to the owner. In addition, said notice shall be published for fourteen consecutive days as set forth in Section 1-2-10 once each week for two (2) successive weeks in a newspaper of general circulation in the City, with the last date of such publication occurring on the first day of the hearing. publication to be not less than one (1) week prior to the date of the hearing. Said notice of assessment shall advise the property owner of the amount assessed against the property and shall designate a time and place when the City Council will hear any objections as to the correctness of the amount so assessed.

**Section 9.** Section 10-6-30 entitled *Apportionment of cost; notice; hearing* shall be amended to read as follows:

The statement of the City Manager of the cost and expense of the sidewalk required to be constructed, widened, repaired or reconstructed, as apportioned by him or her, shall be accepted as correct; and in case such assessment shall not be paid within ten (10) days after making the same, the City Manager shall cause a notice of such assessment to be given to the owners and all other person interested in such property by publication ~~in a newspaper published in the City as set forth in Section 1-2-10~~ for ten (10) days (once each week for three [3] successive weeks). Such notice shall state the amount assessed against each lot or other subdivision of property and designate a time and place when the City Council will hear any objections such owner or other person interested in such property shall make, and the City Council may correct and perfect any such assessment incorrectly or improperly made.

**Section 10.** Section 11-4-70 entitled *Publication of Improvement Details* shall be amended to read as follows:

The City Council shall, ~~as set forth in Section 1-2-10 by advertisement for two (2) weeks in a newspaper of general circulation published in the City~~, 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.

**Section 11.** Section 11-4-210 entitled *Redemption* shall be amended to read as follows:

Whenever considered prudent by the City Manager, he or she may, and whenever funds may be in his or her hands to the credit of any improvement district, exceeding six (6) months' interest on the unpaid principal, he or she shall, by advertisement for one (1) week as set forth in Section 1-2-10,~~in some newspaper of general circulation published in the City~~, call in a suitable number of the bonds of such district for payment. At the expiration of thirty (30) days from the first publication of the notice, the interest on the bonds so called shall cease. The notice shall specify the bonds so called by numbers and all bonds shall be paid in their numerical order. The holder of any bonds may at any time furnish his or her post office address to the City Manager, and in such case, a copy of the advertisement shall be mailed by the City Manager to the holder of the bonds called, at his or her address, on the first day of publication.

**Section 12.** Section 11-4-360 entitled *Notice of Hearing* shall be amended to read as follows:

**Pursuant to the publication requirements set forth in Section 1-2-10,** ~~T~~the City Manager shall publish a Notice of Hearing 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 fourteen days ~~the fourth day after the first day on which said notice was published~~ ~~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.

**Section 13.** Section 20-3-40(b) and (e) entitled *Public hearing notice requirements* shall be amended to read as follows:

(b) Published Notice. At least fifteen (15) days prior to any public hearing which requires published notice, the Director shall cause to be published ~~in the legal section of a newspaper of general circulation within the City~~ a notice of such public hearing pursuant to the requirements of Section 1-2-10. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by at least two (2) of the three (3) following methods: (1) street address; (2) general description, such as proximity to intersecting streets; or (3) a legal description.

(e) Public Notice Time Requirements. Unless otherwise provided in this Chapter, public notice time requirements include the day the notice is posted, ~~is published pursuant to the requirements of Section 1-2-10 appears in the newspaper or is mailed, and shall also include the day of the public hearing.~~

**Section 14.** Section 20-3-140(c) entitled *Vested Property Rights – Notice of Approval* shall be amended to read as follows:

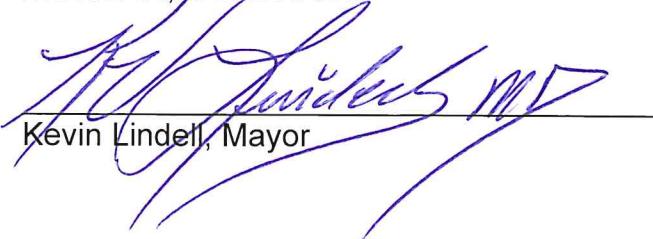
(c) Notice of approval. Each map, plat, site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended." The failure of any such document to contain this statement shall not invalidate the creation of the vested property right. In addition, a notice generally describing the type and intensity of use approved, the specific parcel of property affected and stating that a vested property right has been created, shall be published once, not more than fourteen (14) days after approval of the site specific development plan, as set forth in Section 1-2-10 ~~in a newspaper of general circulation within the City.~~

**Section 15.** *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~~ THE 17TH DAY OF DECEMBER, 2024.



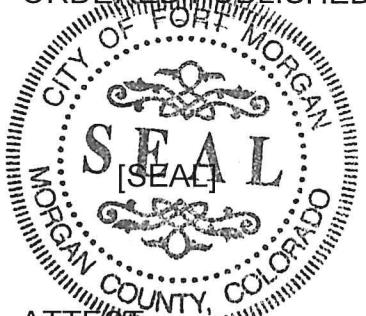
THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

  
Kevin Lindell, Mayor

ATTEST:

  
John Brennan, City Clerk

PASSED, APPROVED, AND ADOPTED ON THE SECOND AND FINAL READING AND ORDERED PUBLISHED THIS 7<sup>th</sup> DAY OF JANUARY, 2025.



ATTEST:

  
John Brennan, City Clerk

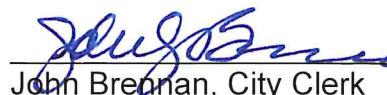
THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

  
Kevin Lindell, Mayor

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. 1306** 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 December, 2024. Said ordinance, as proposed, was duly read at length at said meeting, and thereafter the same was, on the 26<sup>th</sup> day of December, 2025, published in *The Morgan County 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 January, 2025. Said Ordinance No. 1306 was then published in *The Morgan County Times*, a newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

  
John Brennan, City Clerk