

# ORDINANCE NO. 1050

## AN ORDINANCE SUBMITTING TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF FORT MORGAN, THE PROPOSED AMENDMENTS TO THE *CHARTER* OF THE CITY OF FORT MORGAN AS RECOMMENDED BY THE HOME RULE CHARTER REVIEW COMMITTEE OF THE CITY OF FORT MORGAN, COLORADO.

**Whereas**, the Home Rule Review Committee was established by the City Council, its charge to “review and make recommendations concerning the governance and administration provisions of the Charter and, specifically, Articles IV, V, and X, with a view towards ensuring a functional and streamlined organizational structure of the City;” and,

**Whereas**, the Committee, composed of nine residents has approved that the governance and administration provisions of the *Charter* be amended by changing from a Mayor-Council form of government to a Council-Manager form of government and by updating, streamlining, clarifying and otherwise revising other provisions of the *Charter*.

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

**Section 1.** That the following proposed changes to the *Charter* of the City of Fort Morgan be submitted to the registered electors of the City as “Proposed *Charter* Amendments No. 1” at the regular municipal election to be held on Tuesday, November 6, 2007:

### ARTICLE I

#### **Name, Boundaries, Rights, Powers, Liabilities, Form of Government**

##### **Sec. 1. Name; boundaries.**

The municipal corporation, heretofore existing as a city of the second class in Morgan County, State of Colorado, and known as Fort Morgan, shall remain and continue a body politic and corporate under this Charter, with the same name and boundaries, until changed in the manner authorized by law.

##### **Sec. 2. Rights; powers; liabilities.**

(a) By the name of Fort Morgan, the City shall have perpetual succession; shall own, possess and hold all the property, real and personal, heretofore owned, possessed and held by said city; shall assume and manage all trusts in any way connected therewith; and shall succeed to all rights and assume all liabilities thereof.

(b) The City shall have power to sue and defend and plead and be impleaded in all courts and places and in all matters and proceedings; to use a common seal and alter the same at pleasure; to purchase, receive, hold, enjoy, sell and dispose of real and personal property; to receive gifts, bequests and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and to sell, manage, lease and otherwise do all acts and things necessary to carry

out the purposes and terms of such gifts, bequests and donations.

(c) All powers shall be exercised in the manner set forth in this charter or, if not provided for in this charter, in such manner as shall be provided by ordinance or resolution.

**Sec. 3. Form of government.**

The municipal government provided by this charter shall be known as a council-manager government.

**ARTICLE II**

**Elected Officials**

**Sec. 1. Officers.**

The elected officials of this City under this Charter shall be one mayor at large and two council members from each ward.

**Sec. 2. Qualifications.**

No person shall be eligible to office unless at the time of their election he or she is a citizen of the United States, a registered elector of Fort Morgan, and shall have resided in the City for one year immediately prior thereto. A councilmember shall reside in the ward from which he or she is elected or appointed, but there shall be no separate time of residency requirement within the ward. (As amended 11/6/01)

**Sec. 3. Vacancies.**

If a vacancy shall occur in any elective office, the city council shall appoint an eligible person to fill such vacancy and the person so appointed shall hold his or her office until the next regular municipal election and until his successor is sworn. The person so appointed shall only serve until the next regular municipal election at which time an eligible person shall be elected to serve the remainder of that unexpired term. The candidate from the ward electing more than one person, who receives the second highest number of votes, shall serve the remainder of the unexpired term of two (2) years. If two (2) or more vacancies exist simultaneously on the council, the remaining members shall, at the next regular meeting of the council, call a special election to fill such vacancies, unless there will be a regular municipal election within ninety (90) days and unless their successors have previously been elected. A vacancy shall exist when an elective officer fails to be sworn as provided in article III, section 1, within ninety days after the election, dies, resigns, removes from the City or from the ward, if applicable, absents himself or herself continuously without reasonable excuse for thirty days from the duties of their office, is convicted of violating any provision of this Charter, or of a felony, or is judicially declared to be an incapacitated person as defined by statute. (As amended 11/6/01)

## **ARTICLE III**

### **The Council**

#### **Sec. 1. Membership; rules.**

(a) The council shall consist of the mayor elected at large and two councilmembers from each ward chosen by the electors of such ward. It shall be the judge of the election and qualification of its own members, shall determine its own rules of procedure, may punish its members a violation of such rules, and may compel the attendance of members.

(b) The mayor and each councilmember shall, before entering upon the duties of office, swear or affirm to support the Constitution of the United States, the Constitution of Colorado, and the Charter and ordinances of the City of Fort Morgan, and faithfully to perform the duties of the office.

#### **Sec. 2. Organization.**

Each council at its first regular meeting, and thereafter when a vacancy in the office shall occur, shall elect one of the councilmembers mayor pro tem.

#### **Sec. 3. Meetings; quorum.**

The council shall meet the first and third Tuesday of each month at the City Hall at an hour to be fixed from time to time by the rules of procedure of each council, and the council shall have power by ordinance, to prescribe the manner of calling special meetings thereof. If the first or third Tuesday falls on a legal holiday, the meeting shall be held on the next succeeding day which is not a legal holiday. A majority of the members of the council shall constitute a quorum to do business. The council shall sit with open doors at all sessions, and shall keep a journal of its proceedings which shall be a public record.

#### **Sec. 4. Ordinances, resolutions, motions.**

(a) In all matters coming before it, the council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the council proceedings. Every member, when present, must vote, and every resolution and motion shall require for passage a majority vote of the council, and every ordinance shall require on final passage the affirmative vote of four members of the council. The enacting clause of all ordinances shall be in the words: "Be it Ordained by the Council of Fort Morgan." All contracts involving in the aggregate an expenditure of ten thousand dollars or more, shall be authorized only by resolution. Every proposed ordinance before its final passage shall be read in at least two regular meetings of the council, may be amended on its first and second readings, and shall be published in full once in a newspaper of the City at least ten days before its final passage.

Whenever the reading of an ordinance is required by this Charter, such requirement shall be satisfied if the title of the proposed ordinance is read and the entire text of the proposed ordinance is submitted in writing to the council before adoption. (As amended 11/6/01)

(b) The city clerk shall keep a journal of the council proceedings in which shall appear a record of all ordinances, resolutions and motions of the council, and shall keep such other records as required by this Charter or by ordinance.

**Sec. 5. Publication and record, etc.**

Every ordinance passed shall be published once in a newspaper of the City, within five days after its final passage, by publication in full or by title only as may be determined by the council at the time of second reading, and shall not take effect until five days after publication, except the tax levy ordinance, the annual appropriations ordinance and ordinances ordering improvements initiated by petition and to be paid for by special assessments, which ordinances shall take effect immediately upon publication. If publication of an ordinance after introduction was in a newspaper of the City, publication after adoption may be in the same newspaper by title only and shall contain the date of the initial publication and shall reprint in full any section, subsection, or paragraph of the ordinance which was amended following the initial publication. Publication of an ordinance following its adoption may be in full at the discretion of the council. No ordinances or section thereof shall be amended or repealed except by ordinance.

The mayor within three days after their final passage shall sign all ordinances, both upon the ordinance itself and in the "Ordinance Record," and also all resolutions of the council; and the city clerk in like time shall attest and affix the seal of the City to all ordinances, both upon the ordinance itself and in the "Ordinance Record," and to such resolutions and motions as the council shall direct. A true copy of each ordinance of the City shall be kept in a book marked, "Ordinance Record." (As amended 11/6/01)

**Sec. 6. Statements.**

The council shall cause to be published monthly a detailed statement of all expenditures of the City during the preceding month.

**Sec. 7. Appointments.**

All votes of the council upon appointments shall be by ballot. Where this charter provides for the council to appoint or remove any person, the vote of a majority of the council shall be necessary for such appointment or removal.

**ARTICLE IV**

**The Mayor and the Council**

**Sec. 1. Mayor.**

The mayor shall be a member of the council, shall have the same powers and responsibilities as any councilmember, and when present shall preside at all meetings of the council.

**Sec. 2. Duties; authorities; powers.**

(a) The mayor shall be recognized as the head of the City government for all ceremonial and dignitary purposes, by the courts for serving civil process, and by the state and federal governments for purposes of military law.

(b) The mayor shall have such emergency powers as conferred by the city council.

(c) The mayor shall have the power to administer oaths in any proceeding requiring the same.

(d) The mayor shall sign all warrants, contracts, bonds or other instruments requiring the signature of the mayor.

(e) The mayor shall have such other powers and responsibilities as may be provided by ordinance not in conflict with this Charter.

### **Sec. 3. Mayor pro tem.**

The mayor pro tem shall, during the absence of, or inability of the mayor to act, exercise all the powers and responsibilities of the mayor.

### **Sec. 4. Powers.**

(a) The City shall have all the power of home rule and local self-government, within and without its corporate boundaries, and all power possible for the City under the state constitution. All such powers shall be exercised in a manner consistent with the United States constitution, the state constitution, and this Charter.

(b) Except as otherwise provided in this Charter, the City shall also have all powers granted to cities, towns, and municipalities by the state statutes.

(c) The enumeration of specific powers in this Charter shall not be considered as limiting or excluding any other power under the state constitution. All powers shall be exercised in the manner set forth in this Charter or, if not provided for in this Charter, in such manner as shall be provided by ordinance.

(d) Without limiting the generality of the foregoing, the City, acting through the council, shall have power to:

(1) Provide for the construction, maintenance, operation, and disposition of public improvements, public works, public utilities, public services, and public buildings of every nature, and to make assessments for the same in such manner as may be prescribed by ordinance;

(2) Pass ordinances for the protection of the public health, safety, and welfare, and provide penalties for the violation thereof;

(3) Provide for the establishment, maintenance, and improvement of parks, cemeteries and public grounds of the City,

(4) Provide for the establishment and maintenance of public libraries;

(5) Form, in the manner provided by ordinance, improvement districts for any public purpose, and provide for the manner of assessment of owners of land therein;

(6) Appoint and remove a city manager, a city attorney, and a municipal judge and deputy municipal judges, in the manner provided in this Charter. In addition to these appointed officials the volunteer fire chief, who is selected and removed according to the fire department bylaws shall report to city council until such time that city council by ordinance requires the fire

department be placed under the supervision of the city manager;

(7) Establish boards and commissions, provide for their powers and responsibilities, and appoint and remove their members;

(8) Require a bond or insurance, in such amount as determined by the council, for any position that is determined by the council to be a position of trust; and

(9) Raise revenues and issue bonds and other securities, subject to applicable provisions of the Colorado constitution and this Charter.

**Sec. 14. Condemnation.**

In carrying out the powers and responsibilities imposed upon it by this Charter, the City, acting through the council, shall have power to acquire within or without its corporate limits, property, property rights, and interests in property of every nature, and may take the same upon paying just compensation to the owner as provided by law.

**ARTICLE V**

**City Administration**

**Sec. 1. City manager.**

(a) The council shall appoint a city manager to serve at the pleasure of the council, shall establish the city manager's compensation, and shall evaluate the city manager's performance at least annually.

(b) The city manager shall become a resident of the City within six (6) months of appointment, and shall remain a resident of the City throughout the manager's appointment.

**Sec. 2. Acting city manager.**

The council shall designate a qualified person to serve as acting city manager during the manager's absence or disability, or during times when the position is vacant.

**Sec. 3. Exclusive service to city.**

During the period of the appointment, the city manager shall not be an employee of, or perform any services for compensation from, any person or entity other than the City, unless the manager has first obtained the approval of the council.

**Sec. 4. Powers and responsibilities of manager.**

The city manager shall be the chief administrative officer of the City. The city manager shall have the following powers and responsibilities:

(a) Be responsible for the enforcement of the ordinances, resolutions, franchises, contracts, and other enactments of the City.

(b) Establish and implement personnel rules and regulations for City employees.

(c) Cause a proposed budget to be prepared and submitted to the council annually, and be responsible for the administration of the adopted budget.

(d) Cause to be prepared and submitted to the city council, as of the end of the fiscal year, a complete report on finances and administrative activities of the City for that year, and make other reports as requested by the council concerning the matters of the City in the manager's charge.

(e) Keep the city council advised of the financial condition and future needs of the City.

(f) Except as otherwise required by this Charter, establish a chain of command and, through that chain of command, exercise management and control over all City departments, including the selection and removal of department heads. However, notwithstanding the foregoing, city council has the authority to assign and remove the city's fire department to the direction of the city manager as it deems necessary.

(1) At the time the fire chief and firefighters are under the authority of the city council, they shall be selected by the members of said department pursuant to bylaws established by the department, and shall be subject to removal by said members pursuant to said bylaws or any process established by city council ;

(2) Unless otherwise provided by ordinance, the fire chief shall report to the council and not to the manager; and

(3) Unless otherwise provided by ordinance, the supervision of any paid employees of said department shall be exercised by the fire chief and subject to city council oversight, but such employees, and their selection and removal, shall be subject to personnel enactments generally applicable to City employees.

(g) Make recommendations to the city council concerning the establishment, consolidation or abolition of such departments; but any such establishment, consolidation, or abolition shall be done by ordinance.

(h) Attend council meetings and participate in discussions with the council in an advisory capacity.

(i) Be responsible for informing the public on City functions and activities.

(j) Perform such other duties as prescribed by this Charter, or as required by the council and not inconsistent with this Charter.

**Sec. 5. Council's relationship to employees.**

(a) Neither the council, nor any member of the council, shall dictate or interfere with the appointment of, or the duties of, any City employee subordinate to the city manager or to the city attorney, or prevent or interfere with the exercise of judgment in the performance of the employee's City responsibilities. The council, and each member of the council, shall deal with such employees solely through the manager or the city attorney, as applicable, and shall not give orders or reprimands to any such employee.

(b) The city manager alone shall be responsible to the council for the proper administration of all matters placed in the manager's charge by or pursuant to this Charter.

**Sec. 6. Status of employees.**

All employees shall be subject to removal at any time and without cause, except as otherwise provided by this Charter.

**Sec. 7. Transition.**

Nothing in this article shall affect any department existing or employee holding employment at the time of the adoption of this article. Each such department shall continue in existence until or unless otherwise provided by the council in accordance with this Charter, and each such employee shall continue to hold such employment, subject to the provisions of this Charter, until or unless removed in accordance with this Charter and the personnel rules and regulations of the City.

**ARTICLE VI**

**Finance and Revenue**

**Sec. 1. Fiscal year same as calendar year.**

The fiscal year of this City shall commence on the first day of January and end on the last day of December of each year.

**Sec 2. Treasurer.**

There is established the office of city treasurer. Subject to the provisions of this Charter, the treasurer shall have charge over the finances of the City, and shall perform such other functions as provided in this charter or as required by the city manager.

**Sec. 3. Public moneys deposited.**

The cash balance of the city treasurer for deposits in the banks shall be kept on deposit in each of the banks of said city without discrimination. Nothing herein shall prevent said treasurer from temporarily having such funds otherwise deposited; provided, that as soon as practicable, he shall make a redeposit thereof in the manner hereinbefore specified.

**Sec. 4. Demands against city.**

No demand for money against said city shall be approved, allowed or paid, unless it shall be in writing, dated and sufficiently itemized to identify the expenditure, certified to by the head of the proper department and verified by the city treasurer. Demands thus verified shall be paid by City warrants, bearing the signatures of the city clerk and mayor of said city, and drawn upon the City treasury, payable out of the particular fund upon which drawn.

**Sec. 5. Collection of taxes.**

Until the council shall otherwise by ordinance provide, the county treasurer shall collect City taxes in the same manner and at the same time as state taxes are collected; and the law of the state for the assessment of property and the levy and collection of general taxes, including the laws for

the sale of property for taxes and the redemption of the same, shall apply and have as full effect in respect of taxes for the City as of such general taxes, except as otherwise modified by this Charter.

On or before the fifth day of every month, the county treasurer shall report and pay to the city treasurer the amount of tax collections of the City for the preceding month.

**Sec. 6. Adoption of existing law.**

Until the city council shall otherwise by ordinance provide, the statutes of the State of Colorado now or hereafter in force shall govern the making of assessments by the assessor of the county in which said city is situated, the making of equalization by the board of county commissioners of said county and the collection of taxes by the treasurer of said county for and on behalf of said city, and also the certification and collection of all delinquent charges, assessments and taxes.

**Sec. 7. Certificate of assessment.**

It shall be the duty of the city clerk to procure, as soon as possible each year, a certificate from the county assessor of the total amount of property assessed for taxation within the limits of said city, as shown by the assessment roll in the assessor's office.

**Sec. 8. Annual general city estimate.**

On or before the third Tuesday in October each year, or on such date as shall be fixed by the council, the city manager shall submit to the council an estimate of the probable expenditure of the City government for the next ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the City, and the warrants of the municipal government in detail, and showing specifically the amount necessary to be provided for each fund; also an estimate of the amount of income from fines, licenses, water rents and all other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the City.

**Sec. 9. Annual budget.**

The council shall meet annually, prior to fixing the tax levy, and adopt a budget of the estimated amounts required to pay the expenses of conducting the business of the City government for the next ensuing fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each object, purpose, department, office, board or commission, as the council may deem advisable.

**Sec. 10. Annual appropriation.**

Upon said budget as adopted and filed, the council shall pass an ordinance not later than the thirty-first day of December of each year, which shall be entitled: "The Annual Appropriation Ordinance," in which it shall make such tax levy and appropriate such sums of money as it may deem necessary to defray all expenses and liabilities of the City, and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object and purpose therein named for the ensuing fiscal year.

**Sec. 11. Levy.**

Such ordinance shall include the levy in mills upon each dollar of the assessed valuation of all

taxable property within the City. Such levy representing the amount of taxes for City purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the treasurer, and the council shall thereupon cause the total levy to be certified by the city clerk to the county assessor, who shall extend the same upon the tax list of the current year in a separate column entitled: "The City of Fort Morgan Taxes," and shall include all City taxes in his general warrant to the county treasurer for collection as provided by law.

If the council fails in any year to make such tax levy as above provided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year, and the county assessor and county treasurer shall

proceed in all respects in the same manner as if an ordinance had been duly passed and certified fixing such rate.

## **Sec. 12. City indebtedness and other borrowing.**

(a) No general obligation bonds of the City shall be issued in an amount which, together with all then outstanding general obligation bonds, shall exceed three percent of the actual value of the taxable property within the City as determined by the county assessor; provided, however, that in determining the limitation of the City's power to incur such indebtedness there shall not be included bonds issued for the acquisition, improvement or extension of a water system and supply or other public utilities, enterprises, works or ways from which the City will derive a revenue.

(b) No general obligation bonds shall be issued without a vote of the registered electors of the City, except water bonds and except general obligation bonds issued for the purpose of refunding outstanding general obligation bonds of the City.

(c) The city council shall have the power to issue bonds to finance the acquisition, improvement or extension of municipally owned and operated utilities, systems, enterprises, works or ways from which the City will derive a revenue, including water systems and supply, provided that said bonds shall be payable solely out of the revenue to be derived from the operation of such utilities, systems, enterprises or facilities to be acquired, improved or extended.

(d) The council shall have the power to issue special improvement district bonds.

(e) The council shall have the power to issue refunding bonds to refund any bonds to the City then outstanding whenever the same is deemed to be in the best interest of the City.

(f) The council shall have the power to issue short term or interim financing bonds, maturing within three years of their date, in anticipation of and to be payable from the proceeds of the later issuance of general obligation bonds or revenue bonds maturing over a longer period. Such short term bonds shall only be issued upon a determination by the council that their issuance is in the best interests of the City, stating the reasons therefore.

(g) The terms, conditions and details, including the rate of interest, of all bonds shall be fixed by the ordinance authorizing their issuance and the bonds shall be sold in such manner as the council may deem to be in the best interests of the City, at par, above par or below par, at public or private sale or by private placement.

(h) All bonds may contain provisions for calling the same in advance of maturity at designated interest periods and may provide for prepayment premiums, if any, not to exceed three percent of

principal. (11-2-71, §2)

**Sec. 13. Poll tax.**

No poll tax shall ever be taxed or collected by said city for any purpose whatsoever.

**Sec. 14. Occupation tax.**

The council shall have power by ordinance to license, regulate and tax any and all lawful occupations.

**ARTICLE VII**

**Franchises and Public Utilities**

**Sec. 1. Franchise granted upon vote.**

No franchise relating to any street, alley or public place of the said city shall be granted except upon the vote of the registered electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by the city council) of such submission by the applicant for such franchise, and no such franchise shall be granted unless a majority of such electors voting thereon vote in favor thereof.

**Sec. 2. Contracts by ordinance.**

All contracts for service between the City and the owner or manager of any such franchise, shall be made by ordinance, the terms of which shall be agreed to in writing by said owner or manager prior to the passage of such ordinance. No contract for service shall be made by the City for a longer period than two years unless such contract be submitted to a vote of the registered electors of the City, and approved by a majority of those voting on said question.

**Sec. 3. Regulate rates and fares.**

The council shall have power by ordinance to fix and regulate rates, fares and charges for service by public utility corporations and to change the same every five years; provided, that rates, fares or charges shall not be changed without examination by competent inspectors, and the council shall have power to inspect the books and affairs of any public utility corporation as a part of such examination. The right to regulate shall include the right to require uniform, convenient and adequate service to the public, reasonable extensions of such service and of such public utility works and the issuance of transfers without extra charge by all street railway companies good upon the lines of all other street railway companies crossing or connecting with the lines of said companies.

**Sec. 4. Issuance of stock.**

Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

**Sec. 5. License tax.**

The City shall have the right to license or tax streetcars, telephones, gas meters, electric

meters, water meters or any other similar device for measuring service; also telephone, telegraph, electric light, and power poles, subways and wires. The said license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof.

**Sec. 6. Street sprinkling, cleaning and paving.**

Every grant of any franchise or privilege in, over, under or along any of the streets, highways or public places in the City for railway proposes, shall be subject to the conditions that the person, firm or corporation exercising or enjoying the same shall, unless otherwise provided by ordinance, sprinkle, clean, keep in repair, and pave and repave so much of said street, highway or other public place as may be occupied by said railway as lies between the rails of each railway track, and between the lines of double track, and for a space of two feet outside of said track.

**Sec. 7. Franchise provide for safety, etc.**

The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make any regulations for the safety, welfare and accommodation of the public, including among other things, the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits and other like appliances to be placed underground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise.

**Sec. 8. Oversight of water reserved to city.**

Every franchise, right or privilege, which has been or which may hereafter be granted, conveying any right, permission or privilege to the use of the water belonging to the City, or to its water system, shall always be subject to the most comprehensive oversight, management and control in every particular by the City; and such control is retained by the City in order that nothing shall ever be done by any grantee or assignee of any such franchise, right or privilege which shall in any way interfere with the successful operation of the waterworks of the City, or which shall divert, impair or render the same inadequate for the complete performance of the trust for the people under which such waterworks are held by the City, or which shall tend so to do.

**Sec. 9. No exclusive franchise renewal.**

No exclusive franchise shall ever be granted, and no franchise shall be renewed before one year prior to its expiration.

**Sec. 10. No franchise leased; exception.**

No franchise granted by the City shall ever be leased, assigned or otherwise alienated without the express consent of the City, and no dealing with the lessee or assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to operate as such consent. Any assignment or sale of such franchise to any foreign corporation shall operate as a forfeiture to the City of such franchise.

**Sec. 11. Amendment, renewal and extension.**

No amendment, renewal, extension or enlargement of any franchise or grant of right of powers previously or heretofore granted to any corporation, person or association of persons, shall be made except in the manner and subject to all the conditions provided in this article for the making of

original grants and franchises. The City shall require as a condition of any amendment, alteration or enlargement of a franchise or grant, unless otherwise expressly determined by a majority vote of the registered electors of the City, that the person, association or corporation owning the original franchise or grant, shall, as a prior condition to, and in consideration for such amendment, alteration or enlargement, covenant and agree, as a part thereof, that such original franchise, shall be brought within the conditions provided in this article for the exercise and enjoyment of franchises hereafter granted, including the right of the City to purchase the plant and physical property, whether within or without the City limits, or both, at a fair valuation, which valuation shall not include any franchise value, or any earning power of such property.

**Sec. 12. City maintain supervision.**

The City shall maintain general supervision and police control over all public utility companies insofar as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law.

**Sec. 13. Term twenty years; compensation.**

No franchise, lease or right to use the streets or public places, or property of the City, shall be granted by the City, except as in this Charter provided, for a longer period than twenty years. Every grant of franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee for the use of the same and no other compensation of any kind shall be exacted for such use during the life of the franchise; but this provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges or impositions not levied on account of such use.

**Sec. 14. City may purchase, operate or sell; procedure.**

(a) Every grant, extension or renewal of the franchise or right shall provide that the City may upon the payment therefore of its fair valuation, purchase and take over the property and plant of the grantee in whole or in part; such valuation shall be made as provided in the grant, but shall not include any value of the franchise or right of way through the streets or earning power of such property. The valuation may include, as part of the cost of the plant, interest on actual investment during the period of construction and prior to operation. Such grant may provide that if the purchase is made within five years of the time when the franchise is granted, the City shall pay an additional sum or bonus of not to exceed ten per centum on the actual value of the tangible property exclusive of the franchise value, which additional sum or bonus shall be reduced proportionately from such five year period to the end of the franchise period when no bonus shall be given.

The procedure to effect such purchase shall be as follows:

When the council shall, by resolution, direct that the city manager shall ascertain whether any such property or part thereof, should be acquired by the City, or in the absence of such action of the council, when a petition subscribed by a number of registered electors of the City equal in number to at least ten per centum of the last preceding vote cast in the City for mayor of said city, requesting that the manager shall ascertain whether any such property or part thereof should be acquired by the City, shall be filed with the clerk; the manager shall forthwith carefully investigate said property and report to the council:

- (1) At what probable cost said property may be acquired;

- (2) What, if any, probable additional outlays would be necessary to operate the same;
- (3) Whether, if acquired, it could be operated by the City at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists;
- (4) Whether, if acquired, it could be paid for out of its net earnings and, if so, within what time; and
- (5) Such other information touching the same as he shall have obtained.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the council to judge of the correctness of his findings, and immediately after submission to the council, shall be filed, with the city clerk, and published once in a newspaper of general circulation published in the City.

If a petition subscribed by a number of registered electors of the City equal in number to at least ten per centum of the last preceding vote cast in the City for mayor of said city, requesting that the question whether or not the City shall acquire said property shall be submitted to a vote of the people, shall within sixty days after the filing of said report be filed with the clerk, the council shall provide by ordinance for the submission of the question to a vote of the registered electors at a general or special election called for the purpose.

(b) Every grant reserving to the City the right to acquire the plant as well as the property, if any, of the grantee situated in, on, above or under the public places of the City or elsewhere, used in connection therewith, shall in terms specify the method of arriving at the valuation therein provided for, and shall further provide that upon the payment by the City of such valuation, the plant and property so valued, purchased and paid for, shall become the property of this City by virtue of the grant and payment thereunder, and without the execution of any instrument of conveyance; and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service, and for the continued maintenance of the property in good order and repair and its continuous use throughout the entire term of the grant. The grant may also provide that in case such reserved right to operate or to take over such plant or property is not exercised by the City, and it shall, prior to payment for the same, secure a bid for the property and grant a new franchise for the same service or utility, as provided in paragraph "c" of this section, or grant the right to another person or corporation to operate said utility, so occupied and used by its grantor, under the former grant, that the title to and possession of the plant and property so taken away be transferred directly to the new grantee upon the terms upon which the City may have purchased it.

(c) Whenever any plant or property shall become the property of the City of Fort Morgan, the City shall have the option at any time, then or thereafter, either to operate the same on its own account, or by ordinance to lease the same or any part thereof, together with the franchise or right to use the streets or other public property in connection therewith, for periods not exceeding twenty years, under such rules and regulations as it may prescribe, or by ordinance to sell the same provided, however, that no such ordinance to lease or sell shall be adopted except by a majority vote of the registered electors of the City.

**Sec. 15. Charter provisions not to impair right to insert other matters in franchise.**

The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall never be construed as impairing the right of the City to insert in such franchise or grant, such other and further conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeitures, or any other provisions whatever, as the City shall deem proper to protect the interests of the people.

**Sec. 16. Revocable permits.**

The council may grant a permit at any time, in or upon any street, alley or public place, provided such permit may be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or not.

**Sec. 17. Petition to construct public utility.**

If a petition subscribed by a number of registered electors of the City equal in number to at least ten per centum of the last preceding vote cast in the City for mayor of said city, shall be presented to the city council, requesting that the City shall provide for, construct, maintain and operate any public utility for the service of the citizens of said City of Fort Morgan, the council shall proceed in like manner as provided for the procedure to effect the purchase of any franchise as outlined herein.

**ARTICLE VIII**

**Elections**

**Sec. 1. City clerk to have charge of elections.**

There is established the office of city clerk. Subject to the provisions of this Charter, the city clerk shall have charge over all regular and special elections, and shall perform such other functions as provided in this Charter or as required by the city manager.

**Sec 2. Wards.**

(a) The City shall be divided into three (3) wards, the boundaries of which shall be revised only by a resolution adopted by the affirmative vote of a majority of the council.

(b) At the time of revision pursuant to subsection (c), each ward shall be made as compact and contiguous as practicable, and the population in any ward shall not vary by more than five (5) percent from the population in any other ward.

(c) Following each federal decennial census, the boundaries of the wards shall be revised as necessary to meet the requirements of subsection (b). Ward boundaries shall not be changed more frequently unless necessary to conform to any applicable constitutional apportionment requirements. The revision shall be completed within one (1) year after the census figures are released by the federal government.

(d) Territory added to the City shall become a part of such ward or wards as may be determined by resolution; but this shall not prevent the subsequent revision of any ward boundary to conform to constitutional requirements.

(e) No revision in ward boundaries shall create a vacancy during the term of any councilmember in office at the time of the change.

**Sec. 3. Regular and special municipal elections.**

A municipal election shall be held in and for the City of Fort Morgan, on the first Tuesday after the first Monday in November, 1915, and on the first Tuesday in November on every second year thereafter beginning in November, 2005, which shall be known as the regular municipal election. All other municipal elections that may be held shall be known as special municipal elections. (As amended 11/2/04)

**Sec. 4. Registration.**

No person shall be permitted to vote at any municipal election without having been registered. The registration shall be the same as is now or may hereafter be provided by the general laws of the state, except as the council may otherwise provide.

**Sec. 5. Nomination and election of officers.**

The mode of nomination and election of all elective officers of the City to be voted for at any municipal election shall be as follows and not otherwise.

**Sec. 6. Condition of candidacy.**

The name of a candidate shall be printed upon the ballot when the petition of nomination shall have been filed in his behalf, in the manner and form and under the conditions hereinafter set forth.

**Sec. 7. Form of petition of nomination.**

Candidates for municipal offices shall be nominated, without regard to affiliation, by petition on forms supplied by the clerk. A petition of nomination may consist of one or more sheets, but it shall contain the name and address of only one candidate and shall indicate the office to which the candidate is seeking election.

The petition of nomination for councilmember shall consist of not less than twenty (20) individual signatures of registered electors from his or her ward, and the petition of nomination for mayor shall consist of not less than fifty (50) individual signatures of registered electors, which petition of nomination shall read substantially as follows:

STATE OF COLORADO )  
County of Morgan ) ss. **Petition of**  
City of Fort Morgan ) **Nomination**

We, the undersigned, do hereby join in a petition for the nomination of \_\_\_\_\_ whose residence is at \_\_\_\_\_, Fort Morgan, Colorado, for the office of \_\_\_\_\_, to be voted for at the municipal election to be held in the City of Fort Morgan, on the \_\_\_ day of \_\_\_\_\_, 20\_\_; and I certify that I am a registered elector, and residing in Ward \_\_\_ and am not at this time a signer of any other petition nominating any other candidate for the above named office; my residence is at \_\_\_\_\_, Fort Morgan, Colorado.

I also certify that I believe the above named person is qualified to fill the said office. I further certify that I join in this petition for the nomination of the above-named person believing that he has not become a

candidate as the nominee or representative of, or because of any promised support from any political party, or any committee or convention representing or acting for any political party.

(An appropriate number of signature lines shall be inserted on each petition)

STATE OF COLORADO )  
County of Morgan ) ss.  
City of Fort Morgan )

**Affidavit of  
Circulator**

\_\_\_\_\_ being first duly sworn, deposes and says that he or she is the person who circulated the foregoing **Petition of Nomination**; that each signature thereon is the signature of the person whose name it purports to be; that each signer has stated to the circulator that the signer is a registered elector of the City of Fort Morgan or the City and Ward, as the case may be, for which the nomination is made; and that the statements therein are true.

\_\_\_\_\_  
(Signed)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

The **Petition of Nomination** shall, if found insufficient, be returned to \_\_\_\_\_ at \_\_\_\_\_, Fort Morgan, Colorado.

(As amended 11/6/01)

**Sec. 8. Forms supplied by city clerk.**

It shall be the duty of the city clerk to furnish, upon application, a reasonable number of forms of such petition of nomination and of acceptances or rejections of nominations. (As amended 11/6/01)

**Sec. 9. Requirements of petition of nomination.**

Each petition of nomination must be a separate form. All petitions of nomination must be of uniform size as determined by the city clerk. Each petition must contain the names and signatures of the persons signing the petition. Each petition must contain the name of one candidate and no more.

Each registered elector signing a petition shall sign such registered elector's own signature and shall print or, if such elector is unable to do so, shall cause to be printed such elector's legal name, the address at which such registered elector resides, including the street name and number, the city, the county, and the date of the signing. The registered elector, or the person printing on behalf of the registered elector, may use any abbreviations that reasonably identify the residence of the registered elector, and the date the registered elector signed the petition. The circulator of each nomination petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be and that each signer has stated to the circulator that the signer is a registered elector of the City or City and ward, as the case may be, for which the nomination is made. The signature of each signer of a petition shall constitute prima facie evidence of his qualifications without the requirement that each signer make an affidavit as to his qualifications. (As amended 11/6/01)

**Sec. 10. Date of presenting petition.**

Nomination petitions may be circulated and signed beginning on the fiftieth day and ending on the thirtieth day prior to the day of election. Nomination petitions for candidates whose name will be on the ballot at a coordinated election or mail ballot election pursuant to Articles 1 to 13 of Title 1, C.R.S., shall be circulated, signed, and filed with the clerk within the period set forth in C.R.S. §1-4-805, as now provided or as subsequently amended. (As amended 11/3/87, 11/7/95, 11/6/01)

**Sec. 11. Examination of petition by city clerk.**

When a petition of nomination is presented to the city clerk for filing, he or she shall forthwith examine the same, and ascertain whether it conforms to the provisions of this article.

No registered elector shall sign more than one nomination petition for each separate office to be filled in the City or City and ward, as the case may be. Each office of the council that is to be filled by the electorate shall be considered a separate office for the purpose of nomination. An elector may sign a nomination petition for each office to be filled from his ward and also for each office to be filled by election at large. If a registered elector's signature appears on more than one nomination petition for a particular office, the clerk may utilize the date of signing indicated on the nomination petitions to determine which signature was valid when affixed to the nomination petitions. If the date of signing does not clarify which signature was valid, all signatures of such registered elector shall be rejected.

If found not to conform thereto, the city clerk shall then and there, in writing on said petition, state the reason why such petition cannot be filed and shall forthwith return the petition to the person presenting the same, named as the person to whom it shall be returned in accordance with this article. The petition may then be amended and again, but not later than three days after said petition

shall have been returned, be presented to the city clerk, as in the first instance. The city clerk shall forthwith proceed to examine the amended petition as hereinbefore provided. (As amended 11/6/01)

**Sec. 12. Filing of petitions.**

If either the original or the amended petition of nomination be found sufficiently signed, as hereinbefore provided, the city clerk shall file the same forthwith.

**Sec. 13. Acceptance of nomination.**

Every petition of nomination shall have endorsed thereon or appended thereto the written affidavit of the candidate accepting the nomination in the form hereinafter provided and swearing that the candidate satisfies the requirements set forth herein to be a candidate and hold office in the City. The acceptance of nomination shall contain the place of residence of the candidate and the name of the candidate in the form that the candidate wishes it to appear on the ballot. The candidate's name may be a nickname or include a nickname but shall not contain any title or degree designating the business or profession of the candidate. (As amended 11/6/01)

**Sec. 14. Form of acceptance of nomination.**

The acceptance mentioned in the preceding paragraph shall be substantially in the following

form:

STATE OF COLORADO )  
County of Morgan ) ss.  
City of Fort Morgan )

**Acceptance of  
Nomination**

I, \_\_\_\_\_, having heretofore been nominated for the office of \_\_\_\_\_ in said city, do hereby accept the said nomination, and state that I have not become, and am not a candidate as a nominee or representative of, or because of any promised support from any political party, or any committee or convention representing or acting for any political party, or organization.

\_\_\_\_\_  
(Signed)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(As amended 11/06/01)

**Sec. 15. Preservation of petition.**

The city clerk shall cause all nomination petitions to be preserved for a period of two years. All such petitions shall be open to public inspection under proper regulation by the clerk with whom they are filed. (As amended 11/6/01)

**Sec. 16. List of nominations.**

The city clerk shall at least ten days before every regular municipal election and every special municipal election held for the purpose of electing officers, certify a list of the candidates nominated for office at such election, whose names are entitled to appear on the ballot, being the list of candidates nominated as required by this Charter, together with the offices to be filled at such election and the clerk shall file in his or her office such certified list of names and the offices to be filled, and the clerk shall cause the same to be published once in one newspaper of general circulation, published in the City of Fort Morgan, which publication shall be not less than four nor more than seven days prior to said election. (As amended 11/6/01)

**Sec. 17. Use of carriages.**

This section is deleted in its entirety. (As amended 11/6/01)

**Sec. 18. Election regulations.**

The provisions of any state law, now or hereafter in force, except as the council may otherwise by ordinance provide, relating to the calling and holding of regular and special elections, the qualifications and registration of electors, the manner of voting, the duties and appointment of election officers, the canvassing of returns, and all other particulars in respect to the management of elections except as otherwise provided in this article, so far as they may be applicable, shall govern all municipal elections.

**Sec. 19. Commencement of terms of office.**

The regular term of office of all elective officers of the City of Fort Morgan shall commence on the second Tuesday of January next after their election.

**Sec. 20. Terms of office.**

At the regular municipal election to be held in the City of Fort Morgan, Colorado, in the year 1937 and every second year thereafter, there shall be elected one mayor at large who shall serve a term of two (2) years or until his successor is elected and sworn. At the regular municipal election to be held in 1937 there shall be elected one councilmember for each ward in said city to serve for a term of two (2) years, or until their successors are elected and sworn in. At the regular municipal election to be held in 1937 and every second year thereafter, there shall be elected one councilmember from each ward for a term of four (4) years, or until their successors are elected and sworn in. (As amended 11/5/35)

**Sec. 21. Initiative and referendum, general.**

An ordinance may be initiated by petition, or a referendum on an enacted ordinance may be had by petition, or the city council on its own motion shall have the power to refer and submit any proposed ordinance or question to the electors at a regular or special election, all as hereafter provided. The referendum provisions of this Charter shall not apply to any ordinance which contains therein a declaration that said ordinance is necessary for the immediate preservation of the public peace, health or safety, nor shall the initiative or referendum provisions apply to effect an amendment to or repeal of the tax levy ordinance, or an ordinance making appropriation for the support of the City, its business and institutions, or ordinances authorizing the issuance of bonds, or ordinances ordering improvements initiated by petition and to be paid for by special assessments.

**Sec. 22. Initiative and referendum; petition; requirements.**

(a) *Number of signatures.* An initiative petition shall be addressed to the city council and shall be signed by registered electors in number not less than fifteen percent of the total number of electors registered to vote at the last regular municipal election. A referendum petition shall be addressed to the city council and shall be signed by registered electors in number not less than ten percent of the total number of electors registered to vote at the last regular municipal election.

(b) *Form and content; representative of signers.* Petitions shall be printed on pages eight and one-half wide by fourteen inches long with a margin of two inches at the top for binding; the sheets for signature shall have their ruled lines numbered consecutively and shall be attached to a complete copy of the ordinance proposed to be initiated or referred printed in plain block letters no smaller than the impression of eight-point type. Petitions may consist of any number of sections composed of sheets arranged as provided in this section. Each petition shall designate by name and address not less than three nor more than five persons who shall represent the signers thereof in all matters affecting the same. Prior to the time of filing the persons designated in the petition to represent the signers shall attach the sheets containing the signatures and affidavits together, which shall be bound in convenient volumes each of which contains not more than one hundred of the affidavits of circulators required by this section, together with the sheets containing the signatures accompanying the same. These bound volumes shall be filed with the city clerk and kept by him as public records.

(c) *Signatures; affidavits; circulators.* Any initiative or referendum petition shall be signed only

by registered electors by their own signatures to which shall be attached the residence addresses of such persons, including street and number, if any, and the date of signing the same. To each such petition shall be attached an affidavit of some registered elector, that he circulated the said petition, that each signature thereon was affixed in his presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best of the knowledge and belief of the affiant each of the person signing said petition was at the time of signing a registered elector, that he has not paid or will not in the future pay and that he believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his signature to such petition. The city clerk shall not accept for filing any petition which does not have attached thereto the affidavit required by this section. No petition for any initiated measure or for referendum shall be circulated by any person who is not a registered elector.

(d) *Time for filing.* Signatures on an initiative or referendum petition shall be obtained within twenty-one days before the date of filing the petition. Referendum petitions must be filed prior to the date the ordinance to be referred takes effect under the provisions of this Charter. The filing of such petitions shall operate to suspend the taking effect of the ordinance sought to be reconsidered until either the petitions are withdrawn or determined to be insufficient, or until certification of the election results.

### **Sec. 23. Procedure after filing.**

(a) *Certificate of clerk; amendment.* Within ten days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within two days after receiving the copy of his certificate and files a supplementary petition upon additional forms within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of section 20 of this article and within five days after it is filed the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by certified mail as in the case of an original petition. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (b) of this section within the time required, the clerk shall promptly present his certificate to the council and such certificate shall constitute a final determination as to the sufficiency of the petition.

(b) *Council review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

### **Sec. 24. Action on petitions.**

(a) *Consideration by council.* When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the adoption of the proposed initiated ordinance in the manner provided for the adoption of ordinances by the council or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiated ordinance without any change in substance within thirty days or fails to repeal the referred ordinance within

thirty days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City.

(b) *Submission to voters.* The vote of the City on a proposed or referred ordinance shall be held not less than thirty days and not later than ninety days from the date of the final council vote thereon. If no regular City election is to be held within one hundred fifty days, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. The full text of an initiated ordinance shall be published and posted in the same manner and time as the list of candidates or nominees for municipal office are published and posted at a regular municipal election and copies of the proposed or referred ordinance shall be made available to the polls. The ballot upon which the proposed ordinance is submitted shall state briefly the nature of the ordinance and shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE."

(c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for the election by filing with the city clerk a request for withdrawal signed by a majority of the petitioners' committee. With the consent of the majority of the council and upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### **Sec. 25. Results of election.**

(a) *Initiative.* If a majority of the registered electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. A true copy of every ordinance, as adopted by the vote of the electors of the City shall be published once after adoption. It shall be separately numbered and recorded commencing with "Peoples' Ordinance No. 1."

(b) *Referendum.* If a majority of the registered electors voting on a referred ordinance vote "against the ordinance," it shall be considered repealed upon certification of the election results.

(c) *Amendment or repeal.* An ordinance adopted by the electorate may not be amended or repealed for a period of six months after the date of the election at which it was adopted, and an ordinance repealed by the electorate may not be reenacted for a period of six months after the date of the election at which it was repealed; provided, however, that any ordinance may be adopted or amended, or repealed at any time by appropriate referendum or initiative procedure in accordance with the foregoing provisions of this Charter, or, if submitted by the electorate by the council on its own motion.

#### **Sec. 26. Implementation.**

The council may, by ordinance, pass such additional rules, regulations and provisions and proscribe penalties for the violation of the provisions thereof as may be deemed necessary to implement the initiative and referendum provisions of the Charter.

## ARTICLE IX

### Intoxicating Liquors

#### Sec. 1. Definition.

The words "intoxicating liquors" as used in this article shall mean all malt, vinous or spirituous liquors having an alcoholic content of more than three and two-tenths per cent of alcohol by weight. (Adopted at special election held February 2, 1965)

#### Sec. 2. Lawful to manufacture and sell.

It shall be lawful in the City of Fort Morgan to manufacture and sell for beverages or medicinal purposes malt, vinous or spirituous liquors, subject to the terms, conditions, limitations and restrictions contained in and imposed by the laws of the State of Colorado. (Adopted at special election held February 2, 1965)

#### Secs. 3 to 13. Repealed.

Repealed at special election held February 2, 1965.

## ARTICLE X

### Ethics and Conflicts of Interest

#### Sec. 1. No extra compensation.

(a) No elected official, or employee shall receive any service or derive any profit or advantage, directly or indirectly, from the City, by reason of his or her connection therewith, on terms more favorable than those granted to the public generally. No elected official or employee shall derive any benefit, profit or advantage, directly or indirectly, from or by reason of any purchase made or work ordered by authority of the City, unless such purchase or work be ordered by the council without requiring, in order to secure a majority of the council, the vote of the officer so benefited.

(b) No elected official or employee of the City shall accept, directly or indirectly, any thing of value from any railroad, telegraph or telephone company or from any owner of any public utility franchise in the City, upon terms more favorable than those granted to the public generally. The council may, by ordinance, establish additional or more stringent requirements concerning ethics and conflicts of interest.

#### Sec. 2. Opinions not affect appointments.

No appointment to any position of employment under the City government shall be made or withheld by reason of any political opinions or affiliations or political service, and no appointment or election to or removal from any employment and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations or service

## ARTICLE XI

### Legal and Judiciary

#### Sec. 1. City attorney.

- (a) The council shall appoint a city attorney to serve at the pleasure of the council.
- (b) The council shall establish the city attorney's compensation.
- (c) The city attorney shall be, at all times while serving as city attorney, an attorney at law admitted to practice in Colorado.
- (d) The city attorney shall serve as the chief legal advisor for the City, shall advise the council, the city manager, and other city personnel in matters relating to their official powers and duties, and shall perform such other duties as may be designated by the council.
- (e) Recognizing that the city attorney's ethical responsibilities extend to employees subordinate to the city attorney, such employees and their selection and removal shall be subject to personnel enactments generally applicable to City employees, but supervision and control over such employees, including the selection and removal of such employees, shall be exercised by the city attorney.
- (f) The council shall evaluate the city attorney's performance at least annually.
- (g) The council may employ such special counsel as may be recommended by the city attorney, or the council.

#### Sec. 2. Municipal court.

- (a) There shall be a municipal court vested with original jurisdiction over matters arising under the Charter and ordinances of the City.
- (b) At its first regular meeting after the first regular municipal election provided for in this Charter, and every two years thereafter, the council shall appoint a presiding municipal judge and such deputy municipal judges as the council deems necessary.
- (c) The council shall establish the compensation for the presiding municipal judge and each deputy municipal judge. The compensation shall not be dependent upon the outcome of the matters to be decided by the judge.
- (d) The presiding municipal judge and each deputy municipal judge shall be, at all times while serving as judge, an attorney at law admitted to practice in Colorado.
- (e) The removal of any judge during the term of office shall only be for cause as specified in the statutes applicable to the removal of municipal judges, and for any other conduct which would constitute a violation of the Colorado code of judicial conduct, as from time to time amended, if committed by a judge subject to such code.

## ARTICLE XII

### General Provisions

#### **Sec. 1. Amendment.**

This Charter may be amended in manner as provided in Article XX of the Constitution of the State of Colorado.

#### **Sec. 2. Present ordinances in force.**

All ordinances of Fort Morgan in force at the time this Charter goes into effect shall continue in force except insofar as they conflict with the provisions of this Charter or shall be amended or repealed by ordinances enacted under the authority of this Charter.

#### **Sec. 4. Construction of words.**

Whenever such construction is applicable, words used in this Charter importing the singular or plural number may be construed so that one number includes both; words importing masculine gender may be construed to apply to include the feminine gender as well; and the word person may extend to and include firm and corporation; provided that these rules of construction shall not apply to any part of this Charter containing express provisions excluding such construction or where the subject matter or context is repugnant thereto.

#### **Sec. 5. Penalty for violation.**

Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be punished, upon conviction, by a fine not exceeding one hundred dollars (\$100.00), or by imprisonment in the City jail not exceeding three months, or by both such fine and imprisonment.

#### **Sec. 6. Continuing bonds, etc.**

All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the City before this Charter takes effect, and all taxes, fines, penalties, forfeitures incurred or imposed, due or owing the City, shall be enforced or collected and all writs, proscriptions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this Charter; and all legal acts done by or in favor of the City shall be and remain as valid as though this Charter had not been adopted.

#### **Sec. 7. Reservation of power.**

The power to supersede any law of this state, now or hereafter in force, insofar as it applies to local or municipal affairs, shall be reserved to the City, acting by ordinance.

**Section 2.** That the following ballot language is hereby adopted for submitting City of Fort Morgan reforming its government authority structure and updating, streamlining, clarifying and otherwise revising other provisions of the *Charter* to the voters at said election:

**CITY OF FORT MORGAN *CHARTER* AMENDMENT REFORMING  
ITS GOVERNMENT AUTHORITY STRUCTURE AND UPDATING, STREAMLINING,  
CLARIFYING AND OTHERWISE REVISING OTHER PROVISIONS  
OF THE *CHARTER***

Shall the governance and administration provisions of the *Charter* be amended by changing from a Mayor-Council form of government to a Council-Manager form of government thereby redistributing the authority of elected and appointed officials, by updating, streamlining, clarifying and otherwise revising other provisions of the *Charter*, all as set forth in Ordinance No. 1050?

**YES** \_\_\_\_\_

**NO** \_\_\_\_\_

INTRODUCED AND PASSED UPON FIRST READING this 7th day of August, 2007, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

BY: */s/ Jack Darnell*  
Mayor

[ SEAL ]

ATTEST:

*/s/ Andrea J. Strand*  
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this 7<sup>th</sup> day of August, 2007, for publication once in the newspaper of the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

BY: */s/ Jack Darnell*  
Mayor

[ SEAL ]

ATTESTED:

*/s/ Andrea J. Strand*  
City Clerk

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

**CERTIFICATE**

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1050** was, as a proposed **Ordinance** duly and legally presented to the City Council of the City of Fort Morgan, at a Regular Meeting on the 17th day of July, 2007. Said **Ordinance**, as proposed, was duly read at length at said Regular Meeting, and thereafter the same was, on the 26th day of July, 2007, 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 August, 2007. Within five (5) days after its final passage, said **Ordinance** 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/ Andrea J. Strand*