ORDINANCE NO. 07, Series 2013
INTRODUCED BY: COUNCILOR BRAD WIESLEY

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, TO PROVIDE TEMPORARY MEASURES NECESSARY FOR THE CONSERVATION OF WATER IN THE CITY OF LAFAYETTE BY TEMPORARILY AMENDING CHAPTER 120, ARTICLE I, OF THE LAFAYETTE CODE OF ORDINANCES, BY THE TEMPORARY ESTABLISHMENT OF CERTAIN IRRIGATION RESTRICTIONS AND CERTAIN OFFENSES, AND DECLARING AN EMERGENCY

WHEREAS, the City Council for the City of Lafayette desires to protect and preserve the health, safety and welfare of its citizens in time of drought and impending drought by protecting and preserving, to the greatest extent possible, the water resources of the City of Lafayette; and

WHEREAS, the City Council finds that the Boulder Creek basin and the Northern Colorado Water Conservancy District provide a significant portion of the City's water; and

WHEREAS, the City Council finds that in March 2013, the mountain snowpack that feeds the Boulder Creek basin was at 62% of normal levels; and

WHEREAS, the City Council finds that drought conditions throughout the State of Colorado threaten to put a great strain on water resources generally; and

WHEREAS, the City Council finds that projections of the City's Public Works Department show that, assuming the continuation of drought conditions and without water conservation measures, the City of Lafayette may not have adequate carry-over water in storage by April 30, 2014; and

WHEREAS, the City Council hereby determines that it is necessary to establish temporary measures to encourage the conservation of water and to establish certain restrictions on a temporary basis, all as contained herein, in order to achieve conservation of water to ensure adequate 2014 carry-over storage water.

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

Section 1. Section 120-13, "Irrigation – Restricted by resolution", is amended to provide as follows:

Sec. 120-13. - Irrigation—Restricted by resolution.

(a) The use of municipal water for the purposes of irrigation may be restricted as to times of irrigation as set by resolution of the city council.

(b) Notwithstanding any additional restrictions imposed pursuant to subsection (a) above, it shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or allow any person to irrigate, sprinkle, or otherwise apply water

from the municipal water utility system to any outdoor vegetation, including, but not limited to, lawns and gardens, before April 16, 2013.

(1) The foregoing restriction shall not apply to:

(i) Irrigation of land used for commercial agriculture; or

(ii) Watering by hand of any outdoor vegetation using a manually operated hose equipped with an automatic shut-off valve; or

(iii) Watering by hand of any community gardens using a manually operated hose equipped with an automatic shut-off valve; or

(iv) Irrigation of short grass on city-owned or operated golf courses; or

(v) Irrigation of athletic fields used at least once per week for sporting events.

(c) On and after April 16, 2013, notwithstanding any additional restrictions imposed pursuant to subsection (a) above, it shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or allow any person to irrigate, sprinkle, or otherwise apply water from the municipal water utility system to any outdoor vegetation, including, but not limited to, lawns and gardens, between the hours of 10:00 a.m. and 6:00 p.m.

(1) The foregoing restriction shall not apply to:

(i) Irrigation of land used for commercial agriculture; or

(ii) Watering by hand of any outdoor vegetation using a manually operated hose equipped with an automatic shut-off valve; or

(iii) Watering by hand of any community gardens using a manually operated hose equipped with an automatic shut-off valve; or

(iv) Irrigation of short grass on city-owned or operated golf courses; or

(d) It shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or allow any person to irrigate, sprinkle, or otherwise apply water from the municipal water utility system to any lawn, garden, or other area of land in a manner that allows water to be cast upon or migrate onto a paved area or onto any other area not covered by vegetation.

(e) It shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or allow any person to wash any paved area with a hose using water from the municipal water utility system.

(f) Notwithstanding any other provision in this code of ordinances, it shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or

allow any person to install or plant any lawn grasses or turf grasses, such as, but not limited to, bluegrass, ryegrass, fescue grass, or buffalo grass, in a lawn, yard, garden, or other area of land.

(g) Notwithstanding any other provision in this code of ordinances, it shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer or allow any person to engage in open burning.

(h) Notwithstanding any other provision of this section, any consumer may, prior to engaging in any activity prohibited by this section, apply to the Public Works Director for a permit to engage in any of the activities otherwise prohibited by this section. Any such application shall be in writing and shall state with specificity any asserted peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the consumer that may be caused by compliance with the requirements of this section. Upon receipt of such an application, the Public Works Director may, in writing, permit and authorize any activity otherwise prohibited by this section upon a finding that good cause has been shown that compliance by the consumer with the requirements of this section will cause peculiar and exceptional difficulties to, or an undue hardship upon the consumer, provided however, that:

(1) Any such permit shall authorize only such activities that are the minimum necessary to alleviate such practical difficulties or undue hardship upon the consumer;
(2) Any such permit may be granted without substantial detriment to the public good and without substantial detriment to the city's water supply;
(3) The circumstances found to constitute such practical difficulties or undue hardship were not created by the consumer, are not due to or the result of general conditions in the city and cannot be practically corrected.

(i) Any consumer or other person violating any of the provisions of this section, upon first conviction, shall be punished by a minimum fine of not less than one hundred dollars ($100.00), which fine shall not be suspended by the municipal court; upon a second conviction of such consumer or other person for a violation of any of said provisions that occurred during the effective period of this Ordinance, such consumer or other person shall be punished by a fine of not less than two hundred fifty dollars ($250.00), which fine shall not be suspended by the municipal court; upon a third and each subsequent conviction of such consumer or other person for a violation of any of said provisions, during the effective period of this Ordinance, such consumer or other person shall be punished by a fine of not less than five hundred dollars ($500.00), which fine shall not be suspended by the municipal court.

(j) The provisions of this section shall apply to all real property within the City of Lafayette, whether publicly or privately owned, and all land outside of the City of Lafayette that is served by the municipal water utility system. The provisions of this section may be enforced with respect to land located outside of the City of Lafayette by a suit for injunctive relief in a court of competent jurisdiction. Notwithstanding the foregoing, the testing of fire hydrants or fire sprinkler systems shall be exempt from the provisions of this section.

(k) Subsections (b) through (j) of this section shall be automatically repealed on October 1, 2013.

Section 2. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Municipal Code of the City of Lafayette, Colorado.

Section 7. This ordinance shall take effect immediately upon its adoption and posting in accordance with Section 7.3 of the Charter of the City of Lafayette.

INTRODUCED, PASSED AND FINALLY ADOPTED, AND POSTING ORDERED, ON THE 2ND DAY OF APRIL, 2013.

CITY OF LAFAYETTE, COLORADO

Carolyn D. Cutler, Mayor

ATTEST:

Susan Koster, CMC
City Clerk

APPROVED AS TO FORM:

David S. Williamson, City Attorney

CITY OF LAFAYETTE HOME RULE APRIL 1, 1958 BOULDER COUNTY, COLORADO