



AGENDA ITEM SUMMARY

City Council

STAFF

Mariel Miller, Water Conservation Manager
Paul Sizemore, Community Development & Neighborhood Services Director
Eric Potyondy, Assistant City Attorney
Marcus Coldiron, Chief Building Official

SUBJECT

First Reading of Ordinance No. 094, 2022, Adopting a Graywater Ordinance, to Allow Voluntary Graywater System Installations.

EXECUTIVE SUMMARY

The purpose of this item is to propose a graywater ordinance for Council's consideration, which is necessary to allow graywater systems to be installed in the City. The proposed graywater ordinance would enact a voluntary program for graywater use for toilet flushing in Fort Collins Utilities' water and wastewater service areas, as well as the service areas of consenting water and wastewater districts in the Growth Management Area (GMA). The proposed graywater ordinance would be consistent with State regulatory requirements and local water right limitations.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Development of a graywater ordinance is a Council Priority for 2021-2023. Staff presented information to the Council at a November 23, 2021, work session (Attachment 1), where Council indicated a desire for staff to develop an enabling ordinance, which meets the State's Water Quality Regulation 86 (graywater standards) and is in accordance with local water rights. Staff provided two updates to Council, dated April 11 and June 27, 2022, in the form of a memo in their Thursday Council Packet.

If adopted by Council, the proposed graywater ordinance would enact the following:

- The ability for those who elect to install a graywater system to do so (the proposed ordinance does not require graywater systems).
- An ordinance that meets Colorado's requirements and is not more restrictive than the State Regulation 86's minimum standards.
- Enabling water from bathroom and laundry sinks, clothes washers, baths, and/or showers to be used for toilet flushing only, which aligns with local water right limitations.
- Design criteria and standards to protect public health and the environment and a permitting and inspection process administered by City Building Services.

- Graywater use within Fort Collins Utilities' water and wastewater service areas, with the possibility of graywater use extending into other water and wastewater service providers' service areas within city limits, depending on consent by other service providers within city limits (Boxelder Sanitation District, East Larimer County Water District, Fort Collins-Loveland Water District, South Fort Collins Sanitation District, and West Fort Collins Water District).
- Graywater use in single-family and multi-family residential and commercial developments (both new and redevelopment properties).

Strategic Alignment: Graywater is aligned to a variety of plans and strategic objectives that touch many areas across the organization, community and state. These include, but are not limited to:

- City Strategic Plan (2020)
- Utilities Strategic Plan (2021)
- City Plan (2019)
- Municipal Sustainability and Adaptation Plan (2019)
- Our Climate Future (2021)
- Water Efficiency Plan (2015)
- Water Supply and Demand Management Plan (2012)
- Housing Strategic Plan (2021)
- Colorado Water Plan (2015)

Coordinating with local water and sanitation districts: Staff met with all water and wastewater service providers that serve areas within the Fort Collins growth management area (GMA). As a best practice, staff provided them each with a preliminary discussion draft graywater ordinance ("draft ordinance") and draft memorandum of understanding (MOU), which document the districts' acknowledgement and agreement to graywater system installation in their service areas. The process to execute these agreements is as follows:

- City Manager to sign each agreement, as it is approved and signed by each district.
- In accordance with language in the draft ordinance, as MOUs are signed, a city map will be updated to reflect the current area where graywater is allowed. This gives flexibility to expand the area as we work to get agreements from districts. MOUs can be executed at any time – before or after the ordinance is effective – allowing the boundary to be expanded without an ordinance amendment.

To date, the status of each district is as follows:

- East Larimer County Water District has signed the MOU, agreeing to graywater system installation within their service area.
- Boxelder Sanitation District has expressed willingness to sign an agreement and staff is preparing the final MOU.
- West Fort Collins Water District's Board declined to sign at this time, but would be willing to reconsider if the financial benefits improved in the future.
- Fort Collins Loveland Water and South Fort Collins Sanitation Districts are in the process of sharing documentation with their respective boards.

State Regulation 86: State Regulation 86 is Colorado's graywater control regulation, promulgated by the Colorado Department of Public Health and Environment's Water Quality Control Commission. It includes numerous definitions and requirements for local graywater programs such as the draft ordinance before Council. These include:

- Identifying the type of graywater uses allowed.
- Defining boundaries where graywater use is allowed.
- Systems to track where graywater is used.
- Graywater design criteria guideline document.

- Approval of graywater installations and inspections.
- Enforcement terms.
- Terms regarding operations and maintenance manuals and operators.

Extended effective date: Staff communicated in a memo to Council dated June 27, 2022, the need to propose an effective ordinance date of November 1, 2022, to provide high quality service to future graywater permit applicants. This extended effective date will allow staff to complete the following:

- Development of a design criteria guideline document (State Regulation 86 requirement).
- Development of permit requirements, fees and process (State Regulation 86 requirement).
- Development of inspection fees and process (State Regulation 86 requirement).
- System to maintain current permit holder/graywater owner and maintenance information (State Regulation 86 requirement).
- Staff training on graywater permit review and inspections.
- Public education, communications, etc. on graywater systems and the requirements.

Next steps, following adoption of the Ordinance:

- Short term:
 - Complete the remaining supporting documents, systems and processes required for City Building Services to administer the graywater ordinance and train applicable staff on permit review and inspection, by the proposed effective date of November 1, 2022.
 - Continue to attend the State’s monthly Regulation 86 stakeholder meetings, as the State plans to update its regulations in 2023.
 - Continue to work with the local water and wastewater districts to determine the legal boundary for graywater, by executing MOUs with each district as they provide approvals for graywater systems in their service areas.
 - Develop and promote public education and communications on graywater systems and the requirements.
- Long term (2023-2025):
 - Update the City’s graywater ordinance with any changes resulting from the State Regulation 86 updates.
 - Consider pilot program funding and incentive development.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

Three City Boards and Commissions were engaged in April 2022. All but the Water Commission recommended that the Council approve a local graywater ordinance. More information regarding each recommendation can be found in the associated attachments:

- Natural Resource Advisory Board (NRAB) memo dated June 17, 2022 (**Attachment 3**)
- Building Review Commission April 28, 2022, meeting minutes (**Attachment 4**)
- Water Commission Memo dated June 16, 2022 (**Attachment 5**)

CITY FINANCIAL IMPACTS

There are no financial impacts to the City. Permits fees will be paid by applicants and are based on project valuation, consistent with other building permit fees. These fees are estimated to cover staff time for plan review and inspection for graywater systems.

PUBLIC OUTREACH

Staff conducted a variety of outreach and research efforts prior to the Council Work Session in November 2021. Following direction by Council in November, further outreach and communication efforts were pursued between April -June 2022. Reoccurring themes were expressed in several engagement efforts. The input staff received can be summarized by the two following sentiments regarding the creation of an enabling ordinance for graywater (more detailed responses can be found in Attachments 2, 3, 5-7):

- 1) The City should not be pursuing this ordinance or should only pursue it with the development of incentives to reduce the cost to customers. Given State Regulation 86 requirements and the limitation resulting from water right constraints, that limits graywater use for toilet flushing only, it is too costly to develop graywater systems without financial assistance or some other incentive.
- 2) The City should adopt an enabling ordinance because it allows those who want graywater to develop it. It is the first step in what could be the development of future pilot programs and incentives, and the burgeoning graywater industry in Colorado. State regulations could change in the future, making graywater systems more desirable and we should be prepared to take advantage of more sustainable water uses when they become available.

When preparing for the November 2021 Council Work Session and prior to 2022, staff conducted the following preliminary engagement and research efforts:

- Presented at a Key Accounts Lunch and Learn (October 6, 2021), and to Fort Collins Area Chamber of Commerce members (December 13, 2021).
- Interviewed graywater system manufactures, Colorado Department of Public Health and Environment staff, and other water provider and land use authority staff who have developed and are implementing existing graywater programs.

Following Council direction in November 2021, during Q1 and Q2 of 2022, staff provided the following public information and engagement activities:

- Created the following communication pieces to advertise Our City forum and the June 16, 2022, presentation with the public:
 - Emailed three e-newsletters to building industry-related contractors, developers and trades – sent in April 15 (emailed to 445), June 2 (emailed to 3,687) and July 1, 2022 (emailed to 3,332).
 - Invited 770 Utilities customer contacts, non-profits and other stakeholders to the public information session – sent June 2, 2022.
 - Mailed Utility bill inserts that reach about 49,000 Utilities customers – June 2022.
- Created an Our City forum to inform the public and collect and respond to feedback (staff received and responded to three posts between April and July, which can be viewed here: ourcity.fcgov.com/graywater).
- Discussed graywater and shared the draft MOU with Fort Collins-Loveland Water District, West Fort Collins Water District, East Larimer County Water District, Boxelder Sanitation District and South Fort Collins Sanitation District.
- Presented to City Boards and Commissions and requested recommendation to Council from:
 - Natural Resource Advisory Board – April 20, 2022 (**Attachment 3**)
 - Building Review Commission – April 28, (**Attachment 4**)
- Water Commission – April 21, 2022 (**Attachment 5**) and Mayor’s response letter (**Attachment 6**)
- Presented to Fort Collins Area Chamber of Commerce – May 20, 2022 (**Attachment 7**)
- Presented to stakeholders (open to the public – 56 pre-registered for meeting, 24 attended) – June 16, 2022 (**Attachment 8**)
- Coordinated with Larimer County to discuss alignment with the County’s draft graywater ordinance and how to address properties within the Fort Collins GMA, which could be annexed in the future.

- Met with Colorado State University's Dr. Sybil Sharvelle to discuss the future potential of graywater.

ATTACHMENTS

1. Ordinance for Consideration
2. Work Session Summary, November 23, 2021
3. NRAB Memo to Council
4. Building Review Commission Minutes
5. Water Commission Memo to Council
6. Response Letter from Mayor to Water Commission
7. Chamber LLAC Meeting Minutes
8. June 16 Public Meeting – Polling Results
9. Powerpoint Presentation