

ORDINANCE NO. 094, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 5, ARTICLE V OF THE CODE OF THE CITY OF FORT COLLINS
TO ADOPT A GRAYWATER PROGRAM

WHEREAS, the State of Colorado authorized the use of graywater in 2013 by enacting House Bill 13-1044 (2013 Colo. Sess. Laws 1087) amending various sections of Titles, 12, 25, 30, 31, and 37 of the Colorado Revised Statutes (“Graywater Statute”); and

WHEREAS, the Graywater Statute provides that graywater may only be used in areas where the local city, city and county, or county has adopted an ordinance or resolution approving its use pursuant to applicable requirements; and

WHEREAS, the City has not previously authorized use of graywater in the Fort Collins municipal boundaries; and

WHEREAS, the City agrees with the findings in the Graywater Statute that innovative uses of existing technologies, such as graywater treatment systems, will (1) play an important role in reducing per capita consumption of water; (2) enable significantly greater efficiencies in the use of water within facilities; and (3) have the potential to reduce water and wastewater treatment costs and energy consumption; and

WHEREAS, the City also agrees with declarations in the Graywater Statute that: (1) the greater public interest is served by policies that promote greater efficiency in the first use of water within residential, commercial, and industrial facilities; and (2) policies allowing the use of graywater systems, while preserving the health, safety, and welfare of Coloradans, represent one strategy available for achieving greater efficiency in the use of the state’s vital water resources; and

WHEREAS, the City owns and operates Fort Collins Utilities which, among other things, provides water and wastewater service to customers in and outside of Fort Collins municipal boundaries in its water and wastewater service areas; and

WHEREAS, several duly-established special districts (“water and wastewater districts”) provide water or wastewater service to customers in and outside of Fort Collins municipal boundaries in their water and wastewater service areas; and

WHEREAS, the Northern Colorado Water Conservancy District (“Northern Water”) operates the Colorado-Big Thompson Project (“CBT”), which is a significant source of water for Fort Collins Utilities and the water districts; and

WHEREAS, Northern Water has enacted Resolution D-1344-07-20 which: (1) authorizes the use of CBT water in non-consumptive graywater systems, defined as systems where graywater flows “to a toilet prior to being discharged to a leech field or sanitary sewer”; and (2) prohibits the consumptive use of CBT water in “graywater systems for irrigation or other partially or fully consumptive uses”; and

WHEREAS, in compliance with applicable rules and regulations promulgated pursuant to the Graywater Statute, including Regulation No. 86 – Graywater Control Regulation, 5 CCR 1002-86, promulgated by the Colorado Department of Public Health and Environment, Water Quality Control Commission, City Council desires to authorize the use of graywater in Fort Collins’ municipal boundaries, subject to the consent of water and wastewater districts serving customers in Fort Collins’ municipal boundaries, pursuant to the terms and conditions described in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Chapter 5, Article V of the Code of the City of Fort Collins is hereby amended by the addition of a new Division 3 which reads in its entirety as follows:

Division 3
Graywater

Sec. 5-150. – Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section:

Component shall mean a subpart of a graywater treatment works which may include multiple devices.

Cross-Connection shall mean any connection that could allow any water, fluid, or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture, or a customer’s water system into a public water system’s distribution system or any other part of the public water system through backflow.

Design shall mean the process of selecting and documenting in writing the size, calculations, site specific data, location, equipment specification and configuration of treatment components that match site characteristics and facility use.

Design flow shall mean the estimated volume of graywater per unit of time for which a component or graywater treatment works is designed.

Facility shall mean any building, structure, or installation, or any combination thereof that uses graywater subject to the program, is located on one or more contiguous or adjacent properties, and is owned or operated by the same person or legal entity. *Facility* is synonymous with the term operation.

Graywater shall mean that portion of wastewater that, before being treated or combined with other wastewater, is collected from fixtures within residential, commercial, or industrial buildings or institutional facilities for the purpose of being put to beneficial uses. Sources of graywater are limited to discharges from bathroom and laundry room sinks, bathtubs, showers, and laundry machines. Graywater does not include the wastewater from toilets, urinals, kitchen sinks, dishwashers, or nonlaundry utility sinks.

Graywater design criteria document shall mean a document setting forth the design criteria for graywater use and graywater treatment works under the program. The requirements shall be at least as stringent as the minimum design requirements in Regulation 86 and shall include requirements under the program.

Graywater treatment works shall mean an arrangement of devices and structures used to: (a) collect graywater from within a building or a facility; and (b) treat, neutralize, or stabilize graywater within the same building or facility to the level necessary for its authorized uses.

Legally responsible party shall mean:

(1) For a residential property, the legally responsible party is the property owner.

(2) For a corporation, the legally responsible party is a responsible corporate officer, either:

a. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

b. the manager of operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for approval application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(3) For a partnership or sole proprietorship, the legally responsible party is either a general partner or the proprietor, respectively.

(4) For a municipality, State, Federal, or other public agency, the legally responsible party is a principal executive officer or ranking elected official, either:

a. the chief executive officer of the agency, or

b. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

Modification or modified shall mean the alteration or replacement of any component of a graywater treatment works that can affect the quality of the finished water, the rated capacity of a graywater treatment works, the graywater use, alters the treatment process of a graywater treatment works, or compliance with Regulation 86 of the program. This definition does not include normal operations and maintenance of a graywater treatment works.

Permit shall mean a revocable permit to use graywater pursuant to this Division.

Program shall mean the authorization of graywater use pursuant to the terms and conditions of this Division.

Regulation 86 shall mean Regulation No. 86 – Graywater Control Regulation, 5 CCR 1002-86, promulgated by the Colorado Department of Public Health and Environment, Water Quality Control Commission, as the same may be amended from time to time.

Toilet shall mean a fixed receptacle into which a person may urinate or defecate, which is connected to a system for flushing away the waste into a sanitary sewer or septic tank. *Toilets* includes urinals.

Sec. 5-151. – General Provisions.

(a) The City Council hereby finds, determines, and declares that graywater may be used pursuant to the terms and conditions of the program.

(b) *Authorized uses.* Graywater may only be used for toilet flushing. This comprises Categories C and D of Regulation 86, as modified to limit use for toilet flushing only.

(c) *Geographical boundaries.* Graywater may be used pursuant to the program on all lands within the boundaries of the City of Fort Collins where both the water provider and wastewater provider have consented in writing to the use of graywater on the subject land.

(1) For the purposes of this subsection, the City hereby consents to the use of graywater pursuant to the program for all lands within the boundaries of the City of Fort Collins that are in the City's water and wastewater service areas.

(2) Subject to applicable legal requirements, including §1-22, the City Manager is hereby authorized to enter into agreements with relevant water and wastewater providers

for the purposes of this subsection to identify lands where graywater may be used pursuant to the program and related matters.

(3) The City shall maintain an up-to-date map identifying all lands where graywater may be used pursuant to the program.

(d) *Graywater design criteria document.* The Building Official shall prepare and adopt a graywater design criteria document, which shall be in compliance with this Division and which shall be posted online. All graywater treatment works must comply with the graywater design criteria document. No cross-connections shall be allowed.

(e) *Fees.* The Building Official is hereby authorized to adopt and impose fees for the City's activities under the program, the purpose of which shall be to offset costs the program imposes on the City. The Building Official shall maintain a schedule of such fees.

(f) *Tracking mechanism.* The City shall maintain a searchable tracking mechanism that must include, at a minimum, the following information:

(1) Legal address of each facility with graywater treatment works, allowed graywater uses at each facility, and a graywater treatment works description;

(2) The legally responsible party associated with every graywater treatment works;

(3) Where required under Regulation 86, the certified operator associated with every graywater treatment works; and

(4) Any changes to the legally responsible party, certified operator, and status of the graywater treatment works must be updated within sixty (60) days.

Sec. 5-152. –Permit Required; Penalty.

(a) It is unlawful for any person to use graywater unless a permit has been obtained pursuant to and in accordance with this Division.

(b) If any work requiring a permit is commenced without a permit first having been obtained, the Building Official may immediately issue a stop-work order until the proper permit is obtained and the offender shall pay any additional penalties established and determined by the Building Official.

Sec. 5-153. – Contents of Application for Permit.

(a) Any person desiring to use graywater under the program shall apply in writing to the City for a permit prior to installing any component of the graywater treatment works. The application shall set forth:

- (1) The name, address and phone number of the owner of the premises;
 - (2) The name, address and phone number of the applicant if the applicant is a contractor or agent and not the legally responsible party;
 - (3) A legal description of the premises to be served or designation of the lot, block and subdivision and common street address;
 - (4) A description of the graywater treatment works and its compliance with the program and the graywater design criteria document, including design documentation, which must include the following information:
 - a. The graywater uses;
 - b. Location of the graywater treatment system;
 - c. Design flow calculations for the graywater treatment works;
 - d. The fixture(s) that are the source(s) of the graywater;
 - e. The design of the plumbing system;
 - f. A description of the products or components;
 - g. If applicable, contact information for system designer or professional engineer and operator;
 - h. Name and address of the legally responsible party; and
 - i. Must be signed by the legally responsible party.
 - (5) Any other information which the Building Official may deem necessary.
- (b) The City may prepare a form of application for the purposes of this Division.

Sec. 5-154. – Conditions of Permit.

- (a) A permit will be granted if all of the following conditions are met:
- (1) The application is complete;
 - (2) The graywater use will in all respects conform to the requirements of this Division;
 - (3) Any graywater treatment works have been inspected and approved by the City;
 - (4) All required fees associated with the permit have been paid; and
 - (5) The legally responsible party has signed the permit.
- (b) Any permit shall be issued pursuant to the following terms and conditions:

- (1) Graywater use shall comply with the program, applicable provisions of City Code including Section 5-125, the terms and conditions of Regulation 86, and applicable provisions of state and federal law.
- (2) The legally responsible party must update the City within sixty (60) days regarding any changes to the legally responsible party, certified operator, and status of the graywater treatment works.
- (3) Require an operation and maintenance manual for all graywater treatment works, and require that said manual:
 - a. Remain with the graywater treatment works throughout the life of the system;
 - b. Be updated at the time the system is modified;
 - c. Meet all requirements of Regulation 86; and
 - d. Upon change of ownership or occupancy of the property where the graywater treatment works is located, transfer to the new owner or tenant.
- (4) Such additional terms and conditions as the Building Official deems appropriate to protect the City or further the purposes of the program.

Sec. 5-155. – Revocation of Permit; Updates to Permit.

- (a) The Building Official shall revoke or suspend any permit for failure to comply with the program or terms and conditions of the permit. Upon revocation, the graywater treatment works shall be physically removed or permanently disconnected at the property owner's expense.
- (b) If the State of Colorado modifies Regulation 86 and the City must modify this Division or the standards for permits granted under this Division, the Building Official shall be entitled to impose new terms and conditions on previously-issued permits. Failure to abide by such new terms and conditions shall be considered a failure to comply with the program or terms and conditions of the permit.
- (b) If a property has a graywater system or treatment works at the time of annexation, any permit or other authorization for such graywater system or treatment works shall have no effect upon annexation. If the property owner desires to use the graywater system following annexation, the property owner must acquire a permit pursuant to this Division. If no permit is sought, the graywater treatment works shall be physically removed or permanently disconnected at the property owner's expense.
- (c) No permit or other authorization issued under this Division shall grant award any vested rights to the use of a graywater system or treatment works. The City retains the right to revoke or

suspend any or all permits issued under this Division if the City Manager determines it to be in the best interests of the City.

Sec. 5-156. – Enforcement.

The City shall have the sole authority to enforce this Division. Violations of this Division shall be subject to the penalties of § 1-15.

Section 3. That the City Council hereby directs that, within 60 days of this Ordinance going into effect, the City Manager or their delegate shall notify the Colorado Water Quality Control Division of this Ordinance.

Section 4. That the changes to the Code of the City of Fort Collins as set for herein shall go into effect on November 1, 2022.

Introduced, considered favorably on first reading and ordered published this 16th day of August, A.D. 2022, and to be presented for final passage on the 6th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 6th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk