

ORDINANCE NO. 13, Series 2011
INTRODUCED BY: COUNCILOR LUPBERGER

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE,
COLORADO, REPEALING AND REENACTING IN ITS ENTIRETY STORMWATER
QUALITY, ARTICLE III OF CHAPTER 104 OF THE CODE OF ORDINANCES OF
LAFAYETTE, COLORADO**

WHEREAS, the City's Stormwater Quality rules and regulations, which were enacted in 2005, must be updated to ensure continued compliance with the applicable federal and state laws, rules and regulations.

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

Section 1. Stormwater Quality, Article III of Article 104 of the Code of Ordinances of Lafayette, Colorado, is repealed in its entirety and reenacted to provide

Section 104-30 Intent

The intent of this article is to regulate non-stormwater discharges to the storm drainage system and subsequent receiving waters as required by federal and state law in order to protect and enhance the water quality of the city's watercourses, water bodies and wetlands in a manner consistent with the federal clean water act. The objectives of this article are:

- 1) To regulate and reduce, to the maximum extent practicable (MEP), the introduction of pollutants to the municipal separate storm sewer system (MS4);
- 2) To prohibit illicit connections and discharges to the MS4;
- 3) To provide for inspection and monitoring procedures necessary to ensure compliance with this article;
- 4) To reduce pollutants in stormwater discharges from construction activity by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land;
- 5) To require the construction of permanent stormwater runoff controls with development to reduce, to the maximum extent practicable, the deterioration of water quality; and
- 6) To promote public awareness of the hazards involved in the improper discharge of pollutants into the storm drainage system.

Section 104-31 Definitions

For the purposes of this article, the following words and phrases shall have the meanings set forth in this section:

Best Management Practices (BMPs): A technique, process, activity or structure used to prevent or reduce, to the maximum extent practicable, the pollutant content of a stormwater discharge into receiving waters. BMPs include nonstructural methods such as good housekeeping and preventive maintenance and structural modifications to control the discharge of pollutants directly or indirectly into receiving waters, which limit the release of pollutants into stormwater discharges or function as treatment controls.

- **Non-treatment BMPs:** Practices that include: schedules of activities, site planning incorporating low-impact development techniques, general good housekeeping pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems.
- **Treatment BMP:** A permanent system designed for the treatment of stormwater to prevent or reduce, to the maximum extent practicable, the discharge of pollutants.

CDPHE: The Colorado Department of Public Health and Environment.

CDPS: Colorado Discharge Permit System. CDPHE is authorized to administer the NPDES program in Colorado.

Clean Water Act: The federal Water Pollution Control Act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

Director: The City of Lafayette public works Director or designee.

Disturbed area: That area of the land's surface disturbed by any work or activity upon the property by means including, but not limited to, grading; excavating; stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.

Facility: Any building, including a private home, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connections: Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drainage system, including, but not limited to, any

conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drainage system; and any connections to the storm drainage system from indoor drains, sump pumps and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved.

Illicit discharge: Any direct or indirect release of pollutants to the storm drainage system, except as exempted in subsection 104-34(b) of this article.

Industrial activity: Activities subject to CDPS industrial permits, as defined in 40 CFR, Section 122.26(b)(14).

Mobile washing operation: A commercial activity involving power washing, steam cleaning, and any other method of mobile cosmetic cleaning of, to include, but is not limited to, the following: vehicles, fabric, pets and/or exterior surfaces.

Municipal Separate Storm Sewer System (MS4): Publicly owned facilities by which stormwater is collected and conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, and natural and manmade or altered drainage ditches/channels/lakes/reservoirs, and other drainage structures.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit or NPDES Permit: A permit issued pursuant to section 402 of the Clean Water Act, including CDPS permits issued by the State of Colorado in compliance with the Act.

Non-stormwater discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

Operator: The individual who has day-to-day supervision and control of activities occurring at a construction site; this includes the owner, the developer, the general contractor or the agent of one of these parties.

Owner: The person who owns a facility, development, part of a facility, or land.

Pollutant: Any sewage, sewage biosolids, garbage, chemical waste, biological material, solid waste, incinerator residue, ash, munitions, radioactive material, heat, rock, sand, cellar dirt and industrial and agricultural wastes discharged into the water.

Pollution: The presence in waters of the state of any substances, contaminants, or manmade or man induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

Premises: Any building, lot, parcel of land, or portion of land whether improved or unimproved, and including adjacent sidewalks and parking strips.

Receiving water: Any water of the State of Colorado that receives a stormwater discharge from MS4, including all watercourses, even if they are usually dry, and irrigation ditches that receive municipal stormwater. It also includes storm sewer systems owned by other entities.

Spill: Any intentional or unintentional release of solid or liquid material which may cause pollution of the MS4 or waters of the state.

Storm drainage system: See definition of Municipal Separate Storm Sewer System (MS4).

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Management Plan (SWMP): A plan describing the BMP and activities to be implemented to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, MS4, and/or receiving waters to the maximum extent practicable.

Threatened discharge: A condition creating a substantial probability of harm, which makes it reasonably necessary to take immediate action to prevent, reduce or mitigate damages to persons, property or natural resources.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse: A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways, in which stormwater runoff and floodwater flow, either regularly or infrequently.

Waters of the State of Colorado (Waters of the State): Any and all surface and subsurface waters that are contained in or flow in or through the State of Colorado. This definition includes all watercourses, even if they are usually dry.

Section 104-32 Applicability of this Article

This article shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by this article.

Section 104-33 Responsibility for Administration

The Director shall administer, implement, and enforce the provisions of this article.

Section 104-34 Illicit Discharge Prohibited; Exemptions

(a) Illicit Discharges Enumerated: No person shall discharge or cause to be discharged into the MS4 or watercourses any illicit discharge, including, but not limited to, the following:

1. Chemicals, petroleum products, paint, varnishes, solvents, oil and grease and other automotive fluids, pesticides, herbicides, and fertilizers, or other toxic materials;
2. Nonhazardous liquid, solid wastes and yard wastes;
3. Hazardous materials, sewage, fecal coliform and pathogens, dissolved and particulate metals;
4. Trash, refuse, rubbish, garbage, food wastes, pet wastes, litter, other discarded or abandoned objects, floatables and cleaning products;
5. Landscaping materials, sediment, lawn clippings, leaves, branches or other landscaping and yard debris;
6. Construction activities wastes and residues including, but not limited to, painting, paving, concrete placement, saw cutting, material storage and earthwork;
7. Wastes and residues that result from mobile washing operations; discharges from toilets; sinks; industrial processes; cooling systems; boilers; fabric cleaning; equipment cleaning; commercial vehicle cleaning and substances added to the storm drain to control root growth;
8. Any other material that is considered harmful to humans, animals, or aquatic life and its habitat.

(b) Exemptions: The following discharges, when properly managed, are exempt from the discharge prohibitions established by this article:

1. Water line flushing or other potable water sources, landscape irrigation or lawn watering, irrigation return flows, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, roof drains, foundation or footing drains, crawl space pumps, air conditioning condensation, springs, individual residential car washing, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, less than 0.05 ppm chlorine).
2. Discharges necessary to protect public health and safety, such as flows from emergency firefighting activities and water incidental to street sweeping (includes associated sidewalks and medians).
3. Dye testing, provided the person undertaking such testing provides written notification to the authorized enforcement agency twenty four (24) hours prior to the time of the test.
4. Runoff of roadway and sidewalk anti-icing and deicing agent; provided that they are applied according to best management practices.
5. The prohibitions set forth in this section shall not apply to any non-stormwater discharge permitted under a CDPS permit, waiver, or waste discharge order issued and administered by CDPHE under the authority of the federal Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the city for any discharge to the storm drain system.

Section 104-35 Illicit Connections Prohibited

The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Section 104-36 Threatened Discharges

- (a) It is unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into MS4 or waters of the state. Pollutants that are no longer contained in a pipe, tank or other container are considered to be threatened discharges unless they are actively being cleaned up.
1. **Cleaning of Paved Surfaces Required:** The owner of any paved parking lot, street or drive shall clean the pavement as necessary to reduce, to the maximum extent practicable, an illicit discharge of pollutants. Paved surfaces shall be cleaned by dry sweeping, wet vacuum sweeping, collection and treatment of wash water or other methods in compliance with this article.
 2. **Materials Storage:** Materials including, but not limited to, stockpiles used in construction and landscaping activities shall be stored to reduce, to the maximum extent practicable, the release of pollutants.
 3. **Pesticides, Herbicides And Fertilizers:** Pesticides, herbicides and fertilizers shall be applied in accordance with manufacturer recommendations and applicable laws. Pesticides, herbicides and fertilizers shall be stored in a manner to prevent release to the MS4.

Section 104-37 Best Management Practices

The owner or operator of a commercial or industrial establishment or a disturbed area shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of treatment and non-treatment BMPs. Further, any person responsible for premises, which are, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional treatment and non-treatment BMPs to prevent the further discharge of pollutants to the MS4.

Section 104-38 Right of Entry and Inspection of Properties and Facilities

- (a) Whenever the Director has reasonable cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article, the Director shall have the right to enter the premises at any reasonable time to determine if the owner or operator is complying with all requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the city is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
- (b) The Director shall have the right to set up on the property of any discharger to the MS4 such devices that are necessary to conduct an investigation of such discharges. The investigation may include, but is not limited to, the following: sampling of any discharge or process

waters, the taking of photographs, interviewing staff on alleged violations, and access to any and all facilities or areas within the premises that may have any effect on the discharge.

- (c) If the violation constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.

Section 104-39 Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the MS4, or waters of the state, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Director in person or by phone no later than twenty four (24) hours after the release. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within five (5) calendar days of the initial notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Section 104- 40 Applicability of Permit

- (a) **Permit Required:** It shall be unlawful for any person to conduct any activity resulting in the following total disturbed area without first obtaining a stormwater quality permit:
 - 1. One acre or more.
 - 2. Less than one acre if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
 - 3. The city may also require a stormwater quality permit regardless of the size of the total disturbed area in conjunction with approval of a final subdivision plat, special use permit, or site development plan, or if the construction activities are adjacent to a watercourse or wetlands.
- (b) **Exemptions:** The following activities are exempt from this article:
 - 1. Agricultural land management activities.
- (c) **Permit Application:** Applications for stormwater quality permits shall be filed on a form prescribed by the city.
 - 1. In support of the application, the applicant shall submit all information required on the city's form and any additional information requested by the city.
 - 2. The application shall be signed by the person or persons responsible for compliance with the permit throughout the permit's validity.
 - 3. The application shall include documentation of an application for a CDPHE stormwater general permit for construction activities.

- (d) **Permit Approval Required:** Construction activities may not proceed until permit approval is received from the city.
- (e) **Permit Issuance/Denial:** The city shall within thirty (30) working days of its receipt of a completed stormwater quality permit application either issue or deny a permit. The permit may be denied if the applicant fails to provide the information required by this section. If a permit is denied, the applicant shall be notified, in writing, of the grounds for denial and of the corrective actions that must be taken to obtain a permit. An applicant may appeal the denial in writing to the Director no later than thirty (30) calendar days from the date of issuance of denial. The appeal must set forth the grounds for the appeal and include any documents in support of the applicant's appeal. The city administrator shall within thirty (30) calendar days of receipt of an appeal rule on the matter based solely upon review of the application, denial, appeal, and all documents related thereto. The parties shall receive written notice of the city administrator's decision.
- (f) **Permit Fees:** Fees for any permit required by this article shall be established from time to time by resolution of the city council, and no permit shall be issued until and unless the fee has been paid.

Section 104-41 Construction Stormwater Management Plan

- (a) **Preparation of SWMP:** The SWMP shall be prepared in accordance with the engineering, hydrologic and pollution control practices outlined in the city's current standards and specifications for design and construction of public improvements.
- (b) **SWMP Required On Site:** The owner or its representative will be required to have the approved SWMP on site at all times and shall be prepared to respond to maintenance of specific BMPs.
- (c) **Inspection of BMPs:** The owner or their representative shall inspect all BMPs at least every fourteen (14) days and within twenty four (24) hours after any precipitation or snowmelt event that causes surface runoff. Inspections of BMPs shall be conducted by an individual who has successfully completed formal training in erosion and sediment control by a recognized organization acceptable to the Director. A certification of successful completion of such training shall be provided upon request.
- (d) **Maintenance of BMPs:** BMPs shall be continuously maintained in operating conditions and repaired immediately when damaged.
- (e) **Minor Modifications to SWMP:** Based on inspections performed by the owner or by city personnel, minor modifications to the SWMP will be necessary if at any time the specified BMPs do not meet the objectives of this article or equivalent or better BMPs are implemented. All minor modifications shall be implemented immediately and recorded on the owner's copy of the SWMP which shall be located on site at all times. The modified SWMP shall be made available to city personnel during inspections.
- (f) **Major Modifications to SWMP:** Whenever there is a significant change in design, construction, operation, or maintenance, which has a significant effect on the hydrology or potential for discharge of pollutants to the MS4 or receiving waters, a revised SWMP shall be submitted to the city for review and approval.

- (g) **Records of Inspection:** Records of inspection are to be maintained on site with the SWMP and are to be available to the city inspector upon request.

Section 104-42 Technical Standards and Specifications

- (a) All BMPs designed to meet the requirements of this article shall, as applicable, comply with the following technical standards:
 - 1. "Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual," Volume 3, BMP or its successor.
 - 2. Any other alternative methodology approved by the city, which is demonstrated to be effective.

Section 104- 43 Post-Construction Requirement of Permanent BMPs:

- (a) **Permanent BMPs:** Land development, for both private and public projects, that meets the requirements of this article must address stormwater runoff quality through the use of permanent BMPs which shall be maintained in perpetuity.
 - 1. Treatment BMPs, such as inlet inserts, bioretention, grass swales and buffers, extended detention basins, sand filters, permeable pavement, constructed wetland ponds and channels, and underground BMPs located on private property shall be owned and operated by the owner(s) of the property on which the BMP is located, unless the city in writing agrees that a person other than the owner shall own or operate such BMP.
 - 2. Non-Treatment BMPs, such as site operations, employee training, and site planning incorporating low impact development techniques to address storm-water quality shall be implemented in perpetuity.
 - 3. As a condition of approval of the BMP, the owner of a private project shall also agree to maintain the BMP to its design capacity unless or until the city relieves the property owner of that responsibility in writing. The obligation to maintain the BMP shall be memorialized on the subdivision plat, annexation plat, development agreement or other instrument or in a form acceptable to the city and shall be recorded in the office of the county clerk and recorder.
- (b) **Certification of Permanent BMPs:** Upon completion of a project, and before construction acceptance and/or a certificate of occupancy shall be granted, the city shall be provided a written certification stating that the completed project is in compliance with the approved final plan. All applicants are required to submit "as built" plans for any permanent treatment BMP after final construction is completed and must be certified by a Colorado licensed professional engineer. A final inspection by the city is required before the release of any performance securities can occur.
- (c) **Ongoing Inspection and Maintenance of Permanent BMPs:**
 - 1. Maintenance Agreements: The owner of a site with privately maintained BMPs must execute an agreement addressing maintenance of BMPs that shall be binding on all subsequent owners of the permanent BMPs. Any owner who sells, conveys or otherwise transfers ownership of such site, shall within thirty (30) days of such transfer provide the new owner written notice of the obligation to maintain the BMP's. An owner must also within such thirty (30) day time period provide the city a copy of such notice. Failure of

any party to send or receive such notice shall not absolve it of the obligation to meet the BMP maintenance requirement.

2. Publicly Owned Permanent BMPs: Publicly owned or maintained permanent BMPs shall be subject to ongoing inspection to ensure the BMP is functioning properly.
3. Long Term Inspection and Maintenance of Permanent BMPs: Permanent BMPs included in a final drainage plan must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the agreement, the plan and this article.

Section 104- 44 Security Requirement

- (a) As a condition for the issuance of a stormwater quality permit, applicants may be required to provide security in the form of an irrevocable letter of credit. The amount of the security will generally be based upon one hundred fifteen percent (115%) of the estimated cost of the work required to ensure compliance with the permit's terms and conditions and requirements of this article. After the issuance of construction acceptance, the letter of credit shall be released.
- (b) If the permittee does not successfully complete all required work or violates any requirement of the permit or this article, the city may take corrective measures and charge the cost of such to the permittee. Such costs shall include the actual cost of any work deemed necessary by the city plus reasonable administrative and inspection costs and penalties. If the total of such costs exceeds the security, the permittee shall be responsible for payment of the remaining balance within thirty (30) calendar days of receipt of an accounting of such from the city.

Section 104- 45 Enforcement and Penalties

- (a) **Violation:** It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who violates any of the provisions of this article shall be subject to one or more of the enforcement actions outlined in this section.
- (b) **Enforcement:** All authorized personnel under the supervision of the Director shall have the power to conduct inspections, give verbal direction, issue notices of violations and implement other enforcement actions under this section.
- (c) **Determination of Violation:** Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article, the Director shall have the right to enter the premises at any reasonable time to determine if there exists an actual or potential violation of the requirements of this article. In the event that the owner or occupant refuses entry after a request to enter has been made, the city is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
- (d) **Abatement:** In the event the violation constitutes an immediate danger to public health or public safety, the Director is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property.
- (e) **Cost of Abatement of the Violation:**
 1. If the city abates a violation, then within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including

administrative costs, by personal delivery or by mail to the last known address of the owner as shown in the records of the county assessor. The notice shall be effective upon the date of mailing or personal delivery. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days of the effective date of the notice.

2. If no protest is filed, then the charges shall become due and payable on the date set forth in the notice, which date shall be after the expiration of the time in which to file an appeal, and such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
 3. In the event a protest is filed, a hearing on such protest shall be held before the city administrator or its designee within fifteen (15) days from the date of receipt of the written protest. If any charges are upheld upon completion of such hearing, then such charges shall become due and payable ten (10) days after the issuance of the order upon such protest and if not timely paid, such charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
 4. If the amount due is not paid within ten (10) days of the decision of the city administrator or the expiration of the time in which to file an appeal under this section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
 5. All liens set forth in this section shall accrue penalty and interest at a rate equivalent to that which is assessed upon delinquent general property taxes under state law. Such lien shall have priority over all other liens except general taxes and shall, upon the city's certification and filing with Boulder County, be collected and paid to the city by the County Treasurer in the same manner as delinquent general property taxes.
- (f) **Stop Work Order:** Whenever the Director determines that any activity is occurring which is not in compliance with the requirements of this article, the Director can order the activity stopped upon service of written notice upon the responsible owner and/or operator. The owner and/or operator shall immediately stop all activity until authorized in writing by the city to proceed. If the owner and/or operator cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any owner and/or operator to fail to comply with a stop work order.
- (g) **Criminal Penalties: Enforcement Costs:** It is unlawful and an offense for any person to violate or permit or cause violation of this article or of the provisions of any discharge permit issued under this article. Violators shall be punishable as provided in Section 1-10 of the Code of Ordinances of Lafayette, Colorado; provided, however that in addition to any other punishment there shall be imposed a fine of \$1,000.000 for each violation of any provision of this article. Each day, or part of a day, any violation occurs or continues is a separate offense.
- (h) **Violations Deemed A Public Nuisance:** Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance. Any court of competent jurisdiction shall enjoin violations of this article, upon proof of such violations.
- (i) **Remedies Not Exclusive:** Except as expressly provided above, the remedies in this article are cumulative and the exercise of any one or more remedies shall not prejudice any other remedies that may otherwise be pursued for a violation of this article. The remedies listed in

this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

ARTICLE IV RESERVED

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.

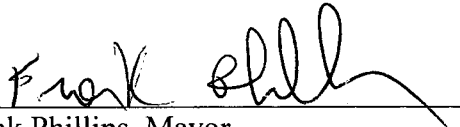
Section 6. Violations of this ordinance shall be punishable in accordance with Section 1.10 of the Municipal Code of the City of Lafayette, Colorado and as specifically provided in this ordinance.

Section 7. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 5TH DAY OF APRIL, 2011.

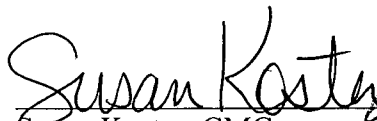
PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 19TH DAY OF APRIL, 2011.

CITY OF LAFAYETTE, COLORADO



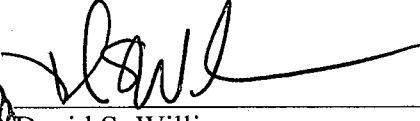
Frank Phillips, Mayor

ATTEST:



Susan Koster, CMC
City Clerk

APPROVED AS TO FORM:



David S. Williamson
City Attorney

