

ORDINANCE NO. 089, 2014
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 26, ARTICLE II, DIVISION 6
OF THE CODE OF THE CITY OF FORT COLLINS
TO CLARIFY SECTIONS RELATING TO WATER CONSERVATION

WHEREAS, the City Council has previously adopted Ordinance No. 048, 2003, which prescribed a four-tier Water Supply Shortage Response Plan and contained restrictions and requirements for conservation of water by persons served by the City's Water Utility, commonly referred to as water restrictions, which ordinance was then updated by the adoption of Ordinance 047, 2013; and

WHEREAS, in light of the continued threat of water shortage conditions in Fort Collins in the future, and the evolving condition of the City's municipal water supply and the information related thereto, and based on the City's experience with implementation of the current Plan in 2013, an updated Water Supply Shortage Response Plan (the "Plan") has been developed, which has been presented to the City Council for adoption with Ordinance No. 088, 2014; and

WHEREAS, Division 6, Article II of Chapter 26 of the City Code includes provisions prohibiting the wasting of water, and addressing other matters related to water shortages and water conservation; and

WHEREAS, staff has identified and recommended amendments to Division 6 that will improve and clarify those provisions and integrate the applicable Code language with the Plan; and

WHEREAS, elements of the Plan and concepts for proposed amendments to Division 6 were presented to, and discussed with, the City Council at a work session on January 28, 2014; and

WHEREAS, a draft of the Plan and a draft of the proposed amendments to Division 6 were presented to, and discussed with, the Water Board at the Board's March 20, 2014, meeting, and the Water Board recommended adoption of the amendments to Division 6 with suggested modifications, which are reflected in this Ordinance; and

WHEREAS, it is the desire of the City Council to adopt amendments improving and clarifying Division 6, as set forth herein.

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

Section 1. That Section 26-166 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-166. Waste of water prohibited.

(a) It is unlawful to waste water obtained from the City in any manner. No person shall cause the waste of water, or knowingly fail to prevent the waste of water on property owned by, or within the control of, such person.

(b) Waste of water shall mean any of the following:

(1) the application of water to any of the following in a manner that results in pooling of water or a steady flow of water into storm drainage facilities, or onto streets, sidewalks, driveways or other impervious surfaces:

- a. any lawn, turf, sodded or landscaped area;
- b. an impervious surface, such as a patio, driveway, garage; or
- c. a vehicle or other structure or object;

(2) the release of water from a leak, broken component, or malfunction of a valve or controller, a sprinkler or other irrigation system, or a broken or malfunctioning outdoor plumbing fixture;

(3) the application of water to an impervious surface, vehicle or other structure or object with a hose without the use of a hose nozzle designed to stay in the closed position except when activated by hand pressure to permit the flow of water; or

(4) the failure to comply with an order issued under Subsection (c).

(c) If the Utilities Executive Director determines that there is a break, leak or malfunction of any indoor plumbing, fixture or equipment, or any water service line or related fixture or equipment at any premises to which the City provides water service, a written notice of such condition may be given by the City to the customer for such premises and the owner of the property, ordering that the break, leak or malfunction be repaired within the period of time specified in the notice and order. Such period shall be no less than twenty-four (24) hours. The order may require that water to broken, leaking or malfunctioning water line be discontinued until repair has been completed, if necessary to prevent substantial loss of water.

Section 2. That Section 26-167 of the Code of the City of Fort Collins is hereby deleted in its entirety.

Section 3. That Section 26-168 of the Code of the City of Fort Collins is hereby renumbered as Section 26-167 and is amended to read as follows:

Sec. 26-167. Water supply shortage response; emergency restrictions.

(a) *Water supply shortage.* The City Council shall adopt by ordinance a Water Supply Shortage Response Plan to establish conditions and restrictions to be used by the

City Manager to manage the City's water supply in the event of projected shortages in supply. In the event the City Manager determines, based upon available estimates and projections of water supply quantity and quality, water storage capacity, water consumption, and climatological forecasts, that restrictions on the use of water by City water customers are necessary in order to manage the availability of water for use in the immediate future or within the planning horizon for managing the City's water supply, the City Manager may determine the applicable water supply shortage response level and declare as applicable the associated water use restrictions, as set forth in the most recently adopted Water Supply Shortage Response Plan. The City Manager's declaration and order prescribing use restrictions shall be effective on the date specified in such order. The City Manager shall cause publication of any such order no less than once in a daily newspaper published in the City on or prior to the effective date. Such order of the City Manager shall continue in full force and effect until the City Manager has determined that the water supply shortage response level has changed or that the projected water supply shortage has ended, and a determination and order to that effect has been published in the same manner as for an initial declaration.

(b) *Emergencies.* In the event of a major fire or any other emergency that requires the immediate curtailment of the use of City water, the City Manager is authorized to order any restrictions on use of City water as necessary for the protection of the public.

Section 4. That Article II, Division 6 of the Code of the City of Fort Collins is hereby amended by the addition of a new Section 26-168 which reads in its entirety as follows:

Sec. 26-168. Obligation to comply; penalties.

(a) *Affirmative obligation imposed.* Any person with legal or actual control of any property, business, or other establishment, water account or water system serving any of the same, shall have an affirmative duty to cause said property, business or establishment, water account or water system, to operate and act in a manner consistent with the restrictions and requirements of this Division and any restriction or requirement imposed pursuant to this Division.

(b) *Inconsistent covenants, deed restrictions and other clauses disregarded.* No person shall impose or enforce, or seek to impose or enforce, private covenants, conditions, restrictions, deed restrictions or clauses, or other agreements that require any person to operate or maintain lawn or turf grass or any other property or establishment of any sort in a manner inconsistent with the terms of this Division or any restriction or requirement imposed pursuant to this Division.

(c) *Violation of plan or permit.* No person shall violate the restrictions or requirements of any Water Supply Shortage Response Plan provision or emergency restriction that the City Manager has ordered into effect in accordance with this Section, or any permit issued thereunder.

(d) *Civil infraction.* Any person found guilty of violating any provision of this Division or any restriction or requirement imposed pursuant to this Division, whether by

acting in a manner declared to be unlawful or failing to act as required, commits a civil infraction and shall be subject to the penalty provisions of Subsection 1-15(f), except that, notwithstanding the provisions of § 1-15(f), minimum fines for violations of a Water Supply Shortage Response Plan restriction or requirement imposed pursuant to this Division shall be as set forth in said Plan as adopted.

(e) *Each day a separate offense.* Each day during which a violation of any provision of this Division or any restriction or requirement imposed hereunder occurs or continues shall constitute a separate offense.

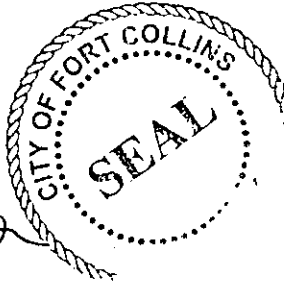
(f) *Discontinuance of water service.* Use of water provided by the City in violation of this Division or any restriction or requirement imposed hereunder shall constitute a violation of § 26-51, for which the Utilities Executive Director may discontinue water service.

Section 5. That Section 26-169 of the Code of the City of Fort Collins is hereby deleted in its entirety and all subsequent Sections are hereby renumbered accordingly.

Introduced, considered favorably on first reading, and ordered published this 3rd day of June, A.D. 2014, and to be presented for final passage on the 1st day of July, A.D. 2014.

ATTEST:

Wanda Nelson
City Clerk

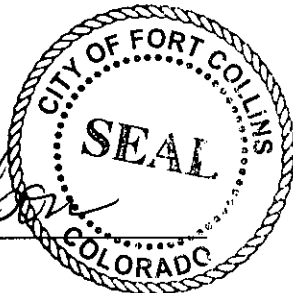


Karen Weikert
Mayor

Passed and adopted on final reading on the 1st day of July, A.D. 2014.

ATTEST:

Wanda Nelson
City Clerk



Karen Weikert
Mayor