

## **CITY OF LAFAYETTE**

### **ORDINANCE NO. 14, Series 2022**

**INTRODUCED BY:** Councilor Stephanie Walton

#### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AMENDING CHAPTER 75, “OFFENSES – MISCELLANEOUS,” OF THE CODE OF ORDINANCES**

**WHEREAS**, the State of Colorado has recently amended certain terms, definitions, penalties, and procedures for certain offenses for which the City either has a counterpart offense, or which the City may now enforce because the State has designated the offense a misdemeanor over which the City has jurisdiction; and

**WHEREAS**, to maintain consistency between certain State and local offenses and to allow for local enforcement of certain offenses, it is necessary that the City amend certain offenses in Chapter 75 of the Code of Ordinances of the City of Lafayette, Colorado.

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

Section 1. That section 75-180, “Disorderly conduct” of the Code of Ordinances, City of Lafayette, Colorado, is hereby amended to read as follows:<sup>1</sup>

#### **Sec. 75-180. - Disorderly conduct.**

(a) It shall be unlawful for any person to commit disorderly conduct. A person commits disorderly conduct when a person intentionally, knowingly, or recklessly:

(1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace;

(2) Makes unreasonable noise in a public place or near a private residence that the person has no right to occupy;

(3) Fights with another in a public place except in an amateur or professional contest of athletic skill;

(4) Not being a peace officer, discharges a firearm in a public place, except when engaged in lawful target practice or hunting or the ritual discharge of blank ammunition cartridges as an attendee at a funeral for a deceased person who was a veteran of the armed forces of the United States; or

(5) Not being a peace officer, displays a real or simulated firearm, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a firearm,

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<sup>1</sup> Additions to the Code are indicated by underlining. Deletions from the Code are indicated by ~~striketrough~~.

or represents verbally or otherwise that they are armed with a firearm in a public place in a manner calculated to alarm and does alarm another person.

(b) It is an affirmative defense to prosecution under subsection (a)(1) of this section that the person had significant provocation for his or her abusive or threatening conduct.

Section 2. That section 75-201, "Obstruction of peace officer, code enforcement officer, animal control officer, firefighter, emergency medical services provider, rescue specialist or volunteer," of the Code of Ordinances, City of Lafayette, Colorado, is hereby amended to read as follows:

**Sec. 75-201. - Obstruction of peace officer, code enforcement officer, animal control officer, firefighter, emergency medical services provider, rescue specialist or volunteer.**

(a) It shall be unlawful for any person to obstruct a peace officer, firefighter, emergency medical services provider, rescue specialist, code enforcement officer, animal control officer or volunteer when, by using or threatening to use violence, force, physical interference, or an obstacle, such person knowingly obstructs, impairs or hinders the enforcement of any penal law or the preservation of the peace by a peace officer, acting under color of their official authority; knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter, acting under color of their official authority; knowingly obstructs, impairs, or hinders the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color of their official authority; or knowingly obstructs, impairs, or hinders the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.

(b) To assure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference, or an obstacle, the person knowingly obstructs, impairs or hinders any such animal.

(c) A person shall not be charged with the offense described in subsection (a) of this section because the person remained silent or because the person stated a verbal opposition to an order by a government official.

(d) It is not a defense to a prosecution under this section that the peace officer was acting in an illegal manner if the peace officer was acting under color of their official authority. A peace officer acts "under color of their official authority" if, in the regular course of assigned duties, they make a judgment in good faith based on surrounding facts and circumstances that they must act to enforce the law or preserve the peace.

(e) For purposes of this section, unless the context otherwise requires:

(1) "Emergency medical service provider " means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as an emergency medical service provider.

Section 3. That subsection (b) of section 75-240, “Possession of marijuana,” of the Code of Ordinances, City of Lafayette, Colorado, is hereby amended to read as follows:

(b) It shall be unlawful for any person to possess more than two (2) ounces of marijuana or marijuana products unless such person is twenty-one (21) years of age or older or otherwise permitted by law to possess marijuana or marijuana products.

Section 4. That the Code of Ordinances, City of Lafayette, Colorado, is hereby amended by adding a section in Chapter 75, to be numbered section 75-241, which section reads as follows:

**Sec. 75-241 – Unlawful use of a controlled substance.**

Except as is otherwise provided for offenses concerning marijuana and marijuana concentrate as set forth in sections 18-18-406 and 406.5, C.R.S., it shall be unlawful for any person to use any controlled substance, as defined by section 18-18-102 (5), C.R.S., except when it dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense the controlled substance for bona fide medical needs.

Section 5. That the Code of Ordinances, City of Lafayette, Colorado, is hereby amended by adding a section in Chapter 75, to be numbered section 75-241.5, which section reads as follows:

**Sec. 75-241.5. - Unlawful possession of a controlled substance.**

Except as authorized by part 1 or 3 of article 280 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., section 18-18-428(1)(b), C.R.S., or part 2 of article 18, C.R.S., it is unlawful for any person to knowingly possess any material, compound, mixture, or preparation that contains not more than four grams of a controlled substance listed in schedule I or II of part 2 of article 18, C.R.S., or any quantity of a controlled substance listed in schedule III, IV, or V of part 2 of article 18, C.R.S., except as to possession of flunitrazepam, gamma hydroxybutyrate, or ketamine, or where possession of such substances constitutes a fourth or subsequent violation of this offense.

Section 6. 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 7. 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 8. The repeal or modification of any provision of the Code of Ordinances, City 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 9. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

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

Section 11. This ordinance shall become effective upon the latter of the 10<sup>th</sup> day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 17<sup>TH</sup> DAY OF MAY, 2022.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 7<sup>TH</sup> DAY OF JUNE, 2022.

CITY OF LAFAYETTE, COLORADO

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Jaideep Mangat, Mayor

ATTEST:

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Lynnette Beck, City Clerk

APPROVED AS TO FORM:

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Mary Lynn Macsalka, City Attorney