

CITY OF EVANS, COLORADO

ORDINANCE NO. -13

AN EMERGENCY ORDINANCE WAIVING BUILDING PERMIT FEES, PLAN CHECK FEES, DEMOLITION FEES, RELATED ADMINISTRATIVE FEES AND DECLARING A MORATORIUM ON THE COLLECTION OF USE TAX ON CONSTRUCTION AND BUILDING MATERIALS, ALL IN CONNECTION WITH THE REPAIR OR REPLACEMENT OF CERTAIN STRUCTURES THAT HAVE BEEN DAMAGED OR LOST DUE TO THE SEPTEMBER 2013 FLOODING EVENTS

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado;

WHEREAS, on September 13, 2013, the Council declared the City of Evans to be in a state of emergency disaster, pursuant to Colorado Revised Statutes Sections 24-33.5-701 *et seq.* (the “Colorado Disaster Emergency Act”), and Title VI of PL 93-288, as amended, (the “Robert T. Stafford Disaster Relief and Emergency Assistance Act”);

WHEREAS, heavy rains and flooding occurred throughout Weld County and Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown;

WHEREAS, areas beyond and in addition to those identified by the City as areas of special flood hazard were flooded and structures damaged in those areas as a result of the September 2013 storms;

WHEREAS, some of the fees associated with permits for repairing and/or replacing structures are assessed by the appropriate department within the City of Evans and others are paid, in part, to the City of Greeley for services associated with such permits;

WHEREAS, the City also assesses and collects a use tax in connection with construction materials used for repairing and/or replacing structures pursuant to the provisions of Sections 3.04.300 *et seq.* of the Evans City Code;

WHEREAS, the City imposed a moratorium on building or development within the areas of special flood hazard and other flooded areas on September 17, 2013 for a period of six months;

WHEREAS, this ordinance is intended to apply only to the repair of structures existing prior to the September 2013 flood events, or replacement of accessory structures existing prior to the September 2013 flood events, and not to the building or development of new structures; and

WHEREAS, in response to said flood disaster emergency, the Council desires to (1) authorize the waiver or payment of fees assessed or collected by the City of Evans, (2) declare a moratorium on use tax assessed or collected by the City of Evans, and (3) make available funds

to pay, on behalf of owners of the affected properties funds collected by the City of Greeley or the City of Evans or other entities in connection with such permits, all in the manner that maximizes potential reimbursement from FEMA and other agencies

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

1. In connection with permits applied for in order to (1) repair structures that were damaged as a result of the September 2013 flood events, or (2) repair or replace accessory structures that have been damaged or lost due to the September 2013 flooding events, Council hereby authorizes the waiver or the payment by the City of the following fees, in the manner deemed by the City Manager to be the most efficient to ensure the maximum reimbursement to the City or its inhabitants of such costs from FEMA and other agencies:

a. Building permit fees, plan check fees, demolition fees, and administration fees assessed by the City of Evans Community Development Department, and

b. Fees and charges assessed, directly or indirectly, by the City of Greeley in connection with the review, issuance, monitoring, or finalization of building, demolition, plan check or administrative fees.

2. Council further declares a moratorium on the assessment of use tax pursuant to the provisions of Sections 3.04.300 *et seq.* of the Evans City Code in connection with the repair or replacement of the types of structures or accessory structures as described in Paragraph 1, above, with such moratorium to expire six months from the effective date of this ordinance or such earlier time as the Council deems appropriate. This moratorium shall be effectuated in such manner as the City Manager determines will maximize reimbursement to the City or its inhabitants of the revenues lost through imposition of this moratorium, including but not limited to assessing such tax and/or subsequently reimbursing the payment of such tax.

3. Severability. 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 thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

5. Publications and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS _____ DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor