

ORDINANCE NO: 2401  
“Water Utility Tariff 2024 Amendment”

AN ORDINANCE AMENDING THE CITY OF HAYS, TEXAS’ WATER UTILITY TARIFF TO ADOPT SECTION 6.17, PENALTIES FOR WASTEFUL WATE RUSE AND EXCEEDANCES; ESTABLISHING PENALTIES; REPEALING ALL CONFLICTING PROVISIONS IN OTHER ORDINANCES; PROVIDING SAVINGS CLAUSE; ESTABLISHING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Hays (the “City”) purchased the Estates Utilities Water Supply Corporation water system that serves the citizens of the City and other Customers; and

**WHEREAS**, the City of Hays desires to adopt policies, rules, and forms for the proper operation and management of the water system; and

**WHEREAS**, the City Council of the City seeks to promote the health, safety and general welfare of the citizens of the City, and the best interests of the City; and

**WHEREAS**, pursuant to Texas Local Government Code § 51.001, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

**WHEREAS**, pursuant to Texas Local Government Code § 51.032, the City Council is authorized to adopt an ordinance, not inconsistent with state law, that the governing body considers proper for the government of the City; and

**WHEREAS**, the City Council seeks to ensure that utility service is adequate and efficient for the citizens of the City and the citizens outside City limits; and

**WHEREAS**, pursuant to Chapter 552 of the Texas Local Government Code and other laws, the City is authorized to operate its utility systems inside or outside its municipal boundaries, to regulate the systems in a manner that protects the interests of the municipality; and

**WHEREAS**, pursuant to Chapter 13 of the Texas Water Code the City has the authority and responsibility to provide utility services to its customers and qualified service applicants;

NOW, THEREFORE, BY THE CITY COUNCIL OF THE CITY OF HAYS, TEXAS,  
that:

**SECTION 1. SHORT TITLE**

This Ordinance shall be known as the **Water Utility Tariff 2024 Amendment**.

**SECTION 2. PURPOSE**

The City of Hays adopts this Water Utility Tariff 2024 Amendment as an amendment to the City's statement of its policies and means of regulating the application for and delivery of water utility service from and by the City.

### **SECTION 3. PARTS**

This Water Utility Tariff is comprised of the following parts:

- |                             |                                |
|-----------------------------|--------------------------------|
| 1. This Ordinance           | 6. Rates and Service Fees      |
| 2. Definitions              | 7. Extension Policy            |
| 3. Policies                 | 8. Emergency Rationing Program |
| 4. Geographical Area Served | 9. Forms                       |
| 5. Service Rules            |                                |

### **SECTION 4. AMENDMENT**

The City's Water Utility Tariff is hereby amended to add new Section 6.17, as set out in **Exhibit "A"** to this Ordinance.

### **SECTION 5. PUBLIC ACCESS**

The City shall make a copy of this Amended Water Utility Tariff, as amended, available to the public during the City's regular office hours subject to the requirements of the Texas Public Information Act. Requests for copies of this Amended Tariff shall be subject to the payment of reproduction costs as allowed under the Texas Public Information Act.

### **SECTION 6. RATIFICATION**

The City Council hereby ratifies the City's use of the Tariff of Estates Utilities Water Supply Corporation, as subsequently amended, as its tariff for any time period before the effective date of this Ordinance.

### **SECTION 7. PENALTIES**

- (a) Any person who violates any provision of this Amended Tariff shall be guilty of a misdemeanor. Upon conviction, such person shall be subject to a fine not to exceed Five Hundred Dollars (\$500) or the maximum fine for violating the City's ordinances that govern fire safety, zoning, public health and sanitation.
- (b) Each day during which a violation is committed or permitted to continue shall constitute a separate punishable violation of this Ordinance.

### **SECTION 7. REPEAL OF CONFLICTING PROVISIONS AND SAVINGS CLAUSES**

- (a) All provisions in all other ordinances that are in conflict with this Amended Tariff are repealed, which repeal shall take effect upon the effective date of this Amended Tariff.
- (b) This Amended Tariff does not repeal any prior agreement between the City and any party or between Estates Utilities Water Supply Corporation and any party, except as may be provided in those agreements.
- (c) The adoption of this Amended Tariff shall not affect any act or offense committed, or any penalty or forfeiture incurred, or any contract or vested right established or accruing before the effective date of this Amended Tariff.

**SECTION 8. SEVERABILITY**

If any portion of this Amended Tariff is held to be invalid or unenforceable for any reason, that holding shall not be construed to affect any other provisions of this Amended Tariff, which shall remain in full force and effect.

**SECTION 9. EFFECTIVE DATE**

This Amended Tariff shall become effective on the 17 day of JANUARY 2024.



Billy Maphies  
Mayor, City of Hays

ATTEST:



Cynthia McCall  
City Secretary, City of Hays

**Exhibit A**

6.17 Penalties For Wasteful Water Use And Exceedances (Revised 01/08/2024)

- (a) No customer shall knowingly permit waste or leaks of water. Where water is wastefully or negligently used on the customer's premises, the City may restrict the service, if such conditions are not corrected within five days after the City or its Water Operation Company gives the customer written notice. For the purpose of this Tariff and for water use during any declared BSEACD Stage III (Critical), Stage IV Emergency, or Stage V (Exceptional) drought condition or stage, a customer's potable drinking water use is considered wasteful if used for any of the uses:
1. Hosing off sidewalks, driveways, and other hardscapes;
  2. Washing automobiles and other vehicles with hoses not equipped with a shut-off nozzle;
  3. Using non-recirculated water in a fountain or other decorative water feature;
  4. Watering lawns in a manner that causes runoff or on non-designated lawn watering/irrigation days; or within 48 hours after measurable precipitation;
  5. Using water in violation for the City User Drought Contingency Plan;
  6. Not promptly repairing water leaks in the customer's side water system within 48-hours of discovery of same; and/or
  7. Using water in excess of the Maximum Monthly Billing Cycle Allowable Usage as set forth in Table 6.1.

**Table 6.1 Maximum Water Customer Monthly Billing Cycle Water Usage.**

A	B	C
BSEACD DROUGHT STAGE	MAXIMUM MONTHLY BILLING CYCLE ALLOWABLE USAGE (GALLONS)	DROUGHT SURCHARGE FOR MONTHLY BILLING CYCLE WATER USE ABOVE THE VOLUME LISTED IN COLUMN B
Stage III – Critical Drought	30,000	\$8.50 PER 1,000 GALLONS
Stage IV – Exceptional Drought	20,000	\$9.50 PER 1,000 GALLONS
Stage V – Emergency Drought	10,000	\$10.50 PER 1,000 GALLONS

- (b) For the first penalty, the Customer shall receive a written warning with or on their bill and/or in a separate mailing from the City or its Water Operation Company including the amount of the exceedance, notice that further exceedances will result in monetary penalties as described herein, and information for resources to help the Customer understand what penalties would be applied for future exceedances.
- (c) For the second penalty, the Customer shall be charged a drought exceedance surcharge, as shown in Table 6.1, for each 1,000 gallons of water used in excess of the allowable usage set forth in Table 6.1. This surcharge fine shall be in addition to the Customer's monthly billing water use charges. The Customer shall also receive a written warning with or on

their bill and/or in a separate mailing from the City or its Water Operation Company showing the amount of the penalty and information for resources to help the Customer understand what penalties would be applied for future exceedances and that they may be subject to the installation of a flow restriction device on their water service in the event of a third or subsequent exceedances.

- (d) For the third and subsequent penalties, the Customer shall be charged a drought exceedance surcharge, as shown in Table 6.1, for each 1,000 gallons of water used in excess of the allowable usage, set forth in Table 6.1 AND be subject to the immediate installation of a flow-restricting device of one-gallon-per-minute (1 GPM) capacity for services up to one inch (1-1/2") size and comparatively sized restrictors for larger services.

Upon installation and removal of a flow restriction device, the Customer shall be billed for such action as set forth in Section 6.06(d)(e) of this Tariff.

- (e) A flow restriction device, if installed, will remain installed for no less than 14 calendar days and up to 30 calendar days from the first time it is installed, 90 calendar days the second time it is installed, and 180 calendar days the third and subsequent times that it is installed. A notice/door tag will be placed at the resident's house notifying them that a flow restrictor has been placed on their water meter and the additional fees/penalties that will be applied to their water bill. In addition, the Customer will be contacted by telephone notifying the Customer that a flow restrictor has been installed. If a Customer, an agent of the Customer, or any other person on behalf of a Customer, interferes with the installation of, or removes or bypasses a flow restriction device, the Customer shall be fined for illegal water consumption and subject to termination of service in accordance with applicable laws of the State of Texas.<sup>1</sup> If the service is disconnected, the Customer shall be provided at least 72 hours' notice. The disconnection will remain in place for the same period of time that the flow restriction device would have remained in place. The City or Water Operation Company may, at his/her discretion and upon request by the Customer, return water service to the account, with conditions determined by the City to ensure compliant and reasonable water usage, including but not limited to, a flow restriction device shall be installed for the remaining duration of time that the service was subject to the installation of a flow restriction device. All fees associated with connection, reconnection, and flow restrictor installations and removals shall be applied to the Customer account.

- (f) A list of the itemized penalties shall be collected as shown on the Customer's water bill. Any penalties shall be the responsibility of the Customer of record for the property where the violation occurred and shall be paid in addition to the fees the City imposes for the cost

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<sup>1</sup> See Texas Public Utility Commission, Chapter 24: Substantive Rules Applicable to Water and Sewer Service Providers, Section 24.167, Discontinuance of Service, and Section 24.205, Adequacy of Water Utility Service. See also City of Hays User Drought Contingency Plan; Penalties and Consequences.

of water service to the property. Non-payment of penalties imposed pursuant to this section shall be subject to the same remedies as available to the City for the non-payment of fees for water service. The receipt of a water bill with any applicable penalties shall serve as notice of violation.

- (g) A Customer who wishes to appeal the imposition of a penalty shall: (1) pay all amounts stated on the bill except for the disputed penalties; and (2) must submit a written appeal to the City within 15 calendar days of the date of the Customer's water bill for the billing cycle in which the penalty was imposed.
  
- (h) An appeal will be granted if the City finds that competent evidence supports a reasonable conclusion that:
  - (1) the excessive water use was the result of a malfunction of the City's water system or a billing error by the City or its Water Operation Company;
  - (2) the water was needed for health or safety reasons; or
  - (3) a leak or accidental continuous use occurred on the property during the subject billing period.
  
- (i) The City will respond to appeals within 30 calendar days of receipt. The City may require additional documentation prior to making a decision on an appeal. In the event an appeal is denied, the appellant shall pay the City within 10 days of denial of the appeal.