

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS, AMENDING THE CITY OF FAIR OAKS RANCH CODE OF ORDINANCES, CHAPTER 13 UTILITIES, ARTICLE 13.03 WATER AND SEWER SYSTEM, DIVISION 3, PART II DROUGHT CONTINGENCY PLAN AND AMENDING APPENDIX A FEE SCHEDULE, ARTICLE A9 (V) AND (W) DROUGHT SURCHARGE RATES TO INCLUDE A FOURTH STAGE

WHEREAS, the City of Fair Oaks Ranch, Texas, recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought or upon failure of major system components, and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality (“TCEQ”), including Title 30, Chapter 288, Subchapters A and B of the Texas Administrative Code require all public water supply systems in Texas to prepare, update and adopt a water conservation and drought contingency plan at a minimum at least every five years, and

WHEREAS, in accordance with the regulations established by the TCEQ, it is necessary to regularly review, update and adopt an amended water conservation and drought contingency plan, and

WHEREAS, as authorized under law, and in the best interests of the citizens of Fair Oaks Ranch, Texas, and its customers, the City Council deems it necessary to amend certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies, and

WHEREAS, City Council deems it necessary to amend the City’s Drought Contingency Plan by revising drought stage initiation triggers and measures to incorporate a fourth stage and establish related drought surcharge fees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section 1. Chapter 13 Utilities, Article 13.03 Water and Sewer System, Division 3 Drought Surcharge Rates and Drought Contingency Plan, Part II Drought Contingency Plan and Appendix A Fee Schedule, Article A9 (v) and (w) Water Charges – Drought Surcharge Rates is hereby amended as set forth in the attached **Exhibit A**.

Section 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

- Section 4.** That it is officially found, determined, and declared that the meeting at which this ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.
- Section 5.** The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.
- Section 6.** If any provision of this ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this ordinance would have been enacted without such invalid provision.
- Section 7.** All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters ordained herein.
- Section 8.** This ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.
- Section 9.** This ordinance shall take effect April 1, 2025, from and after its second reading, passage and any publication requirements as may be required by governing law.

PASSED and APPROVED on first reading by the City Council of the City of Fair Oaks Ranch, Texas, on this 16th day of January 2025.

PASSED, APPROVED, and ADOPTED on second and final reading by the City Council of the City of Fair Oaks Ranch, Texas, on this 6th day of February 2025.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, TRMC
City Secretary

Denton Navarro Rodriguez Bernal Santee & Zech
P.C., City Attorney

EXHIBIT A

Chapter 13 Utilities, Article 13.03 Water and Sewer System, Division 3 Drought Surcharge Rates and Drought Contingency Plan, Part II Drought Contingency Plan is hereby amended as follows:

[Deletions shown as strikethrough and additions shown as underscore]

Sec. 13.03.117 Criteria for Initiation and Termination of Drought Stages and Responses

- (a) Monitoring. FORU shall monitor water supply and/or demand conditions on a monthly basis until such time that conditions warrant initiation of stage 1, after which daily conditions shall be monitored to determine initiation and termination of each stage of the plan, that is, when the specified "triggers" are reached. The triggering criteria described below are based on analysis of the vulnerability of the water source under drought of record conditions, current water demands and current National Weather Service extended weather predictions.
- (b) Stage 1, ~~moderate~~ mild water shortage conditions.
- (1) Triggers.
- (A) Requirements for initiation. Customers shall reduce nonessential water uses when two (2) of three (3) conditions have been met:
- (i) The static water level in the FORU observation well averages less than or equal to 1,045 feet above mean sea level for 15 consecutive days;
 - (ii) The water system's average daily consumption of Trinity Aquifer groundwater for the same consecutive 15 days exceeds 1.2 million gallons per day; or
 - (iii) Either Guadalupe-Blanco River Authority (GBRA) or Trinity Glen Rose Groundwater Conservation District (TGRGCD) implements stage 1 water reduction requirements of their drought contingency plan.
- (B) Requirements for termination. Stage 1 of the plan may be rescinded when the static water level in the observation well averages greater than 1,045 feet above mean sea level for 60 consecutive days and GBRA or TGRGCD is no longer in stage 1 (or worse) conditions from their drought contingency plan.
- (2) Response.
- (A) Goal. Achieve both a reduction in total water use and reduce monthly average Trinity Aquifer groundwater use for 30 consecutive days to less than 1.2 million gallons per day.
- (B) Supply management measures.
- (i) Implementation of a surcharge on all water used over 20,000 gallons per residential account per billing period and 50,000 gallons per commercial account per billing period.
 - (ii) Commercial car washing (using nonrecycled technology) banned.
 - (iii) Reduce water main flushing to that required to maintain quality standards.
 - (iv) All landscape watering permits issued prior to the implementation of Stage 1 restrictions are rescinded. No additional permits shall be issued, with the exception of newly built homes or with proof of new lawn purchase, as defined in section 13.03.116, within the last seven (7) days prior to Stage 1 implementation.
- (c) Stage 2, ~~severe~~ moderate water shortage conditions.

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(1) Triggers.

- (A) Requirements for initiation. Customers shall further reduce nonessential water uses when two (2) of three (3) conditions have been met:
- (i) The static water level in the FORU observation well averages less than or equal to 1,035 feet above mean sea level for eight (8) consecutive days;
 - (ii) The water system's average daily consumption of Trinity Aquifer groundwater for the same consecutive eight (8) days exceeds ~~700,000~~ 900,000 gallons per day; or
 - (iii) Guadalupe-Blanco River Authority (GBRA) or Trinity Glen Rose Groundwater Conservation District (TGRGCD) implements stage 2 water reduction requirements of their drought contingency plan.
- (B) Requirements for termination. Stage 2 of the plan may be rescinded when the static water level in the observation well averages greater than 1,035 feet above mean sea level for 60 consecutive days and GBRA or TGRGCD is no longer in stage 2 (or worse) conditions from their drought contingency plan. Upon termination of stage 2, stage 1 becomes operative.

(2) Response.

- (A) Goal. Achieve both a reduction in total water use and reduce the average Trinity Aquifer groundwater use for 30 consecutive days to less than 0.9 million gallons per day.
- (B) Supply management measures.
- (i) Implementation of a surcharge on all water used over 15,000 gallons per residential account per billing period and 40,000 gallons per commercial account per billing period.
 - (ii) Use of water from fire hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare.
 - (iii) Ornamental water fountain water usage banned.
 - (iv) No sale of bulk water, unless work is being completed for the City.
 - (v) Landscape watering permits for new lawn purchases are rescinded and no new permits will be issued.
 - (vi) Golf course watering is limited to the use of effluent and non-potable irrigation well water provided by the FORU wastewater treatment plant and wells, unless approved by the City Manager or designee.

(d) Stage 3, severe water shortage conditions.

(1) Triggers.

- (A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in this plan when two (2) of three (3) conditions have been met:
- (i) The static water level in the FORU observation well is equal to or less than 1,025 feet above mean sea level for eight (8) consecutive days;
 - (ii) The water system's average daily consumption of Trinity Aquifer groundwater for the same consecutive eight (8) days exceeds 700,000 gallons per day; or
 - (iii) Guadalupe-Blanco River Authority (GBRA) or Trinity Glen Rose Groundwater Conservation District (TGRGCD) implements stage 3 water reduction requirements of their drought contingency plan.
- (B) Requirements for termination. Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for 60 consecutive days.

(2) Response.

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- (A) Goal. Achieve both a reduction in total water use and reduce the average Trinity Aquifer groundwater use for 30 consecutive days to less than 0.9 million gallons per day.
- (B) Supply management measures.
 - (i) Implementation of a surcharge on all water used over 10,000 gallons per residential account per billing period and 30,000 gallons per commercial account per billing period.
 - (ii) Landscape watering through an irrigation system is limited to once every other week;
 - (iii) Power washing sidewalks, driveways, pavement, the outside of buildings or other impervious surfaces is prohibited.
 - (iv) Watering with drip irrigation is allowed every Monday, Wednesday, and Friday.

(~~d~~e) Stage ~~3~~ 4, critical water shortage conditions.

(1) Triggers.

(A) Requirements for initiation. Customers shall be required to comply with the requirements and restrictions on certain nonessential water uses provided in this plan when one (1) of three (3) conditions have been met:

- (i) The static water level in the FORU observation well is equal to or less than 1,020 feet above mean sea level;
- (ii) At any time that the water system's production wells are failing so that normal production of 1.2 million gallons per day of Trinity Aquifer groundwater cannot be maintained for seven (7) consecutive days; or
- (iii) Guadalupe-Blanco River Authority (GBRA) or Trinity Glen Rose Groundwater Conservation District (TGRGCD) implements stage ~~3~~ 4 water reduction requirements of their drought contingency plan.

(B) Requirements for termination. Stage ~~3~~ 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for 60 consecutive days.

(2) Response.

(A) Goal. Limit consumption to domestic water use as defined in section 13.03.116.

(B) Supply management measures.

- (i) ~~Implementation of a surcharge on all water used over 10,000 gallons per residential account per billing period and 30,000 gallons per commercial account per billing period.~~ Implementation of a surcharge as described in Stage 3 remains in effect.
- (ii) All nonessential water uses, as defined in section 13.03.116, are prohibited except for watering by handheld hose.
- (iii) Watering with drip irrigation is allowed once a week as determined by the year-round watering day schedule.
- (~~iii~~ iv) Golf course watering is limited to the use of effluent water provided by the FORU wastewater treatment plant or a water source other than that provided by FORU.
- (~~iv~~ v) A moratorium is imposed on the issuance of irrigation (with the exception of newly built homes) and swimming pool permits. Swimming pools under construction during the implementation of this drought response shall be filled only with water purchased from a source other than FORU, unless approved by the City Manager or designee.

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- (v ~~vi~~) Hosston/Sligo aquifer water may be diverted to drinking water distribution, if authorized by TCEQ.
- (vi ~~vii~~) No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage is in effect.
- (vii ~~viii~~) Water-flow restrictors may be installed on customer meters.

Appendix A Fee Schedule Article A9 (v) and (w) Water Charges – Drought Surcharge Rates are hereby amended as follows:

[Deletions shown as strikethrough and additions shown as underscore]

(v) Drought surcharge rates - Residential:

- (1) Stage 1, ~~moderate~~mild water shortage conditions - residential cost per 1,000 gallons:
 - (A) 0 - 20,000 gallons.....\$0.00
 - (B) 20,001 - 40,000 gallons.....\$5.00
 - (C) 40,001 - 60,000 gallons.....\$6.00
 - (D) 60,001 - 75,000 gallons.....\$7.00
 - (E) 75,001 - 100,000 gallons.....\$10.00
 - (F) Over 100,000 gallons.....\$12.50
- (2) Stage 2, ~~severe~~moderate water shortage conditions - residential cost per 1,000 gallons:
 - (A) 0 - 15,000 gallons.....\$0.00
 - (B) 15,001 - 20,000 gallons.....\$5.00
 - (C) 20,001 - 40,000 gallons.....\$7.50
 - (D) 40,001 - 60,000 gallons.....\$10.00
 - (E) 60,001 - 75,000 gallons.....\$15.00
 - (F) 75,001 - 100,000 gallons.....\$20.00
 - (G) Over 100,000 gallons.....\$30.00
- (3) Stage 3 severe and Stage 4 critical water shortage conditions - residential cost per 1,000 gallons:
 - (A) 0 - 10,000 gallons.....\$0.00.
 - (B) 10,001 - 20,000 gallons.....\$7.50
 - (C) 20,001 - 40,000 gallons.....\$10.00
 - (D) 40,001 - 60,000 gallons.....\$15.00

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(E) 60,001 - 75,000 gallons.....\$20.00

(F) 75,001 - 100,000 gallons.....\$30.00

(G) Over 100,000 gallons.....\$35.00

(w) Drought surcharge rates - Commercial:

(1) Stage 1, ~~moderate~~ mild water shortage conditions - commercial cost per 1,000 gallons:

(A) 0 - 50,000 gallons.....\$0.00

(B) 50,001 - 60,000 gallons.....\$6.00

(C) 60,001 - 75,000 gallons.....\$7.00

(D) 75,001 - 100,000 gallons...\$10.00

(E) Over 100,000 gallons.....\$12.50

(2) Stage 2, ~~severe~~ moderate water shortage conditions - commercial cost per 1,000 gallons:

(A) 0 - 40,000 gallons.....\$0.00

(B) 40,001 - 60,000 gallons.....\$10.00

(E) 60,001 - 75,000 gallons.....\$15.00

(F) 75,001 - 100,000 gallons.....\$20.00

(G) Over 100,000 gallons.....\$30.00

(3) Stage 3 severe and Stage 4 critical water shortage conditions - commercial cost per 1,000 gallons:

(A) 0 - 30,000 gallons.....\$0.00

(B) 30,001 - 40,000 gallons.....\$10.00

(D) 40,001 - 60,000 gallons.....\$15.00

(E) 60,001 - 75,000 gallons.....\$20.00

(F) 75,001 - 100,000 gallons.....\$30.00

(G) Over 100,000 gallons.....\$35.00