

ORDINANCE NO. 2595

**AN ORDINANCE RELATING TO EMERGENCY WATER REGULATIONS AND WATER CONSERVATION WITHIN THE CITY OF DERBY, KANSAS; AMENDING CHAPTER 13.06 OF THE DERBY MUNICIPAL CODE ADDING A CRITICAL WATER EMERGENCY STAGE AND UPDATING PROVISIONS CONCERNING FEES FOR VIOLATION OF EMERGENCY WATER REGULATIONS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:**

**Section 1.** Section 13.06.010 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.010 Purpose.**

The purpose of this chapter is to provide for declaration of four stages of drought response and the implementation of voluntary and mandatory water conservation measures throughout the city in the event of such a declaration

**Section 2.** Section 13.06.020 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- A. "Water" means water supplied by the company to its customers.
- B. "Company" means the El Paso Water Company, Inc., of Derby, Kansas, or any successor in interest thereto.
- C. "Customer" means the company's customer of record at or with respect to any property to which water is supplied by the company, and for which either a regular charge is made or a cash charge is made at the site of delivery.
- D. "Waste of water" includes, but is not limited to: (1) permitting water to escape down a gutter, ditch, or other surface drain; or (2) failure to repair or stop a controllable leak of water.
- E. "Water conservation plan" means the municipal water conservation plan prepared by the company or the City of Derby and filed with the city clerk, as it may be from time to time supplemented or amended.

**Section 3.** Section 13.06.030 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.030 Stage 1: Voluntary Conservation.**

Whenever the city manager finds that a trigger identified in the water conservation plan has occurred, the city council by resolution or the city manager may declare that Stage 1 drought response is required pursuant to the water conservation plan. Stage 1 drought response is focused on voluntary conservation as outlined in the water conservation plan. The stage shall continue until terminated by the city council or city manager. Any declaration, order, or resolution declaring or terminating the Stage 1 drought response shall be given prompt and general publicity and shall be filed promptly with the city clerk.

**Section 4.** Section 13.06.040 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.040 Mandatory Restrictions.**

Whenever the city manager finds that a trigger identified in the water conservation plan has occurred, the city council by resolution or the city manager may declare that Stage 2 drought response is required pursuant to the water conservation plan. Stage 2 requires mandatory restrictions as outlined in the water conservation plan. The stage shall continue until terminated by the city council or city manager. Any declaration, order, or resolution declaring or terminating the Stage 2 drought response shall be given prompt and general publicity and shall be filed promptly with the city clerk.

**Section 5.** Section 13.06.050 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.050 Stage 3: Water Emergency.**

Whenever the city manager finds that a trigger identified in the water conservation plan has occurred, the city council by resolution or the city manager may declare that Stage 3 drought response is required pursuant to the water conservation plan. Stage 3 is considered a water emergency as outlined in the water conservation plan. The stage shall continue until terminated by the city council or city manager. Any declaration, order, or resolution declaring or terminating the Stage 3 drought response shall be given prompt and general publicity and shall be filed promptly with the city clerk.

**Section 6.** Section 13.06.060 of the Derby Municipal Code is hereby amended to read as follows:

**Section 13.06.060 Stage 4: Critical Water Emergency**

Whenever the city manager finds that a trigger identified in the water conservation plan has occurred, the city council by resolution or the city manager may declare that Stage 4 drought response is required pursuant to the water conservation plan. Stage 4 is considered an extreme water emergency as outlined in the water conservation plan. The stage shall continue until terminated by the city council or city manager. Any declaration, order, or resolution declaring or

terminating the Stage 4 drought response shall be given prompt and general publicity and shall be filed promptly with the city clerk.

**Section 7.** Section 13.06.070 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.070 Emergency Water Rates; Excessive Use Charges.**

Upon declaration of any Stage 2, Stage 3, or Stage 4 drought response stage, the city council may adopt emergency water rates and may impose excessive use charges or fees for the purpose of ensuring compliance with and conserving water supplies pursuant to the water conservation plan.

**Section 8.** Section 13.06.080 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.080 Emergency Regulations.**

During a Stage 3 or Stage 4 drought response declared pursuant to this chapter, the city manager is empowered to promulgate, implement and enforce such regulations deemed necessary to carry out the provisions of this chapter. Such regulations shall be subject to approval of the city council at its next regular or special meeting.

**Section 9.** Section 13.06.090 of the Derby Municipal Code is hereby amended to read as follows:

**13.06.090 Violations, disconnections and penalties.**

A. Whenever a violation of any water conservation plan regulations implemented pursuant to the declaration of a Stage 2, Stage 3, or Stage 4 drought response occurs, written notice of the initial violation shall be given to the customer or any other person known or believed to be responsible for the property where the violation occurs, or affixed to the property where the violation occurs. Such notice shall include a description of the violation and state the following:

1. The property is in violation of this chapter and the customer will be assessed an administrative fee and may have water services restricted if violation continues;
2. The customer or any other person known or believed to be responsible for the property where the violation occurs is ordered to correct, cure or abate such violation within forty-eight hours after receipt of notice;
3. If the violation is not abated within forty-eight hours, the city or its authorized agent may correct, cure or abate the violation and charge the cost thereof, including reasonable administrative fees established in the water conservation plan for violations of plan restrictions, to the customer;

4. Such costs and fees, if not timely paid, will be added to the next water bill for the property;
5. No further notice is required to be given prior to correction, cure, additional charges for ongoing violations, or abatement of violations by the city and correction, cure, or abatement may include disconnection of services;

B. A fee of fifty dollars shall be paid for the reconnection of any water service terminated pursuant to this Section 13.06.090. In the event of a second or subsequent disconnection by or with respect to the same property, the reconnection fee shall be two hundred dollars for the second reconnection and five hundred dollars for all subsequent reconnections.

C. Any customer shall have the opportunity to appeal the charge of an administrative fee or termination of water service by requesting a hearing before the City Manager or other official designated as a hearing officer by the City Manager according to the following:

- 1) If an administrative fee has been charged on a customer's water bill, the customer must submit a written hearing request within ten (10) days of the date of the water bill where the administrative fee has been charged.
- 2) If termination of water service is proposed or has occurred, the customer must submit a written hearing request within ten (10) days of the written notice of such proposed water termination or within ten (10) days of the shutoff date in instances where water service has been terminated.
- 3) All written hearing requests shall be submitted to the city clerk.
- 4) If a written hearing request is requested by the specified date, the customer shall be given a full opportunity to be heard.
- 5) The City Manager or designated hearing officer shall make findings of fact and order whether an administrative fee, water restriction, or termination of water service is ordered. If an administrative fee has been charged on a customer's water bill prior to appeal, the City Manager has the discretion to order removal of the administrative fee, as well as any necessary adjustment to the bill to reverse the impact of such fee.

**Section 10.** Section 13.06.100 of the Derby Municipal Code is hereby established to read as follows:

**13.06.100 Immediate disconnection of water service.**

Nothing in this chapter shall be construed to prohibit the city from disconnecting or terminating the supply of water to any or all customers upon a determination that immediate termination of water service is necessary to protect the health and safety of the public.

**Section 11.** All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

**Section 12.** Severability. Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

**Section 13.** Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City’s official newspaper as provided by State law.

**PASSED by the City Council** this 13<sup>th</sup> day of May, 2025 and **SIGNED** by the Mayor.

Seal: /s/Mark A. Staats  
Mayor

Attest:  
  
/s/Lynn Ciarleglio  
City Clerk

Approved as to form:  
  
/s/Jacqueline R. Butler  
City Attorney