

## ORDINANCE NO. 62

### AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE IDYLLWILD WATER DISTRICT FINDING THE NECESSITY OF, AND PROVIDING FOR THE IMPLEMENTATION AND ENFORCEMENT OF A WATER SHORTAGE EMERGENCY PLAN TO MITIGATE THE EFFECTS OF DROUGHT AND RESCINDING ORDINANCE NO. 60 AND ALL AMENDMENTS THERETO

#### RECITALS

**WHEREAS**, the total water supply available to the Idyllwild Water District ("DISTRICT") is dependent upon local rainfall and snowmelt from the higher elevations of the San Jacinto Mountains; and

**WHEREAS**, there is no source of imported water available to the District to supplement its local water supplies; and

**WHEREAS**, the DISTRICT periodically experiences years in which the amount of precipitation is insufficient to fully replenish the DISTRICT's water supplies. When such "dry" periods extend into subsequent years, the DISTRICT's ability to meet the minimum water supply requirements necessary to protect the public's health, safety and general welfare is severely compromised; and

**WHEREAS**, the Board of Directors of the DISTRICT has been informed and advised that to ensure sufficient water supplies to meet basic needs of human consumption, sanitation and fire protection, the DISTRICT must implement and enforce water conservation measures in order to mitigate the effects of drought on the community; and

**WHEREAS**, it is the purpose of this Ordinance to establish a multi-staged water shortage emergency plan and to provide for its implementation and enforcement.

**NOW, THEREFORE**, the Board of Directors of the Idyllwild Water District does hereby ordain as follows:

#### Section 1. Purpose and Scope

The purpose of this Ordinance is to establish a multi-staged water shortage emergency plan to minimize the effect of a drought on the customers of the DISTRICT and thereby:

- (i) Protect the health, safety and welfare of the residents and customers of the DISTRICT; and
- (ii) Assure the maximum beneficial use of the water supplies of the DISTRICT; and
- (iii) Ensure sufficient water supplies to meet the basic needs of human consumption, sanitation and fire protection.

#### Section 2. Authority

The DISTRICT has the power and authority to enact this Ordinance pursuant to the following state laws:

a. Water Code Section 31026, which authorizes the DISTRICT to (i) restrict the use of DISTRICT water during any emergency caused by drought or other threatened or existing water shortage, (ii) to prohibit the waste of DISTRICT water or the use of DISTRICT water during such periods, and (iii) to prohibit the use of such water during such periods for specific uses which the DISTRICT may from time to time find to be nonessential; and

b. Water Code Section 375, which authorizes the DISTRICT to adopt and enforce a water conservation program to reduce the quantity of water used by the inhabitants of the DISTRICT for the purpose of conserving the water supplies of the DISTRICT; and

c. Water Code Section 350, which gives the Board of Directors the authority to declare a water shortage emergency condition whenever the Board finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the DISTRICT to the extent that there would be insufficient water for human consumption, sanitation and fire protection.

#### Section 3. Adoption of Three-Stage Water Shortage Emergency Plan

There is hereby enacted a DISTRICT-wide Water Shortage Emergency Plan consisting of three stages (hereafter, "the Plan"), as follows:

Water Conservation Stage I-Voluntary Compliance, which specifies that users of DISTRICT water voluntarily limit the amount of water used to that amount necessary for domestic and business purposes. Will serve letters shall be limited to a total of 10 EDU's during a Water Conservation Stage 1.

Water Conservation Stage 2 – Mandatory Compliance, which requires each user to take specific actions to reduce water consumption, and which provides for an increased water rate. Will serve letters shall be limited to a total of 5 EDU's during a Water Conservation Stage 2.

Water Conservation Stage 3 – Mandatory Emergency Restrictions, which requires each user of DISTRICT water to take specific actions to further reduce the consumption of DISTRICT water, and which provides for a further increase in the water rate. There will be NO issuance of will serve letters during a Stage iii Water Conservation Stage.

Details of the Plan are provided in Section 5 below. Enforcement measures, which include notices of violation, disincentive surcharges and the installation of flow-restricting devices and termination of water service, are provided in Sections 6 and 7 below. A development agreement with a user of DISTRICT water may provide for issuance of will serve letters as provided in the agreement.

#### **Section 4. Procedure for Declaring Water Shortage Emergency**

The Plan shall be implemented as follows:

a. Utilizing precipitation records and water level data for Foster Lake and local wells, and after consultation with the manager of the neighboring retail water suppliers, the General Manager shall determine whether a water shortage exists or is anticipated.

b. As soon as it is reasonably practicable to do so, the General Manager shall report the findings and conclusions to the Board of Directors and make such recommendations as may be appropriate including, without limitation, a recommendation that the Board of Directors conduct a public hearing for the purpose of announcing a joint declaration that a water shortage is anticipated or exists and authorizing the General Manager to implement the appropriate Water Conservation Stage. Notice of the time and place of hearing shall be published in the Idyllwild TOWN CRIER or the Riverside PRESS ENTERPRISE at least 7 days prior to the date of the hearing.

c. After implementation, the General Manager shall periodically report to the Board of Directors, with information and data concerning the effectiveness of the Plan, enforcement activities and, if appropriate, recommendations for further action.

#### **Section 5. Water Conservation Stages**

a. Implementation by General Manager. In the event the Board of Directors declares the existence of a water shortage and authorizes the implementation of the DISTRICT's Water Shortage Emergency Plan, the General Manager shall thereupon be authorized to implement and enforce the following Water Conservation Stages. The determination of which Stage to implement shall be made by the General Manager and shall be based upon the best available information regarding present and predicted precipitation, the availability of water in storage and the rate of consumption by DISTRICT users. It shall not be necessary to implement a Stage I (or II) alert prior to implementing a Stage II (or III) alert; the Stages may be implemented in any reasonable order.

b. Public Notice Procedure for Implementation. The General Manager, after consultation with, and the concurrence of, the Board of Directors, may declare a Water Conservation Stage to be effective on the sixth day following the publication of the declaration at least once in the Idyllwild TOWN CRIER, and posted in at least three public places within the DISTRICT.

The General Manager shall also provide mailed notice of the declaration to each customer of the DISTRICT; provided, however, the failure to receive mailed notice prior to the effective date of the declaration shall not invalidate the declaration, nor shall it prevent enforcement of this Ordinance.

c. Three Stages.

##### **Water Conservation Stage 1 – Voluntary Compliance**

In the event the General Manager determines to implement Water Conservation Stage 1, users of DISTRICT water shall voluntarily reduce the amount of water used to that amount minimally necessary for household use (drinking, cooking and bathing) and for business necessity.

Such reductions will include, but are not limited to, immediately repairing leaks, preventing irrigation water runoff, refraining from washing sidewalks, driveways and parking areas, and refraining from sprinkling unplanted areas for dust control.

#### Water Conservation Stage 2 – Mandatory Compliance

In the event the General Manager determines to implement Water Conservation Stage 2, users of DISTRICT water shall be required to:

- (1) Limit irrigation of outdoor plants and gardens to the period between 6:00 p.m. and 8:00 a.m. daily, and stop all water runoff; and
- (2) Cease filling or refilling swimming pools, except that a small amount of water may be used to replace evaporation losses in a filled pool; and
- (3) Wash motor vehicles and equipment only from a bucket using a hose with a shutoff nozzle; and
- (4) Make immediate repairs to any and all leaking water lines and faucets in household plumbing and yard piping; and
- (5) Cease irrigating native vegetation and unplanted areas for dust control. In addition, restaurants shall only provide drinking water to patrons upon request therefor.

#### Water Conservation Stage 3 – Mandatory Emergency Restrictions

In the event the General Manager determines to implement Water Conservation Stage III, the following prohibitions and restrictions shall apply:

- a. No water shall be used for irrigating outdoor plants, trees or other landscaping of any kind, in any amount, at any time; and
- b. No water shall be added to swimming pools, hot tubs or spas to replace evaporative losses or for any other purpose; and
- c. No water shall be taken from fire hydrants for any reason except for fire emergencies or for the maintenance of system water quality; and
- d. Water use for construction purposes shall be minimized; and
- e. No water shall be used for dust control, or for washing any structure, sidewalk, driveway or parking area, or for washing motor vehicles and equipment except from a bucket using a hose with a shutoff nozzle.

In addition, water users shall make immediate repairs to any leaking line or faucet in household plumbing or yard piping.

#### **Section 6. Water Shortage Emergency Plan Water Rate Structure**

In the event the Board of Directors declares a water shortage and orders the implementation of the Water Shortage Emergency Plan, water rates shall be established by Resolution, including identification of a Water Conservation tier.

- a. During the term of any Water Conservation Stage 2, the DISTRICT's water conservation tier specified in the DISTRICT's then current Water Rate Resolution shall be temporarily increased by 100%. Construction water shall be sold at the third tier rate.
- b. During the term of any Water Conservation Stage 3, the tier below the water conservation tier shall be temporarily increased 150%.

#### **Section 7. Failure to Comply; Penalties**

a. Violations. Violations of the water use restrictions and prohibitions of Water Conservation Stages II and III shall be penalized as follows:

First Violation – Notice of Violation. The General Manager is authorized and directed to issue, or cause the issuance of a written warning notice of violation to any water user who fails or refuses to comply with the water use restrictions and prohibitions set forth herein. The notice shall specify a reasonable period of time in which compliance shall be achieved.

Each notice of violation shall be addressed to the customer of record for the premises where the violation was observed; delivery may be by regular mail or by personal delivery.

Second Violation – Disincentive Surcharge. If, within the same 12-month period, a water user commits a second violation, an excessive water use disincentive surcharge shall be imposed. The surcharge shall be in the amount of two times the amount of the total water billing for the period in which the violation occurred, and shall be added to the next water bill to the premises.

Third Violation – Disincentive Surcharge and/or Water Service Restriction. If, within the same 12-month period, a water user commits a third violation, an excessive water use disincentive surcharge of three times the total water billing for the period in which the violation occurred shall be added to the next water bill, and the General Manager shall cause the installation of a water flow restricting device on the customer's water meter.

Fourth Violation – Termination of Water Service and Referral to District Attorney. If, within the same 12-month period, a water user commits a fourth violation, the General Manager shall terminate water service to the premises in accordance with the DISTRICT's Rules and Regulations. In addition, the General Manager shall refer the matter to the Riverside County District Attorney's office for misdemeanor prosecution as authorized by Water Code, Section 377.

b. Failure to Pay. Failure to pay any water bill, including all or any portion of an excessive water use disincentive surcharge, shall be subject to the delinquency provisions of the DISTRICTS's Rules and Regulations which provide, in relevant part, that water service may be terminated for failure to pay.

### **Section 8. Hearing and Appeal**

a. Hearings. A customer may promptly file a request for relief from any provision of this Ordinance, which request shall be submitted in writing to the General Manager and shall include all available information. The General Manager shall conduct an informal hearing on the request, and may grant such relief as may be reasonably appropriate and prudent, consistent with the DISTRICT's obligation to protect the public health, safety and general welfare.

b. Appeals. The customer has the right to promptly appeal the General Manager's decision to the Board of Directors of the DISTRICT. The appeal shall be submitted in writing and received by the DISTRICT within 10 days after the General Manager's decision. The appeal shall be considered by the Board of Directors as soon as practicable. The Board may, in its discretion, affirm, reverse or modify the General Manager's decision and impose such conditions, as it deems proper. The decision of the Board of Directors shall be final and conclusive for all purposes.

### **Section 9. Cooperation With All Water Service Providers**

In implementing the provisions of this Ordinance, the Board of Directors hereby authorizes and directs the General Manager to cooperate to the maximum extent possible with the managers of the neighboring water service providers. Such cooperation shall include, but is not limited to, the sharing of water production, storage and consumption data.

### **Section 10. CEQA**

The specific actions authorized herein are exempt from the California Environmental Quality Act, State Guidelines, Section 15269 (c) for the reason that such actions are necessary to prevent or mitigate an emergency.

### **Section 11. Rescission; Incompatible Provisions**

DISTRICT Ordinance No. 60 and all amendments thereto, are hereby rescinded in their entirety. In addition, to the extent any provision of this Ordinance is incompatible or at variance with any prior-adopted ordinance or resolution, the provisions of this Ordinance shall take precedence and all prior ordinances and resolutions shall be interpreted to harmonize with and not change the provisions of this Ordinance.

**Section 12. Judicial Review**

Any judicial action or proceeding to attack, review, set aside, void or annul this Ordinance or any determination made pursuant thereto shall be commenced within 90 days after the date of adoption of this Ordinance or the date of any determination made pursuant thereto. California Code of Civil Procedure, Section 1094.6 is hereby adopted and made applicable to any judicial review of any decision made by the Board of Directors, the General Manager, or agents, representatives or employees of the District.

**Section 13. Severability**

If any section, subsection, sentence, clause or phrase is for any reason held to be invalid or unconstitutional by decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The Board of Directors hereby declares that it would have passed those sections, subsections, clauses and phrases irrespective that one or more may be declared invalid or unconstitutional.

**Section 14. Publication; Effective Date**

This Ordinance shall be published in its entirety at least once in the Idyllwild Town Crier or the Riverside Press Enterprise within 10 days after its adoption, shall be posted in three public places and shall become effective 30 days after it is adopted.

PASSED, APPROVED AND ADOPTED this 14th day of November, 2012 on the following vote:

AYES:  
Allan Morphett  
Warren Monroe  
Mike Freitas  
Jim Billman  
John Cook

NOES:

ABSTAIN:

ABSENT:

IDYLLWILD WATER DISTRICT  
By Allan Morphett  
President, Board of Directors

ATTEST:  
Deely Clark  
Secretary

**CERTIFICATION**

I am Secretary to the Board of Directors of the Idyllwild Water District, and I hereby certify that the foregoing Ordinance was duly adopted by the Board of Directors at its regular meeting of November 14, 2012, and that the foregoing copy of the Ordinance is a true and correct copy of the original Ordinance adopted by the Board of Directors and maintained in the DISTRICT's office.

IDYLLWILD WATER DISTRICT  
By Deely Clark  
Secretary, Board of Directors