

## ORDINANCE NO. 64

### 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 CONSERVATION MEASURES TO MITIGATE THE EFFECTS OF DROUGHT AND RESCINDING AND REPLACING ORDINANCE NO. 62 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-Stages Water Shortage Emergency Plan**

There is hereby enacted a DISTRICT-wide water conservation measures 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 up to 10 EDU's at the discretion of the Board during a Water Conservation Stage 1. The limit of 10 EDU's applies from the initial declaration of conservation stages, until the end of conservation stages.

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 for new water meters shall be issued only if available within the 10 EDU's allowed within Stage 1 until the return to Stage I or 0. Increases to customer meter size for additions requiring that fire sprinklers be installed are allowed with General Manager approval.

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 for new water meters during a Stage 3 Water Conservation Stage, nor may un-used EDUs be issued.

The General Manager may declare NO STAGE if: Foster Lake is full; Foster Lake Wells are above 50'; Downtown wells are above 15'; average rainfall/precipitation exceeds 26" and storage tanks recharge to 95% tank capacity.

Details of the water conserving measures 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, 7 and 12 below. A development agreement with a user of DISTRICT water may provide for issuance of will serve letters as provided in the agreement. The restrictions on water use do not apply to water used to meet the medical needs of the customer. The restrictions on landscape irrigation do not apply to those utilizing a rainwater storage system. The restrictions on landscape irrigation do not apply to users of recycled water.

### **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 or other water shortage emergency conditions, 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 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 an adjudicated publication 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 water conservation measures 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 conservation measures, 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 of an initial water shortage. 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 an adjudicated publication, and posted in at least three public places within the DISTRICT.

The General Manager shall also provide mailed notice of the declaration of the initial stage 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. Following the initial declaration of a water conservation measures, notice of the declaration of stage will be placed once in an adjudicated publication and a notice will be placed on billing cards.

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. The necessity for implementation will be determined by following the current IWD Resolution defining the ability to meet minimum water supply requirements.

Such reductions will include, but are not limited to, immediately repairing leaks, preventing irrigation water runoff, (such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures) refraining from washing sidewalks, driveways and parking areas, and refraining from sprinkling unplanted areas with potable water for dust control. In addition to these restrictions, the following steps will be implemented in Stage 2 and Stage 3.

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:

- (a) Limit irrigation of outdoor plants and gardens to the period between 6:00 p.m. and 8:00 a.m. two days a week, hand watering with an automatic shut-off nozzle is permitted; however, all runoff water shall be contained; and
- (b) 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
- (c) Wash motor vehicles and equipment only from a bucket using a hose with an automatic shutoff nozzle; and
- (d) Not use potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system; and
- (e) Make immediate repairs to any and all leaking water lines and faucets in household plumbing and yard piping; and
- (f) Not use outdoor irrigating 48 hours before anticipated measurable precipitation or 48 hours thereafter; and
- (g) Restaurants shall only provide drinking water to patrons upon request; and
- (h) Not use potable water for filling of irrigation storage tanks. (Filling of irrigation storage tanks with potable water during any conservation stage is discouraged.)

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 potable 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 uncovered 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. Potable water use for construction purposes shall be minimized; and
- e. No potable 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.
- f. Water users shall make repairs within 48 hours to any leaking line or faucet in household plumbing or yard piping.
- g. Irrigation water lines shall be turned off to eliminate accidental loss of potable water.

**Section 6. Water Conservation Measures Rate Structure**

In the event the Board of Directors declares a water shortage and orders the action of water conservation measures, water rates shall be established by Resolution, including identification of a Water Conservation tier.

**Section 7. 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 8. Rescission; Incompatible Provisions**

DISTRICT Ordinance No. 62 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 9. 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 10. 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 11. Publication; Effective Date**

This Ordinance shall be published in its entirety at least once in adjudicated publication within 10 days after its adoption, shall be posted in three public places and shall become effective 30 days after it is adopted.

**Section 12. Fines and Penalties:**

- A) **Violations:** Violations of the water use restrictions and prohibitions of Water Conservation Stages II and III shall be penalized as follows:

First Violations- 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 on 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 Manger shall cause the installation of a water flow restricting device on the customer's water meter.

Fourth- 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 Manger shall refer the matter to the Riverside County District Attorney's office for the 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 or the DISTRICTS' Rules and Regulations which provide, in relevant part, that water service may be terminated for failure to pay.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of October, 2015 on the following vote:

AYES  
Jim Billman  
John Cook  
Mike Freitas  
Dean Lattin  
Warren Monroe

NOES:

ABSTAIN

ABSENT

IDYLLWILD WATER DISTRICT

By   
\_\_\_\_\_  
President, Board of Directors

ATTEST

  
\_\_\_\_\_  
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 October 21, 2015, 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   
\_\_\_\_\_  
Secretary, Board of Directors