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**Ordinance 101.2  
Waste Water Prohibition**

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ORDINANCE NO. 101.2

ORDINANCE OF THE RINCON DEL DIABLO MUNICIPAL WATER DISTRICT  
FINDING A THREATENED EMERGENCY AND THREATENED WATER SHORTAGE,  
FINDING NECESSITY FOR, AND PRESCRIBING AND DEFINING,  
RESTRICTIONS, PROHIBITIONS AND EXCLUSIONS  
REGARDING USE OF DISTRICT WATER, PROVIDING FOR  
NOTICE AND PENALTIES, AND REPEALING ORDINANCE NO. 101.1

BE IT ORDAINED by the Board of Directors of the Rincon del Diablo Municipal Water District as follows:

Section 1. Enabling Acts. This Ordinance is enacted pursuant to Sections 375, 376, and 71640 through 71644 of the California Water Code and of the applicable provisions of the Constitution and other laws of the State of California.

Section 2. Threatened Emergency and Shortage. The Board of Directors finds that, within the Rincon del Diablo Municipal Water District, there is a threatened emergency and a threatened water shortage which require enactment and enforcement of this Ordinance.

Section 3. Public Necessity. The Board further finds that the following restrictions upon the use of District water are necessary to conserve the District's water supply for the greatest public benefit, with particular regard to domestic use, sanitation, and fire protection.

Section 4. Application. The provisions of this Ordinance shall apply to all persons, customers, and property served by the District wherever situated, and for all types of water being provided by the District. This Ordinance shall not apply when an alternate source of water is used. An "alternate source of water" shall not include water which is provided by an agency pursuant to an agreement with the District, or a source which is replenished from time to time by District or other agency water.

Section 5. Authorization. The District's General Manager, or designated representative, is hereby authorized and directed to implement the provisions of this Ordinance. Guidelines regarding implementation procedures may be adopted and/or modified from time-to-time by resolution duly adopted by the Board of Directors.

Section 6. Water Conservation Stages. No customer of the District shall knowingly make, cause, use or permit the use of water supplied from the District for residential, commercial, industrial, agricultural, governmental or any other purpose in a manner contrary to any provisions of, or in an amount in excess of the amounts authorized by, or during any period of time other than the periods of time specified in, the following water conservation stages which are in effect pursuant to this Ordinance:

- A. Stage 1. Normal Water Use. Stage 1 applies during normal periods to encourage conservation by the reasonable use of water. During Stage 1, all customers shall comply with the following water conservation measures:
1. Water shall not be allowed to leave the customer's property by drainage onto adjacent properties or public or private roadways or streets due to excessive irrigation and/or neglect.
  2. Customers shall repair all leaks in a timely manner.
  3. Water shall not be used to wash down sidewalks, driveways, parking areas, tennis courts, patios or other paved areas, except to alleviate immediate

safety or sanitation hazards.

- B. Stage 2 - Mandatory Compliance - Water Watch. Stage 2 applies during periods when either the possibility exists that the District will not be able to meet all of the water demands of its customers, or when the San Diego County Water Authority (SDCWA) requests a Stage 2 condition. All Stage 1 water use provisions shall remain in effect. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 2 declaration. Notice of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Failure to stay within the reduced allotment shall constitute a violation of this ordinance.

During Stage 2, the following water conservation measures shall apply except when non-District domestic water is used:

1. Lawn watering and landscape irrigation, including construction meter irrigation, is permitted only between the hours of 5:00 P.M. Pacific Daylight Savings Time (PDST), or 4:00 p.m. Pacific Standard Time (PST) and 8:00 a.m. Watering is permitted at any time if a hand-held hose equipped with a positive shut-off nozzle is used, a container, or a drip irrigation system. Upon written request, watering may be permitted to establish new landscaping (not to exceed 45 days). The District reserves the right to modify this schedule to ensure the efficient use of water.
2. Agricultural users and commercial nurseries as defined in the Metropolitan Water District Code are exempt from Stage 2 irrigation restrictions, but will be required to curtail all non-essential water use. The watering of livestock and irrigation of propagation beds is permitted at any time.
3. Washing of autos, trucks, trailers, boats, airplanes and other types of mobile equipment shall be done with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Washing is permitted at any time on the immediate premises of a commercial car wash. Further, such washings are exempted from these regulations where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning such as garbage trucks and vehicles used to transport food and perishables.
4. The over-filling of swimming pools, spas, ornamental ponds, and artificial lakes is prohibited.
5. Irrigation of golf courses, parks, school grounds and recreational fields is permitted only between the hours of 5:00 p.m. PDST (4:00 p.m. PST) and 8:00 a.m., except golf course greens.
6. The use of water from fire hydrants shall be limited to fire fighting and related activities, for construction activities or other activities necessary to maintain the health, safety and welfare of the public.
7. Construction operations receiving water from a construction meter or water truck shall not use

water unnecessarily for any purposes other than those required by regulatory agencies. Construction projects requiring water for new landscaping shall adhere to the provisions set forth in No. B(1). The District reserves the right to inspect all construction sites using water from a District construction meter to ensure the efficient use of water at all times.

8. Restaurants shall not serve water to their customers except when specifically requested.
9. The operation of any non-recirculating ornamental fountain or similar structure is prohibited.

- C. Stage 3 - Mandatory Compliance - Water Alert. Stage 3 applies during periods when either the probability exists that the District will not be able to meet all of the water demands of its customers, or when the SDCWA requests a Stage 3 condition. When a Stage 3 is declared, all Stage 1 and Stage 2 use provisions shall remain in effect. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 3 declaration. Notice of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Financial penalties shall be imposed by the District as set by the Board of Directors. Failure to stay within the reduced allotment shall constitute a violation of this ordinance.
- D. Stage 4 - Mandatory Compliance - Water Warning. Stage 4 applies during periods when the District is not likely to meet all of the water demands of its customers, or when the SDCWA requests a Stage 4 condition. When a Stage 4 is declared, all Stage 1 and Stage 2 use provisions, except as noted below, shall remain in effect. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 4 declaration. Notice of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Financial penalties shall be imposed by the District as set by the Board of Directors. Failure to stay within the reduced allotment shall constitute a violation of this ordinance. The following water conservation measures shall apply except when non-District domestic water is used:
1. The use of all construction meters shall be reviewed by the General Manager.
  2. Depending upon the District's water allocation from the SDCWA, applications for new service connections may be denied.
- E. Stage 5 - Mandatory Compliance - Water Restriction. Stage 5 applies when the District is unable to meet all of the water demands of its customers, or when the SDCWA requests a Stage 5 condition. When a Stage 5 is declared, all Stage 1, Stage 2, and Stage 4 use provisions shall remain in effect except as noted below. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 5 declaration. Notice of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Financial penalties will be imposed by the District as set by the Board of Directors. Failure to

stay within the reduced allotment shall constitute a violation of this ordinance. The following water conservation measures shall apply except when non-District domestic water is used:

1. Washing of autos, trucks, trailers, boats, and other types of mobile equipment shall be done with a hand-held bucket. Washing is also permitted at any time upon the immediate premises of a commercial car wash, and where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning such as garbage trucks and vehicles used to transport food and perishables.
2. Operators of hotels, motels, and other commercial establishments offering lodging shall post in each room a Notice of Drought Condition as approved by the General Manager.
3. All restaurants that provide service shall post in a conspicuous place a Notice of Drought Condition as approved by the General Manager.

F. Stage 6 - Mandatory Compliance - Water Crisis. Stage 6 applies when the District is unable to meet all of the water demands of its customers, or when the SDCWA requests a Stage 6 condition. When a Stage 6 is declared, all Stage 1, Stage 2, Stage 4 and Stage 5 use provisions shall remain in effect except as noted below. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 6 declaration. Notice of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Financial penalties will be imposed by the District as set by the Board of Directors. Failure to stay within the reduced allotment shall constitute a violation of this ordinance. The following water conservation measures shall apply except when non-District domestic water is used:

1. Use of sprinkler systems to irrigate landscaping is prohibited. Watering of all landscaping with District domestic water is permitted during designated hours using either a hand-held hose equipped with a positive shut-off nozzle, a container, or a drip irrigation system.
2. The "topping-off" of swimming pools and spas is prohibited unless the pool or spa is equipped with a cover.
3. The introduction of District domestic water into ponds, artificial lakes, or other bodies of water is prohibited.
4. No new construction meters shall be issued. Use of existing construction water shall be monitored by the General Manager, or his designee.

G. Stage 7 - Mandatory Compliance - Water Crisis. Stage 7 applies when the District is unable to meet all of the water demands of its customers, or when the SDCWA requests a Stage 7 condition. When a Stage 7 is declared, all Stage 1, Stage 2, Stage 4, and Stage 5 use provisions shall remain in effect except as noted below. Each class of customers will be asked to reduce water use to an allotted amount as determined by the General Manager at the time of the Stage 7 declaration. Notice

of the amount of the reduction required shall be promptly given by the means deemed most effective by the General Manager. Financial penalties will be imposed by the District as set by the Board of Directors. Failure to stay within the reduced allotment shall constitute a violation of this ordinance. The following water conservation measures shall apply except when non-District domestic water is used:

1. The irrigation of lawns with District domestic water is prohibited. The watering of trees and shrubs is permitted during designated hours, provided that the following conditions are met:
  - (a) irrigation with either a hand-held hose equipped with a positive shut-off nozzle, or a container, or a drip system;
  - (b) watering is confined to the area within the drip line of trees or shrubs except to the extent that roots extend beyond this area;
  - (c) no run-off occurs from over-irrigation; and
  - (d) the watering of turf in all cases is prohibited except as is incidental to permitted watering of trees or shrubs.
2. Use of District domestic water for construction is prohibited except to maintain the health, safety and welfare of the public.

#### Emergency Drought Response Condition

When it has been determined by the San Diego County Water Authority (SDCWA) that it is unable to provide sufficient water supplies to meet the needs of its member agencies, due to extraordinary drought conditions, the CWA will declare a water shortage emergency condition throughout its entire service area. The District will comply with, and hereby incorporates by reference, all mandatory rules, regulations and restrictions on the delivery and consumption of imported water purchased from the CWA. Copies of the CWA's water shortage emergency restrictions will be made available to District customers upon request.

Section 7. Mandatory Conservation Phase Implementation.  
The District shall monitor the projected supply and demand for water by its customers on a daily basis. The General Manager shall determine the extent of the conservation required through the implementation and/or termination of particular conservation stages in order for the District to prudently plan for and supply water to its customers. Thereafter, the General Manager may order that the appropriate stage of water conservation be implemented or terminated in accordance with the applicable provision of this Ordinance. The declaration of any stage beyond Stage 1 shall be made by public announcement and notice shall be published once in a local newspaper of general circulation. The stage designated shall become effective immediately upon announcement. The declaration of any stage beyond Stage 1 shall be reported to the Board at its next regular meeting. The Board shall thereupon ratify the declaration, rescind the declaration, or direct the declaration of a different stage.

#### Section 8. Violations, Enforcement, and Appeals.

8.1 Misdemeanor. Any violation of this ordinance is a misdemeanor punishable as set forth in Water Code Sections 377 and 71644.

8.2 Violations for Failure to Stay Within Reduced Allotment

A. Procedures. In addition to the remedy of criminal prosecution available to the District as described above, violation of this ordinance may result in the imposition of surcharges and restriction and/or termination of water service as set forth below:

- (1) First Violation - Customers who exceed their applicable allotment for a given water conservation stage shall be notified in writing. Said written notice shall include a copy of this Ordinance and conservation information to assist the customer in reducing water usage. A customer who reduces their usage to the allotted amount on an average daily basis within a five (5) day period will not be fined. The District reserves the right to periodically monitor said customer for the duration of the billing cycle to insure full compliance with the required usage reduction. If at the end of the billing period said customer has not complied, then subsequent violations shall apply.
- (2) Second Violation (within one year) - If a customer does not reduce their usage to the allotted amount on an average daily basis within five (5) days of receiving their notice, a \$200.00 surcharge shall be applied to the customer's next bill.
- (3) Third Violation (within one year) -If a customer's usage is not reduced after an additional five (5) days, then a \$600.00 surcharge will be applied to said next bill. In addition, a flow restriction device shall be installed in the customer's meter for a minimum of 96 hours. Said restricted flow shall meet minimum County Health Department standards, if any have been established. If said 96 hour period ends on a weekend or holiday, full service will be restored during the next business day.
- (4) Fourth Violation (within one year) - If a customer continues to exceed their allotment, following the third violation, a \$1,000.00 surcharge shall be applied to said next bill. Said surcharges shall be cumulative and the larger surcharge shall be in addition to the earlier surcharge(s) imposed. In addition, customer service shall be terminated for such period of time as the Board of Directors deems appropriate following a hearing regarding said issue. Written notice of the hearing shall be mailed to the customer at least five (5) working days before the hearing.

Sections 8.3(B) and (C) shall also apply with respect to any additional charges incurred by the District, as well as non-liability for damages due to the installation of a flow restriction device.

Appeals procedures shall be as set forth in Section 8.3(E).

be deemed to have (1) waived any claim for injury or for damage to the customer's property which the customer may otherwise have against the District; and (2) agreed to indemnify, defend and hold the District harmless from claims by third parties for injury or property damage arising or claimed to arise out of the District's installation and/or operation of a flow restricting device or termination of water service.

- D. Exemptions. No exemption shall be granted to any person for any reason in the absence of a showing by said person that he/she has achieved the maximum practical reduction in water consumption in his/her residential, commercial, industrial or governmental water consumption as the case may be.

The General Manager, or his designee, may grant exemptions ("exceptions" to this Ordinance) for uses of water otherwise prohibited by the regulations. Water customers who feel that they need an adjustment in the prohibitions as they relate to him/her will fill out an application form for an exemption stating the justification and circumstances. If the exemption is not granted, customer may appeal in writing as stated in Section 8.3(E).

- E. Appeals

- (1). Procedures. The General Manager or his designated Enforcement Officer shall determine when violations have occurred and shall issue to the customer a Notice of Violation by mailing same and/or hanging same on the customer's door at least five (5) days before taking enforcement action. Said notice shall describe the action to be taken.

A customer may appeal the Notice of Violation by filing a written notice of appeal with the District no later than the close of business on the day before the date scheduled for enforcement action. Any Notice of Violation not timely appealed shall be final.

Written appeals received by the District shall be scheduled for hearing before the District's Appeals Board as soon as possible, i.e., within five (5) working days if reasonably possible. The District shall mail written notice of the hearing to the customer at least three (3) working days before the date of said hearing. The Appeals Board shall consist of a Director (appointed by the Board President), the General Manager, and the Customer Service Manager.

The Appeals Board shall determine whether or not the proposed action shall be taken, or should be modified in light of mitigating circumstances. All decisions by the Appeals Board shall be final. A monthly written summary of all such actions by the Appeals Board shall be presented to the Board of Directors by the General Manager at their first regularly scheduled meeting of the month.

8.3 Enforcement for Other Violations of this Ordinance.

A. Procedures. In addition to the remedy of criminal prosecution available to the District as described above, violation of this ordinance may result in the imposition of surcharges and restriction and/or termination of water service as set forth below:

- (1) First Violation - Written warning accompanied by a copy of this Ordinance and a District conservation information packet will either be delivered or mailed to customer at the customer's last known address. Where conditions warrant, or in emergencies, the District may resort to notification by any practical means available.
- (2) Second Violation (within one year) - \$200.00 surcharge.
- (3) Third Violation (within one year of the first violation) - \$600.00 surcharge and installation of a flow restricting device in the meter for a minimum of 96 hours. Said restricted flow shall meet minimum County Health Departments standards, if any have been established. If said 96 hour period ends on a weekend or holiday, full service will be restored during the next business day.
- (4) Fourth Violation (within one year of the first violation) - \$1,000.00 surcharge and termination of service for such period as the Board of Directors determines to be appropriate under the circumstances, following a hearing regarding said issue. Written notice of the hearing shall be mailed to the customer at least five (5) working days before the hearing.

B. Surcharges, Additional Charges. Any surcharge hereunder shall be in addition to the basic water rates and other charges of the District for the account and shall appear on and be payable with the billing statement for the period during which the violation occurred; nonpayment shall be subject to the same remedies available to the District as for nonpayment of basic water rates.

In addition to any surcharge, a customer violating this ordinance shall be responsible for payment of the District's charges for installing and/or removing any flow restricting device and for disconnecting and/or reconnecting service per the District's Schedule of Charges then in effect. Such charges shall be billed along with the next water bill; nonpayment shall be subject to the same remedies as nonpayment of basic water rates.

C. Non-liability for Damage. The customer who violates this ordinance thereby assumes responsibility for injury to the customer and/or other residents/occupants receiving service, including emotional distress and/or damage to the customer's private water system and/or to other real or personal property owned by the customer or by a third party resulting from the installation and operation of a flow restricting device or from termination of service; said customer shall thereby

be deemed to have (1) waived any claim for injury or for damage to the customer's property which the customer may otherwise have against the District; and (2) agreed to indemnify, defend and hold the District harmless from claims by third parties for injury or property damage arising or claimed to arise out of the District's installation and/or operation of a flow restricting device or termination of water service.

- D. Exemptions. No exemption shall be granted to any person for any reason in the absence of a showing by said person that he/she has achieved the maximum practical reduction in water consumption in his/her residential, commercial, industrial or governmental water consumption as the case may be.

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The Appeals Board shall determine whether or not the proposed action shall be taken, or should be modified in light of mitigating circumstances. All decisions by the Appeals Board shall be final. A monthly written summary of all such actions by the Appeals Board shall be presented to the Board of Directors by the General Manager at their first regularly scheduled meeting of the month.

- (2). Interim Measures. Pending receipt of a written appeal or pending a hearing pursuant to an appeal, the General Manager or the Enforcement Officer, if one has been designated, may take appropriate steps to prevent the unauthorized use of water as appropriate to the nature and extent of the violation and the current declared water condition.

Section 9. CEQA Exemption. The adoption of this Ordinance, and the actions taken hereunder, are exempt from the provisions of the California Environmental Quality Act of 1970 in that they constitute a project undertaken as immediate action necessary to prevent or mitigate an emergency pursuant to Section 15071 of the State EIR Guidelines.

Section 10. Duration of Ordinance. This Ordinance shall remain in effect until the Board of Directors finds that the threatened emergency and threatened water shortage no longer exists. The provisions of this Ordinance shall prevail and control in the event of any inconsistency with any other rules and regulations of the District.

Section 11. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be unconstitutional or invalid.

Section 12. Ordinance No. 101 Repealed. Ordinance No. 101 of the District is hereby repealed.

Section 13. Effective Date; Publishing and Posting. This ordinance shall be effective immediately upon adoption. Within (10) days of adoption, a copy of this ordinance shall be published once in a local newspaper of general circulation and posted in a public place within the District.

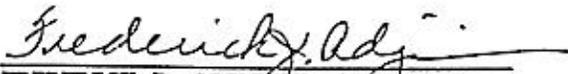
PASSED, ADOPTED AND APPROVED this 11th day of June 1991 by the following roll call vote:

AYES:	Cornelius, Hinrichs, Quist and Ix
NOES:	None
ABSENT:	Gifford
ABSTAIN:	None

APPROVED:

  
WILLIS G. CORNELIUS, PRESIDENT

ATTEST:

  
FREDERICK J. ADJARIAN, SECRETARY