Ordinance No. 15-120.2

An Ordinance of the Rincon del Diablo Municipal Water District
Finding the Necessity For and Adopting a Drought Response Ordinance

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

Section I. Purpose and Applicability.

A. The purpose of this ordinance is to provide a drought response strategy for the Rincon del Diablo Municipal Water District service area as authorized by the California Water Code, under sections 350 et seq., 375 et seq., 1058 et seq., and 71640 et seq. Changes to this Ordinance may also be facilitated by the State Water Resources Control Board (State Control Board) as authorized by the California Water Code, under sections 102, 104, 105, 275, 375, 1058.5, and 10617.

B. Because of varying conditions related to water resource supplies and distribution system capabilities, it is necessary to establish and enforce methods and procedures to ensure that, in time of shortages due to drought, the water resources available to Rincon del Diablo Municipal Water District and its constituents are put to the maximum beneficial use, that unreasonable use, or unreasonable method of use is prevented, and that conservation of water is accomplished in the interest of the public health, safety, and welfare.

C. This ordinance establishes four levels of drought response actions to be implemented during times of declared water shortages. These levels reflect increasing efficiencies for water use in response to worsening drought conditions, emergency conditions, and/or decreasing water supply availability.

D. The provisions of this ordinance apply to any person using potable water provided by the Rincon del Diablo Municipal Water District. This ordinance does not apply to the use of water from private wells, recycled water, or water that is subject to a special supply program, such as the San Diego County Water Authority (SDCWA) Transitional Special Agricultural Water Rate Program (TSAWR).

E. This ordinance may be implemented independently or in conjunction with those provisions specified in Administrative Code Section 4100, Emergency Water Plan, or passed by separate board resolution or action.

Section II. Definitions.

A. "District" means the Rincon del Diablo Municipal Water District.

B. "Board of Directors" means the Board of Directors of the Rincon del Diablo Municipal Water District.
C. "General Manager" means General Manager of the Rincon del Diablo Municipal Water District.

D. "Notification to the public" means notification through local media, including interviews, issuance of news releases, direct mailing, bill inserts, telephone calls, and/or web postings, etc.

E. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

F. "Water" means potable water from all sources.

G. "Target" means the calculated determination of an allocation.

H. "Model Drought Response Ordinance" means the model ordinance provided by the SDCWA to be used as a tool to foster consistency throughout San Diego County on the response levels and water-use restrictions in place in the event of a drought or other regional supply shortages.

Section III. Conservation Ethic.

As responsible stewards of a natural resource, the District’s Board of Directors acknowledges that its service area is located within an inland region that is subject to wide variations in annual precipitation and desert-like climatic conditions. Dependent largely on water imported from Northern California and the Colorado River, the District endorses a "No Water Wasting" ethic on a daily basis, regardless of drought conditions. The District discourages the use of commercial single-pass laundry systems, single-pass decorative fountains, or any other device or action that wastes water or uses water unreasonably.

A. To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions IS PROHIBITIED, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

1. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto an adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or other structures.

2. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
3. The application of potable water to driveways and sidewalks.

4. The use of potable water in a fountain or other decorative water feature except where the water is part of a recirculating system.

5. The application of potable water to outdoor landscapes during and within 48 hours of measurable rainfall.

6. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.

7. The irrigation with potable water of ornamental turf on public street medians.

8. The irrigation with potable water of landscapes outside newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards and the Department of Housing and Community development.

9. To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

B. The following practices shall also be observed on a daily basis:

1. No washing down of non-permeable surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

2. Irrigate residential and commercial landscapes after 8:00 pm and before 9:00 am only.

3. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by an automated landscape irrigation system.

4. Irrigate nursery and commercial grower's products before 10:00 am and after 6:00 pm only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system or equipment is used. Irrigation of nursery
propagation beds is permitted at any time, as is the watering of livestock.

C. Do not wash vehicles during hot conditions when additional water is required due to evaporation.

D. Repair all water leaks within five (5) days of notification by the District unless other arrangements are made with the General Manager or an established Drought Response Level (1-4) mandates a shorter period.

E. Use recycled or non-potable water for construction purposes when available.

Section IV. Drought Levels – Required Measures.

In an effort to provide consistency in communications with its customers, the District has established four levels of drought response. Movement from one level to another in this Drought Response Ordinance may be influenced by a State-issued proclamation of a current or ongoing state of emergency and/or necessitated by the District’s water wholesaler(s), or by the District’s Board of Directors.

Following the declaration of a drought level, no person may make, cause, use, or permit the use of water for residential, commercial, industrial, governmental, or any other purpose in a manner contrary to any provision of this ordinance, or in an amount in excess of that permitted by the corresponding drought level, or other legally mandated quantity or percent.

Water use restrictions in each level are cumulative unless the higher stage has a more stringent requirement on the same subject. If the severity of the drought lessens, the drought level may be downgraded to a lower stage, at the discretion of the Board of Directors. Drought levels are neither necessarily consecutive nor subject to a specific predetermined length of time.

In the event that required water use reductions goals are met, not being met, or a specific situation changes, the General Manager, at his/her discretion, may hold any or all constituent water use restrictions in abeyance or increase water use restrictions to meet specified water reduction goals.

Section V. Variances.

The Board of Directors is authorized to review hardship and special cases within which strict application of this ordinance would result in serious hardship. A variance may be considered only for reasons involving health, safety, or economic hardship. A request for variance from this ordinance must be made in writing and directed to the Board of Directors.
Section VI. **Declaration of a Drought Stage.**

Components defining each drought stage are listed in Table 1.

<table>
<thead>
<tr>
<th>Response Level*</th>
<th>Constituent's Share of Water</th>
<th>Applicability</th>
<th>Status</th>
<th>Responders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>Drought Watch</td>
<td></td>
<td>Voluntary</td>
<td>X X</td>
</tr>
<tr>
<td>Level 2</td>
<td>Alert</td>
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<td>Mandatory</td>
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<tr>
<td>Level 3</td>
<td>Drought Critical</td>
<td></td>
<td>Mandatory</td>
<td>X X</td>
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<tr>
<td>Level 4</td>
<td>Drought Emergency</td>
<td></td>
<td>Mandatory</td>
<td>X X</td>
</tr>
</tbody>
</table>

*The response level is prescribed by the San Diego County Water Authority

A. **Level 1 – “Drought Watch”**

*This level is a voluntary effort to achieve an immediate, overall target reduction of up to 10%* and may be implemented upon notification from the SDCWA. The Board of Directors or the General Manager shall declare the existence of a Response Level 1 and direct the following measures.

1. District Accountability

   a. The District will provide increased conservation outreach and educational activities for its constituents to emphasize increased public awareness of the need to implement all water conservation activities described in Section III – Conservation Ethic.

   b. Water conservation incentives, such as rebates for items such as high efficiency washing machines, smart irrigation timers, etc., will be vigorously promoted.

   c. Participation in programs such as landscape workshops and residential surveys/water audits will be encouraged.

   d. Response to water leaks within the District’s delivery system will be conducted within forty-eight (48) hours of notification. Repairs will be made upon detection and will not be allowed to remain seeping, regardless of flow rates.
2. Constituent Accountability
   
a. Increased conservation is volunteer-based. Constituents should seek technical assistance from the District if difficulties prevent them from achieving water use reductions of 10%.

b. Adhere to conservation measures and practices as defined in Section III – Conservation Ethic.

c. Leaks found on the constituent’s side of the meter must be repaired within ninety-six (96) hours after notification from a District or other representative.

B. Level 2- “Drought Alert”
   
This level is a mandatory effort to achieve an immediate, overall target reduction up to 20% and may be implemented upon notification from the SDCWA. The Board of Directors shall declare the existence of a Response Level 2. The actual target reduction may be adjusted based on conditions, State directed mandates or per decision of the Board of Directors. In addition to the measures prescribed in Level 1, the following apply:

1. District Responsibility
   
a. The District will mandate the activities described in Section III – Conservation Ethic and shall initiate heightened conservation outreach and educational activities. Notification of water waste and ordinance violations will be delivered to constituents as required.

b. The Board of Directors will consider additional conservation incentive(s) for constituents.

c. Response to water leaks within the District’s delivery system will be conducted within twenty-four (24) hours of notification. Repairs will be made upon detection and will not be allowed to remain seeping, regardless of flow rates.

d. The Board of Directors may suspend consideration of water availability certifications, stipulate actions, and may suspend outstanding certifications for all commercial projects and residential projects of more than one home, unless the project is necessary to protect the public’s health, safety, and welfare and/or the applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

e. Projects demanding more water from the District’s system than originally proposed will require additional approval from the Board of Directors.
f. Flow rate testing of fire meters will be suspended, unless required by regulatory or health and safety reasons.

g. District system maintenance and repair programs requiring large volumes of water may be suspended unless water quality is likely to be compromised, interferes with regulatory requirements, or significant property damage is eminent.

h. The District’s conservation staff will target 25% of commercial constituents for water audits.

i. The Board of Directors may implement temporary rates and fees, as outlined in Section VIII – Rates and Fees of this ordinance.

j. The District will promptly notify customers whenever the District obtains information that indicates a leak may exist within the end-users’ exclusive control.

k. Increased monitoring may be initiated by the General Manager in order to insure compliance of mandatory water use restriction targets enacted by this Ordinance.

l. The General Manager is authorized to set specific allocations on monthly allowable usage and/or specific percentage reductions for all District customers to help attain the conservation goals set by the District or mandated conservation standards set by State authorities.

2. Constituent Responsibility

a. The constituent may be issued a water-use target that reflects a mandated reduction in water consumption.

b. Constituents will implement a landscape irrigation schedule limited to two (2) or less days per week regardless of the season.

c. Irrigation run times per station are limited to ten (10) minutes per station unless a station is fitted entirely with drip emitters, micro-spray emitters, or stream rotor sprinklers or the system is operated by a weather-based irrigation controller.

d. Constituents must stop the use of ornamental fountains unless non-potable water is used.

e.Leaks found on the constituent’s side of the meter must be repaired within seventy-two (72) hours after notification from a District or other representative.
f. Customers residing in high or very high urban-wildland fire interfaces will prune back and clear dead and dying trees and vegetation.

C. Level 3 – Drought Critical

*This level is a mandatory effort to achieve an immediate, overall target reduction up to 30%* and will be implemented upon notification from the SDCWA. The Board of Directors shall declare the existence of a Response Level 3. The actual target reduction may be adjusted based on conditions, State directed mandates or per decision of the Board of Directors. The Board of Directors may also declare a drought emergency in the manner and on the grounds provided in the California Water Code Section 350. In addition to measures prescribed in Levels 1 and 2, the following will apply:

1. District Responsibility

   a. District personnel will proactively monitor all leaks and water waste. This may include patrolling to specifically identify water loss from District and constituent facilities. All violations will be reported and the District will take appropriate action.

   b. The General Manager may request a review of the fiscal budget and reassess capital improvement and operation and maintenance priorities.

   c. The District’s conservation staff will target 100% of the mobile home parks and large landscape sites, 50% of the commercial constituents and multi-family complexes, and 25% of the residential constituents for water audits.

   d. Operations staff will offer leak detection services for meters serving eight or more commercial or residential units.

   e. The Board of Directors will suspend outstanding water availability certifications for all commercial projects and residential projects including single unit residential projects.

   f. Water service will be discontinued for construction purposes unless recycled or other non-potable water is used.

   g. Improvements identified by a water flow review will be implemented in order to provide better control of water and/or system integrity to minimize use.

   h. The District will require mandatory offsets for new and existing projects as identified in Section VI – Provisions for Demand Offset.
2. Constituent Responsibility

a. The constituent will be issued an adjusted water use target that reflects the mandatory reduction.

b. Constituents will implement an irrigation schedule with two (2) or less days per week regardless of the season. During the months of November through May, landscape irrigation may be limited to no more than one (1) day per week. This does not apply to commercial growers or nurseries.

c. Leaks found on the constituent's side of the meter must be repaired, at the constituent’s expense, within forty-eight (48) hours of notification by the District.

d. Constituents must stop washing vehicles except at a commercial carwash that recirculates water.

e. Constituents must stop filling or refilling ornamental lakes or ponds except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance.

f. The filling or refilling of pools or spas may be prohibited.

g. Power-washing of exterior surfaces, such as sicing, is prohibited.

D. Level 4 – Drought Emergency.

This level is a mandatory effort to achieve an immediate, overall target reduction of 40% or more and may be implemented upon notification from the SDCWA. The Board of Directors shall declare the existence of a Response Level 4. The actual target reduction may be adjusted based on conditions, State directed mandates or per decision of the Board of Directors. The Board of Directors shall also declare a drought emergency in the manner and on the grounds provided in California Water Code Section 350. In addition to measures prescribed in Levels 1, 2, and 3, the following will apply:

1. District Responsibility

a. The District’s conservation staff will target 100% of the commercial constituents for water audits.

b. The Board of Directors will not consider the installation of new meters nor authorize any additional water use demands on its system.

c. Citations will be issued for water use that does not conform to the measures in this ordinance.
d. Meters delivering water solely for landscape irrigation purposes may be subject to shut-off as determined necessary by the General Manager.

2. Constituent Responsibility

a. Constituents will be issued an adjusted water use target that reflects the mandatory reduction.

b. Constituents must stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.
   
   i. Maintenance of trees and shrubs that are watered by using a bucket, hand-held hose with a positive shut-off nozzle, or low volume non-spray irrigation;

   ii. Maintenance of existing landscape necessary for fire protection as specified by the Fire Marshal of the City of Escondido or other agency having jurisdiction over the property to be irrigated;

   iii. Maintenance of existing landscape for erosion control;

   iv. Maintenance of plant material identified to be rare or essential to the well-being of rare animals;

   v. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week, ten minutes per station;

   vi. Watering of livestock; and,

   vii. Public works projects and actively irrigated environmental mitigation projects.

c. Water service will be shut-off if noticeable leaks are observed on the constituent's side of the meter. Once repair is affected, water service will be restored at the constituent's expense.

Section VI. Provisions for “Demand Offset”.

The District is establishing a Voluntary Demand Offset Fee Program that is designed to offset new potable water demands under various conditions, during severe droughts
and water shortage conditions. It is anticipated that there will be several categories, to include: Firm Demand Offset; Conservation Offset; and New Water Offset.

The typical mechanism used to place restrictions on new meters, and therefore require new potable water demand be offset, is for an agency to declare a water shortage emergency per California Water Code Section 350. The intent of the Voluntary Demand Offset Fee Program is that during a drought or other water supply shortage, new development could apply a fee that would be used to convert sites currently using potable water to recycled water, or convert other potable water use with quantifiable offsets (low flow toilets, water saving appurtenances, etc.), thereby permanently offsetting a developer’s project of potable water demands, which would keep the District potable water-neutral. This would not preclude a developer or other water subscriber from initiating a conservation offset as an act of good faith.

Section VII. Technical Assistance.

Technical assistance may be offered by the District upon the completion of a “Cooperator’s Agreement” by the constituent.

Section VIII. Enforcement of Violations.

A. In the event of any violation of this Ordinance, the District shall post on the property where the violation occurred, written notice, and will mail a duplicate notice to the registered owner of the property, and/or to any person known to the District who is responsible for the violation or its correction. Such notice shall describe the violation and order that it be corrected, ceased, or abated immediately or within such specified time as the District determines is reasonable under the circumstances, and shall further contain a description of the fees and penalties associated with such violation. If the cited person fails to comply with such order, the District may disconnect the service where the violation occurred. The property owner will be responsible for any reconnection charges in addition to other fees or charges imposed by the District.

B. In addition to being grounds for discontinuation of service, and in addition to any other applicable civil or criminal penalties, violation of any of the provisions of this ordinance is a misdemeanor. Upon conviction thereof, such persons shall be punished (i) by imprisonment in the county jail for not more than thirty (30) days, (ii) by a fine of up to five hundred dollars ($500) for each day in which the violation occurs during Drought Level 2, a fine of up to seven hundred and fifty dollars ($750) for each day in which the violation occurs during Drought Level 3, or a fine of up to one thousand dollars ($1,000) for each day in which the violation occurs during Drought Level 4, or (iii) by both.

C. Each act of violation and every day upon which such violation occurs shall constitute a separate violation. The General Manager may also seek injunctive relief as necessary to enforce the provisions herein.
Section VIII. Rates and Fees.

The Board of Directors may implement a temporary drought rate structure in order to offset lost revenues and to fund the provisions of this ordinance.

Penalties levied by the District's wholesalers or the State Water Resources Control Board will be passed through to those constituents that caused the assessment of penalties.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Board of Directors of the Rincon del Diablo Municipal Water District held on May 27, 2015 by the following roll call vote:

AYES: Drake, Towne, Murtland and Quist
NOES: Lump
ABSTAIN: None.
ABSENT: None.

APPROVED

David A. Drake, President

ATTEST:

Thomas Butler, Board Secretary