

ORDINANCE NO. 2022-130

ORDINANCE OF THE BOARD OF
DIRECTORS OF RUBIDOUX COMMUNITY
SERVICES DISTRICT, RIVERSIDE
COUNTY, CALIFORNIA, ESTABLISHING
THE PROGRAM FOR IMPLEMENTING THE
WATER SHORTAGE CONTINGENCY PLAN

WHEREAS, Rubidoux Community Services District ("RCSD" or "District") is a California community services district organized pursuant to the State of California Community Services District Law pursuant to Government Code Section 61000 et seq., for the purpose of providing certain public services, including, but not limited to, the purveying of water supplies to customers within its service area; and

WHEREAS, periodic droughts are a historic fact in the State of California; and

WHEREAS, the District's source of water supply is groundwater from the Riverside South Basin which has been and continues to be a reliable source of supply for the water demands of customers within the District; and

WHEREAS, Section 10610 et seq. of the California Water Code requires the District to prepare and adopt, in accordance with prescribed requirements, a Water Shortage Contingency Plan (WSCP), as part of its Urban Water Management Plan; and

WHEREAS, the RCSD Board of Directors (the "Board"), after a notified public hearing, adopted Resolution No. 2021-878 on June 17, 2021, approving a Water Shortage Contingency Plan; and

WHEREAS, California Constitution Article X, Section 2 and California Water Code section 100 provide that water resources of the state shall be put to beneficial use to the fullest

extent of which they are capable, and that waste and unreasonable use or method of use be prevented and water be conserved; and

WHEREAS, pursuant to California Water Code Section 106, the declared policy of the State is that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, Section 350-359 and 31026-31029 of the California Water Code provide legal authority for the District to declare a water shortage emergency when the District determines there would be insufficient water for human consumption, sanitation, and fire protection, and then implement regulations to manage the water shortage emergency; and

WHEREAS, California Water Code Chapter 3.3 - Excessive Residential Water Use During Drought [365-367] prohibits excess water use in single-family and metered multi-family units during certain drought or water shortage conditions thus requiring the urban retail water supplier to establish a method to identify and discourage excessive water through rate structures, including tiered, water budgets or surcharge, and/or establishing or amending an excessive water use ordinance, rule, or tariff; and

WHEREAS, California Water Code Chapter 3.5 - Water Conservation Programs [375-378] allows any public water supplier to adopt by ordinance or resolution water conservation programs, such as water use restrictions, rate structures, water-saving devices, and public education. Violations of a requirement of a water conservation program adopted pursuant to Section 376 are misdemeanors, which can result in jail of up to 30 days or a

fine not to exceed \$1,000 or both, and a court or public entity may hold a person civilly liable in an amount not to exceed \$10,000 plus \$500 for each additional day on which the violation occurs; and

WHEREAS, the State Water Resources Control Board ("SWRCB") has been directed by Assembly Bill 1668 and Senate Bill 606 to adopt long-term standards for the efficient use of water by June 30, 2022. The SWRCB's proposed text of regulation as of February 20, 2018 would make permanent with some minor modifications and clarifications, the prohibitions that expired in Code of Regulations, Title 23, Section 864 in 2017; and

WHEREAS, the District adopted Ordinance No. 111 (October 15, 2009) to establish a landscape water use efficiency program providing compliance measures in support of State landscape model ordinance requirements. The District adopted Resolution Nos. 2015-817 (January 15, 2015) and 2015-820 (June 18, 2015) to declare a modified Stage 2 of the water shortage contingency plan with a list of water use prohibitions consistent with the SWRCB's 2015 emergency regulations. The District adopted Resolution No. 2019-858 (November 7, 2019) to rescind Resolution No. 2015-820 and continue to encourage customers to conserve water, consistent with the SWRCB's repeal of portions of California Code of Regulations, Title 23, Sections 864.5, 865, and 866 as of April 4, 2017; and

WHEREAS, pursuant to California Government Code, California Emergency Services Act (Article 2, Section 8558), the District shall coordinate with any city or county within which it provides water supply services for the possible proclamation of a local emergency.

NOW THEREFORE, this Ordinance contains provisions for implementing the District's Water Shortage Contingency Plan and rescinds District Ordinance No. 111 approved October 15, 2009.

SECTION 1. DECLARATION OF PURPOSE AND INTENT

1. This Ordinance provides additional detail on the enforcement, exemptions, and appeals procedures, and overall legal authority to implement the WSCP that will assure reasonable and beneficial use of water, prevent waste of water, and maximize the efficient use of water within the District to avoid and minimize the effect and hardship of water shortage to the greatest extent possible.
2. This Ordinance establishes permanent water use prohibitions to induce the efficient use of water regardless of water supply conditions and establishes six levels of water supply shortage response actions to be implemented during times of declared water shortage or declared water shortage emergency, designed to achieve progressively greater levels of conservation based on the conditions of the declared water shortage or emergency.
3. This Ordinance supports the District's WSCP, which is required by Water Code Section 10632. The WSCP, as amended from time to time, describes the demand management measures and water shortage actions that can be implemented by the Board in declaring a water shortage level and provides policy considerations, criteria and other guidance for the selection and implementation of such measures.

4. This Ordinance is intended to complement and be used in conjunction with the tiered pricing structure adopted by the District. The tiered pricing structure encourages use within a water budget through a tiered commodity pricing system and discourages wasteful use. Any modifications to the pricing structure must be consistent with the provisions of Proposition 218.

SECTION 2. APPLICATION

The provisions of this Ordinance shall apply to all persons, entities, customers, and properties served by the District (hereinafter collectively referred to as "customers"). The provisions of this Ordinance do not apply to uses of water necessary to protect public health and safety or for essential government services, such as police, fire and other similar emergency services. The provisions of this Ordinance do not apply to use of water from private wells. This Ordinance is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage; refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans. Provisions of this Ordinance may be used in conjunction with local jurisdictions to meet regional water quality and conservation requirements.

The WSCP details RCSD's actions in the event of an actual water shortage scenario. A water shortage means that the available water supply is insufficient to meet the normally expected

customer water use at a given point in time. The District may modify the WSCP at any time independent of updates to the UWMP; however, the same steps to notify and hold a public hearing are required with each modification as described in the UWMP.

SECTION 3. PERMANENT WATER WASTE PROHIBITIONS

Consistent with state law, water waste in the District service area is prohibited at all times. To prevent the waste and unreasonable use of water and to promote water conservation, the District prohibits the following actions, which are incorporated from the SWRCB's "Proposed Text of Regulation" (Water Code Title 23, Division 3, Chapter 3.5, Article 2, Section 963). At such time the SWRCB formally adopts use prohibitions, which is expected to occur by June 30, 2022, then this ordinance will incorporate-by-reference the adopted language. The following uses of water are prohibited as identified in this subdivision at all times, unless otherwise noted:

- A The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
- B The use of a hose that dispenses 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;
- C The application of potable water directly to driveways and sidewalks;

- D The use of potable water in an ornamental fountain or other decorative water feature, except where: (i) the water is part of a recirculating system; or (ii) the fountain is registered on the National Register of Historic Places;
- E The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least ~~one-tenth~~ fourth of one inch of rain. In determining whether measurable rainfall of at least ~~tenth~~ one-fourth of one inch of rain occurred in a given area, enforcement may be based on records of the National Weather Service, the closest CIMIS station to the parcel, or any other reliable source of rainfall data available to the District;
- F 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, during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions; and
- G During a state declaration of drought conditions and as mandated by the state, the use of potable water for irrigation of turf on public street medians or publicly owned or maintained landscaped areas between the street and sidewalk.
- H 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.

To prevent the waste and unreasonable use of water and to promote water conservation, any homeowners' association or community service organization or similar entity is prohibited from the following:

- A Taking or threatening to take any action to enforce any provision of the governing documents or architectural or landscaping guidelines or policies of a common interest development where that provision is void or unenforceable under section 4735, subdivisions (a) and (b) of the Civil Code;
- B Imposing or threatening to impose a fine, assessment, or other monetary penalty against any owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in section 4735, subdivision (c) of the Civil Code; or
- C Requiring an owner of a separate interest upon which water-efficient landscaping measures have been installed in response to a declared drought emergency, as described in section 4735, subdivisions (c) and (d) of the Civil Code, to reverse or remove the water-efficient landscaping measures upon the conclusion of the state of emergency. If a disciplinary proceeding or other proceeding to enforce a rule in violation any homeowners' association or community service organization or similar entity is initiated, each

day the proceeding remains pending shall constitute a separate violation of the SWRCB's regulation.

The use of water is not prohibited under the following circumstances:

- A To the extent necessary to address health and safety needs. This may include, but is not limited to, street sweeping and pressure washing of public sidewalks and the use of potable water in a fountain or water feature when required by law to be potable.
- B To the extent necessary to comply with a term or condition in a permit issued by a state or federal agency.
- C When the water is used exclusively for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b).

SECTION 4. WATER SHORTAGE LEVELS

California Water Code Section 10632(a)(3) requires suppliers to define six standard water shortage stages that correspond to progressive ranges of shortages from less than 10% to greater than 50%. A shortage is determined by the District. Shortage percentages will be calculated as percent shortfall of supplies against demands for anticipated current year conditions and assumed dry-year conditions. Shortage levels also apply to catastrophic interruption of water supplies, including but not limited to a regional power outage or earthquake. The District's shortage response actions for each shortage level are described below; however, the District retains the right to enact additional actions as needed for the type of shortage at-hand.

Applicable to all levels:

The aforementioned water waste prohibitions and associated penalties will remain in-effect regardless of a water shortage declaration. The General Manager, or his or her designee, shall monitor the projected supply and demand for water by its customers on a daily basis during periods of a water shortage or drought and shall recommend to the Board of Directors the extent of the conservation required through the implementation and/or termination of particular water conservation stages to plan and supply water to its customers. Thereafter, the Board of Directors may order the implementation or termination of the appropriate water conservation stage.

Upon the declaration of a water shortage level, the actions described below in each water shortage level will be in addition to water waste prohibitions and shall remain in-effect until the Board of Directors declares otherwise. The level of effort by the District in communicating to customers will increase with each increase in shortage level. Depending on the nature of the shortage, the District may augment water supply in lieu of, or complimentary to, demand reduction actions. The Board of Directors maintains the authority to issue mandatory water use restrictions including actions not listed herein on an as-needed basis to meet a water conservation target that is either mandated by the State or necessary to address a supply shortage in the District.

Immediate Emergency: If an Immediate Emergency occurs and the Board of Directors cannot meet in time to act to protect the public interest, the General Manager is hereby authorized and directed to implement any necessary rules and regulations upon

his or her written determination that RCSD cannot adequately supply water to meet the ordinary demands of water consumers, and that such implementation is necessary to protect the public health and safety.

(1) The General Manager's written determination of an Immediate Emergency shall be: (a) filed with RCSD Board of Director's Secretary; (b) posted on RCSD's website; (c) delivered to the Board of Directors; and (d) subsequently considered by the Board of Directors at a general or special meeting for review, revocation, or ratification.

(2) The implementation of any rules and regulations during an Immediate Emergency shall take effect immediately upon making a posting of the determination of the Immediate Emergency on RCSD's website.

(3) The Board of Directors' meeting shall be held on the earliest date that a quorum of the Board of Directors is available. At the Board of Directors meeting, the General Manager shall update the Board of Directors on the severity and length of the Immediate Emergency.

Water Shortage Level 1 (Up to 10% Water Shortage):

At such time the Board of Directors declares a water shortage of up to 10%, the District will encourage all customers to voluntarily conserve water. The District will make every reasonable effort to clearly communicate to all customers that water conservation of up to 10% is requested and will offer suggestions on how to conserve water.

Water Shortage Level 2 (Up to 20% Water Shortage) :

At such time the Board of Directors declares a water shortage of more than 10% and less than or equal to 20%, the District will encourage all customers to voluntarily conserve water. The District will make every reasonable effort to clearly communicate to all customers that water conservation of up to 20% is requested and will offer suggestions on how to conserve water.

Water Shortage Level 3 (Up to 30% Water Shortage) :

At such time the Board of Directors declares a water shortage of more than 20% and less than or equal to 30%, the District will encourage all customers to voluntarily conserve water. The District will make every reasonable effort to clearly communicate to all customers that water conservation of up to 30% is requested and will offer suggestions on how to conserve water. In addition, the District may ~~will~~ contact the highest water users and offer voluntary water waste surveys to reduce water use. Contact will consist of the following steps: (1) District will send one letter notifying the customer of their use, urging them to conserve, and request to meet onsite and perform a survey to reduce obvious water use; and (2) regardless of whether a survey is performed, District will follow up with phone calls at least once-per-month if the level of use does not decline in subsequent months.

Water Shortage Level 4 (Up to 40% Water Shortage) :

At such time the Board of Directors declares a water shortage of more than 30% and less than or equal to 40%, the District will make the following restrictions mandatory: (1) outdoor irrigation is limited to two days per week between the hours of

8:00 PM and 8:00 AM; and (2) all public water uses that are not required for health and safety are prohibited. The mandatory prohibitions will be enforced with patrols and responding to reports from customers. The District will make every reasonable effort to communicate to all customers of the need for water conservation of up to 40% and will outline the mandated prohibitions as well as additional tips and suggestions on how to conserve water. The District will continue targeting high water users to reduce obvious water waste. Customers are encouraged to utilize available rebates for water-conservation purchases (e.g., smart irrigation controllers). The District will consider augmenting rebate amounts to entice greater customer participation.

Water Shortage Level 5 (Up to 50% Water Shortage) :

At such time the Board of Directors declares a water shortage of more than 40% and less than or equal to 50%, in addition to the actions in Levels 1-4, the declaration may engage conservation drought fees according to the current approved rate structure. If the Board implements drought fees, then the District would use then current enforcement, penalty, exemption, and appeals procedures within the District's policies for non-payment of service. The District will make every reasonable effort to notify customers of the Board's decision in advance of the change taking effect.

Water Shortage Level 6 (Greater than 50% Water Shortage) :

At such time the Board of Directors declares a water shortage of more than 50%, the declaration may engage conservation drought fees according to the current approved rate structure. If the Board implements drought fees, then the District would use then

current enforcement, penalty, exemption, and appeals procedures within the District's policies for non-payment of service would apply. The District will make every reasonable effort to notify customers of the Board's decision in advance of the change taking effect.

SECTION 5. COMMUNICATION PROTOCOL

The District will regularly, and not less than once per year, communicate to all customers that water waste is prohibited.

The existence of water shortage levels may be declared by resolution of the Board of Directors adopted at a regular or special public meeting held in accordance with State law. All mandatory conservation measures described in the shortage levels shall take effect immediately or as otherwise provided by State law.

Within ten (10) days following the declaration of a shortage level (or declaration of the end of a shortage level), the District will publish a copy of the resolution, or an easy-to-read summary of the resolution with a link to the complete resolution in the newspaper used for publication of official notices. In addition, the District will provide the information on the District's website, at the District office, and to each customer by mail. The notices will include details as to how much reduction in water use is requested and provide suggested means to achieve that.

In a disaster when prior notice of water shortage response actions may not be possible, noticing procedures will be dictated by the District's Emergency Response Plan.

SECTION 6. ENFORCEMENT AND PENALTIES

During Water Shortage Levels 1, 2, and 3, customers who do not voluntarily reduce water use will not be penalized unless there is a violation of a water waste prohibition. For violations of a water waste prohibition or mandatory water use restrictions outlined in each Water Shortage Level or as declared by the Board of Directors, penalties are described below for each violation.

A The District will make a reasonable effort to notify and assist customers with compliance. Reasonable efforts to notify customers of any violation include, but are not limited to, personal contact, door hangar, letter, registered U.S. mail, email, or telephone.

B Each day that a violation of this ordinance occurs is a separate offense. All remedies provided herein shall be cumulative and not exclusive.

C Civil penalties may be levied for each violation of prohibitions specifically cited in this ordinance, as follows:

a. First Violation: Written citation.

b. Second Violation: Written citation and \$25 dollars (\$25.00) added to the next water bill.

c. Third Violation: Written citation and \$100 dollars (\$100.00) added to the next water bill.

d. Fourth Violation: Penalty of \$500 placed on the water bill, and after a 15-day written notification, the

customer may also be subject to a flow restricting device. A person or entity that violates this Ordinance is 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. The charge for installing and/or removing any flow restricting device must be paid to the District before the device is removed. Nonpayment will be subject to the same remedies as nonpayment of basic water rates.

- e. It is the discretion of the District to waive citations on a case-by-case basis when violations of this ordinance are addressed by the customer in a timely manner to the satisfaction of the District.

D Misdemeanor. In addition to, or as an alternative to the enforcement measures provided herein, or any other applicable civil or criminal remedies, violations of this Ordinance may be prosecuted as a misdemeanor, unless made an infraction by the prosecutor, and punishable by imprisonment in the county jail for not more than thirty (30) days, or by a fine not exceeding one thousand dollars (\$1,000), or by both as provided in California Water Code section 377.

E Discontinuing Service. In addition to any fines, and other remedies, the District, after a fifteen (15) day written notification, may disconnect a customer's water service for willful violations of this Ordinance, subject to the appeals process described herein.

F Leak Shut Off for Dedicated Irrigation Meter. In instances where a leak is observed on the customer's side of a dedicated irrigation service or irrigation system, the District may immediately shut off such system and/or meter and may issue a notice of violation as provided for in this Ordinance. Water service may not be reinstated until such leak is repaired.

G All fines collected by the District pursuant to this Ordinance shall be used by the District to further water conservation efforts in the District.

SECTION 7. EXEMPTIONS

Customers may be exempted from application of this Ordinance for a certain type of use if the Board of Directors issues a permit allowing such use and if such permit issuance is based on a finding that enforcement of the applicable restriction would (1) cause an unnecessary and undue hardship to the customer applying for such permit or the public, or (2) cause or threaten an immediate emergency condition affecting the health, sanitation, fire protection, or safety of the customer or the public; or (3) cause the customer to violate a term or condition in a permit issued by a state or federal water agency. The Board of Directors may require the installation and use of such water conservation devices or practices as they deem appropriate as a condition of the exemption permit.

SECTION 8. APPEALS

Upon receipt of the written citation or other decision from the District, the customer shall have thirty (30) calendar days to appeal the decision to the General Manager. The General Manager shall then schedule a review for consideration of the matter. The General Manager will then notify the customer of his/her appeal decision. If the customer is not satisfied with the appeal decision rendered by the General Manager, the customer shall have ten (10) calendar days to appeal the decision to the Board of Directors. The Board shall then schedule the matter for consideration at a regular or special meeting of the Board and render its decision, which shall be a final decision. If the customer fails to appeal during either the thirty (30) calendar days in the District's notice to the customer or the ten (10) calendar days period specified in the District's notice to the customer regarding the General Manager appeal, the customer shall lose its right to appeal the fine.

SECTION 9. CEQA EXEMPTION

The Board of Directors hereby finds that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) ("CEQA") pursuant to Section 15307 and Section 15378(b)(2) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, since it makes and implements policies and procedures for ensuring that water resources are conserved by reducing water demands.

SECTION 10. CONFLICTING PROVISIONS

If provisions of this Ordinance are in conflict with other rules and regulations of the RCSD, and other resolution or ordinance of the RCSD, or any State law or regulation, the more restrictive provisions shall apply.

SECTION 11. SEVERABILITY

If any provision, section, subsection, sentence, clause or phrase or sections of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the invalidity of the remaining portions of sections of this Ordinance shall not be affected, it being the intent of the Board in adopting this Ordinance that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 12. EFFECTIVE DATE

This Ordinance shall be effective upon adoption. Within ten (10) days after its adoption, the Secretary shall cause this Ordinance to be published once pursuant to California Government Code Section 6061 in full in a newspaper of general circulation which is printed, published, and circulated within the RCSD. If there is no such newspaper, the ordinance shall be posted within

10 days after its adoption in three public places within the public entity. The Ordinance shall also be posted on the District website and District office.

SECTION 13. DEFINITIONS

- A. "Agricultural use" means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial or community purposes.
- B. "Architectural or landscaping guidelines or policies" includes any formal or informal rules other than the governing documents of a common interest development.
- C. "Board of Directors" means the Board of Directors of Rubidoux Community Services District.
- D. "Commercial agricultural use meeting the definition of Gov. Code section 51201, subdivision (b)" includes irrigation, frost protection and heat control, but does not include cleaning, processing or other similar post-harvest activities.
- E. "Common interest development" has the same meaning as in section 4100 of the Civil Code.
- F. "Community service organization or similar entity" has the same meaning as in section 4110 of the Civil Code.
- G. "Decorative water feature" means a water feature that exists for decorative or aesthetic purposes and non-potable water can be used because it is not intended for recreational uses.
- H. "District" means the Rubidoux Community Services District.

- I. "General Manager" means the General Manager of Rubidoux Community Services District or his or her authorized designee.
- J. "Governing documents" has the same meaning as in section 4150 of the Civil Code.
- K. "Homeowners' association" means an "association" as defined in section 4080 of the Civil Code.
- L. "Immediate Emergency" means a disaster or other disruption of the District's water supply, which requires a response by the General Manager before the Board of Directors can meet.
- M. "Incidental runoff" means unintended amounts (volume) of runoff, such as unintended, minimal overspray or leakage from sprinklers that escapes the area of intended uses. Water leaving an intended use area is not considered incidental if it is part of the facility or system design, if it is due to excessive applications, if it is due to intentional overflow or application, or if it is due to negligence.
- N. "Landscape irrigation system" means an irrigation system with pipes, hoses, spray heads, or sprinkling devices that are operated by hand or through an automated system.
- O. "Potable water" means water which is suitable for drinking.
- P. "Non-potable water" means water that is not suitable for drinking.
- Q. "Recreational water feature" means a water feature intended for potable water recreation, such as a swimming pool or spa.
- R. "Separate interest" has the same meaning as in section 4185 of the Civil Code.

S. "Turf" means a ground cover surface of mowed grass.

SECTION 14. RECITAL INCORPORATION

All of the foregoing Recitals are true and correct and the Board so finds and determines. The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

SECTION 15. RESCISSION OF ORDINANCE NO. 111

With approval of Ordinance No. 2022-130 the Board so hereby rescinds District Ordinance No. 111 dated October 15, 2009.

ADOPTED, this 7th day of April, 2022.

HANK TRUEBA, JR.
President

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of Ordinance 2022-130 adopted by the Board of Directors of Rubidoux Community Services District at its regular meeting held April 7, 2022.

JEFFREY D. SIMS
Secretary-Manager

April 7, 2022