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**Introduction**

The California Legislature has declared that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. The California Public Records Act, Government Code Section 6250 *et seq.* requires the Olivenhain Municipal Water District to make public records available to the public upon request. The District has established the following guidelines to ensure that both employees and members of the public fully understand and are afforded the opportunity to use their right to inspect and obtain copies of public records. A copy of these guidelines will be available at the front desk and will be provided free of charge upon request.

**What Are Public Records?**

"Public records" include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the District regardless of physical form or characteristics.

'Writing' means handwriting, typewriting, printing, Photostating, photography, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

'Member of the public' means any person, except a member, agency, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

Note: No limitations are allowed on access to a public record based on the purpose for which a record is being requested, if the record is otherwise subject to disclosure.

**How May the Public Obtain Access to a Public Record?**


A written request via U.S. Mail, Facsimile (Fax) or Email is required to inspect or to obtain a copy of a public record and should be addressed to: Olivenhain Municipal Water District, 1966 Olivenhain Rd, Encinitas, CA 92024, Attention: Records Coordinator. The written request need not be in any particular form, but should describe the requested records with sufficient specificity to enable the District staff to identify and locate the information sought. The request should include a telephone number where the person requesting the record can be reached to discuss the request, if necessary.

Within 10 days from the date the request is received, the District will determine whether to comply with the request and will notify the requester of its determination whether or not it will be complying with the request. If the determination will not be made within 10 days due to unusual circumstances as defined in Government Code 6253.1, the District will notify the requesting person of the reasons for the delay and the date when the determination will be issued. No such notice shall specify a date that results in an extension of the notice of determination for more than 14 days. The District may request additional information if the record's request is not specific enough to permit the identification of the requested records. If the District determines to comply with the request, the records will be made available as promptly as is reasonably practicable. While the District will disclose identifiable and existing records, the District is not required to synthesize, manufacture, or summarize records, i.e., develop new records in response to a request.

**What Will the District's Response to a Records Request Include?**

In responding to information requests, the District will advise the person submitting the request of (1) the approximate date, and time at which the requested public records will be available; (2) if copies of records are requested, the cost of providing such copies, if any; and (3) which of the records requested are not



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subject to disclosure as public records pursuant to applicable provisions of the California Public Records Act. The District will determine the form in which any requested computer data will be provided.

**When May Public Records Be Inspected?**

Public records are open to inspection during the District office hours, 8:00 a.m. until 5:00 p.m., Monday through Friday, excluding District holidays. The District requests any person who wishes to inspect public records to telephone the Records Coordinator’s Office at (760) 753-6466 in advance and make an appointment to inspect the records. It is the policy of the District that records not exempt from disclosure by law will be open for public inspection with the least possible delay and expense to the requesting party. Records subject to exemption may nevertheless be made available for inspection if waiving the exemption will serve the public interest, as determined by the District on a case by case basis.

**Is There Any Fee Involved?**

A request for a copy of an identifiable public record or information produced therefrom must be accompanied by payment of fees to cover the direct costs of duplication, which will be based on a fee of \$.10 per standard reproduced page. Information transferred to a compact disk is \$.75 per CD or \$4.00 per 4GB thumb drive. Other external services, such as copying video and audio cassettes, large graphs, or archived board transcripts, will be made at the direct cost to the requester. Reasonable fees to cover other types of reproduction costs may be charged to include any other statutory fees. In the event that the request requires computer programming, data extraction, or data retrieval, such costs may be passed on to the individual or entity requesting the records. The District will notify requesters when their public records act request may involve such costs and will give them an estimate of the costs for computer programming, data extraction or data retrieval.


**What Records re Not Open for Inspection?**

In balancing the public's right to access public records with the recognized individual right of privacy and the need for the District to be able to competently perform its duties, the Legislature has established certain categories of records which may be exempt from public disclosure.


A complete list of statutory exemptions is found in the California Public Records Act, Government Code Section 6254 and 6275 *et seq.* Some exemption categories indicate that the District is not required to produce records that are:

- a. Preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained by the District in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;
- b. Records pertaining to pending litigation to which the District is a party, or to claims made until such litigation or claim has been finally adjudicated or otherwise settled;
- c. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;
- d. Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;
- e. Records of complaints to or investigations conducted by the District for law enforcement or licensing purposes;
- f. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;



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- g. The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.
- h. Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
- i. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.
- j. Records of Native American graves, cemeteries and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by or in the possession of the Native American Heritage Commission, and other state agency or the District.
- k. Any document prepared by or for a state agency or the District that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.
- l. Critical infrastructure information as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Homeland Security for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.
- m. Records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or the District, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency.
- n. The disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:
  - 1. To an agent or authorized family member of the person to whom the information pertains.
  - 2. To an officer or employee of another governmental agency when necessary for the performance of its official duties.
  - 3. Upon court order or the request of a law enforcement agency relative to an ongoing investigation.
  - 4. Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.
  - 5. Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.
  - 6. Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.

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- o. The home address or telephone number of any elected or appointed official.
- p. Any memorandum submitted to the District Board by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

The District also possesses the discretion to claim an exemption from public disclosure for records which do not qualify for a specific exemption under the California Public Records Act but as to which it determines that the public interest served by not making the record public clearly outweighs the public interest served by disclosure, pursuant to Government Code Section 6255. Except as required by law, the District does not allow public access to 'trade secrets' as defined in Government Code Section 6254.7(d) and Evidence Code 1060. However, the District's determination to disclose a record, which may otherwise be exempt from disclosure, does not constitute a waiver with respect to any other records.

The District permits employees to engage in de minimis personal use of District email. Accordingly, any purely personal emails that otherwise fall within a public records act request will be withheld from disclosure under Government Code §6255. Further, such purely personal emails, as they do not relate to the public's business, are not "public records" (as that term is used in the California Public Records Act) and are additionally not subject to disclosure for this separate reason.

**What If I Wish to Challenge the District's Determination Not to Disclose Records?**

The California Public Records Act, Government Code Section 6258, provides that any person may seek injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.

A Copy of the Public Records Act is attached for information purposes.