

ORDINANCE NO. 427

AN ORDINANCE OF OLIVENHAIN MUNICIPAL WATER DISTRICT
AMENDING ORDINANCE NO. 426 REGARDING WATER SUPPLY
SHORTAGE CONDITIONS

WHEREAS, Article 10, Section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, it is under the purview of the Governor of the State of California to declare a statewide emergency when necessary due to severe drought conditions; and

WHEREAS, the State Water Resources Control Board continues to implement statewide regulations to reduce California's potable water use; and

WHEREAS, California Water Code sections 375 et seq. authorize water suppliers to adopt and enforce a comprehensive water conservation program; and

WHEREAS, adoption and enforcement of a comprehensive water use efficiency program will allow Olivenhain Municipal Water District to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code sections 350 et seq.; and

WHEREAS, San Diego County is a semi-arid region and local water resources are scarce. The region is dependent upon imported water supplies provided by San Diego County Water Authority, which obtains a substantial portion of its supplies from Metropolitan Water District of Southern California. Because the region is dependent upon imported water supplies, weather and other conditions in other portions of this state and of the southwestern United States affect the availability of water for use in San Diego County; and

WHEREAS, San Diego County Water Authority has adopted an Urban Water Management Plan that includes water use efficiency as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of San Diego County Water Authority's 24 member agencies, including Olivenhain Municipal Water District. San Diego County Water Authority's Urban Water Management Plan also includes a contingency analysis

of actions to be taken in response to water supply shortages. This ordinance is consistent with San Diego County Water Authority's Urban Water Management Plan; and

WHEREAS, as anticipated by its Urban Water Management Plan, San Diego County Water Authority, in cooperation and consultation with its member public agencies, has adopted a Water Shortage and Drought Response Plan, which establishes a progressive program for responding to water supply limitations resulting from a water supply shortage condition. This ordinance is generally intended to be consistent with and to implement the Water Shortage and Drought Response Plan; and

WHEREAS, the Water Shortage and Drought Response Plan contains three stages containing regional actions to be taken to lessen or avoid supply shortages. This ordinance contains water supply shortage response levels that correspond with Water Shortage and Drought Response Plan stages; and

WHEREAS, Olivenhain Municipal Water District, due to the geographic and climatic conditions within its territory and its dependence upon water imported and provided by the San Diego County Water Authority, may experience shortages due to climatic conditions, regulatory restrictions enacted upon imported supplies, and other factors. Olivenhain Municipal Water District has adopted an Urban Water Management Plan that includes water use efficiency as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of the public within its service territory. Olivenhain Municipal Water District's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Urban Water Management Plan adopted by Olivenhain Municipal Water District; and

WHEREAS the water use efficiency measures, progressive restrictions on water use, and method of use identified by this ordinance provide certainty to water users and enable Olivenhain Municipal Water District to control water use, provide water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public that are consistent with those restrictions being enforced across the state and in the San Diego County region.

NOW, THEREFORE, the Board of Directors of Olivenhain Municipal Water District does ordain and declare as follows:

SECTION 1.0: DECLARATION OF NECESSITY AND INTENT

- (a) This ordinance establishes water management requirements necessary to conserve water, enable effective water supply planning, ensure reasonable and beneficial use of water,

prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within Olivenhain Municipal Water District in order to ensure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of water supply shortage, but at all times.

- (b) This ordinance establishes regulations to be implemented during times of declared water shortages or declared water shortage emergencies. It establishes four levels of water supply shortage response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening water supply shortage conditions and decreasing available supplies.
- (c) Level 1 Water Supply Shortage water use restrictions are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by Olivenhain Municipal Water District. During Water Supply Shortage Levels 2 through 4, all water use efficiency measures and water use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals.
- (d) During a Level 2 Water Supply Shortage or higher, the water use efficiency measures and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in this ordinance and as provided in Olivenhain Municipal Water District's Administrative and Ethics Code.

SECTION 2.0: DEFINITIONS

- (a) The following words and phrases whenever used in this chapter shall have the meaning defined in this section:
 - 1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to cutbacks under the terms of wholesaler agricultural water rate programs.

2. "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 Olivenhain Municipal Water District.

SECTION 3.0: APPLICATION

- (a) The provisions of this ordinance apply to any Person in the use of any water provided by Olivenhain Municipal Water District.
- (b) 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 or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.
- (c) Nothing in this ordinance is intended to affect or limit the ability of Olivenhain Municipal Water District to declare and respond to an emergency, including an emergency that affects the ability of Olivenhain Municipal Water District to supply water.
- (d) The provisions of this ordinance do not apply to use of water from private wells, graywater, or recycled water. However, the State Water Resources Control Board may require commercial, industrial, and institutional properties that are not served by a water supplier (or are self-supplied, such as by a groundwater well) to either reduce water use by a specified percentage or to restrict outdoor irrigation to a specified number of days per week. No reporting is required, but these properties must maintain documentation of their water use and practices.
- (e) Nothing in this ordinance shall apply to use of water that is subject to a special supply program, such as the San Diego County Water Authority's special agricultural water rate program. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A Person using water subject to a special supply program and other water provided by Olivenhain Municipal Water District is subject to this ordinance in the use of the other water.

SECTION 4.0: LEVEL 1 WATER SUPPLY SHORTAGE

- (a) A Level 1 Water Supply Shortage shall apply under one of the following conditions:

1. When San Diego County Water Authority notifies its member agencies or Olivenhain Municipal Water District's General Manager determines that, due to water supply reductions, there is a reasonable probability that there will be supply shortages and that a consumer demand reduction is required in order to ensure that sufficient supplies will be available to meet anticipated demands; or
2. When Olivenhain Municipal Water District's General Manager or Board of Directors deems such action necessary due to drought and/or limited water supply conditions.

The General Manager shall declare the existence of a Level 1 Water Supply Shortage and take action to implement the Level 1 water use efficiency measures identified in this ordinance.

(b) During a Level 1 Water Supply Shortage, Olivenhain Municipal Water District will increase its public education and outreach efforts to increase public awareness of the need to implement the following water use efficiency measures:

1. Stop washing down non-permeable, paved 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, or for one-time improvement projects such as cleaning a driveway prior to re-sealing.
2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.
3. Irrigate residential and commercial landscape before 8 a.m. and after 6 p.m. only. This section shall not apply to the use of a hand-held hose equipped with a shut-off nozzle to water landscaped areas.
4. Use a hand-held hose equipped with a shut-off nozzle to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.
5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a shut-off nozzle, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time.

Watering of livestock is permitted at any time.

6. Repair all water leaks within five (5) days of notification by Olivenhain Municipal Water District unless other arrangements are made with the General Manager.
 7. Discontinue landscape irrigation during and within 48 hours of measurable rainfall.
 8. Stop using potable water in a fountain or other decorative water feature except where the water is part of a recirculating system.
 9. Restaurants and food service establishments may only serve and refill water upon request.
 10. Commercial lodging establishments may offer guests the option of not laundering towels and linens daily.
- (c) During a Level 2 Water Supply Shortage or higher, all Persons shall be required to implement the water use efficiency measures established in a Level 1 Water Supply Shortage.
- (d) A Level 1 Water Supply Shortage may be discontinued by the General Manager and/or Board of Directors when the amount of current wholesale water supplies available to Olivenhain Municipal Water District, the amount of potable water available to Olivenhain Municipal Water District from other sources, the amount of recycled water produced at the 4S Ranch Water Reclamation Facility, and the amount of recycled water available to Olivenhain Municipal Water District from other sources are together greater or equal to the average of Olivenhain Municipal Water District's last three years of total demand plus a growth factor equivalent to the percentage of growth over the last fiscal year, at the discretion of the General Manager or Board of Directors. A Level 1 Water Supply Shortage may also be discontinued if deemed appropriate by the General Manager or Board of Directors when no longer necessary to address drought and/or limited water supply conditions.

SECTION 5.0: LEVEL 2 WATER SUPPLY SHORTAGE

- (a) A Level 2 Water Supply Shortage applies when the San Diego County Water Authority notifies its member agencies or Olivenhain Municipal Water District's Board of Directors determines that, due to cutbacks caused by a reduction in supplies, a consumer demand

reduction is required in order to have sufficient supplies available to meet anticipated demands. A Level 2 Water Supply Shortage also applies if required to comply with emergency regulations imposed upon Olivenhain Municipal Water District by state or federal agencies. Olivenhain Municipal Water District's Board of Directors shall declare the existence of a Level 2 Water Supply Shortage and implement the mandatory Level 2 water use efficiency measures identified in this ordinance. Upon declaration of a Level 2 Water Supply Shortage, Olivenhain Municipal Water District may also declare a Water Supply Shortage Emergency in the manner and on the grounds provided in California Water Code section 350 and may do so whether or not San Diego County Water Authority declares a California Water Code section 350 emergency.

(b) All Persons using Olivenhain Municipal Water District water shall comply with Level 1 water use efficiency measures during a Level 2 Water Supply Shortage, and shall also comply with the following additional water use efficiency measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager and posted by Olivenhain Municipal Water District. This section shall not apply to commercial growers or nurseries. This section shall not apply to the use of a hand-held hose equipped with a shut-off nozzle to water landscaped areas. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather-based controllers, drip/micro-irrigation systems and stream rotor sprinklers.
2. Limit lawn watering and landscape irrigation using sprinklers to time limits per watering station per assigned day as established by the General Manager and posted by Olivenhain Municipal Water District. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather-based controllers, drip/micro-irrigation systems and stream rotor sprinklers.
3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 5 (b) (1), on the same schedule set forth in section 5 (b) (1) by using hand-held hose with shut-off nozzle, or low-volume non-spray irrigation.
4. Repair all leaks within seventy-two (72) hours of notification by Olivenhain Municipal Water District unless other arrangements are made with the General Manager.

5. Washing a motor vehicle is only permitted with the use of a hose equipped with a shut-off nozzle that causes it to cease dispensing water immediately when not in use.
 6. Using potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems is prohibited.
 7. Using potable water to irrigate ornamental turf on public street medians is prohibited.
- (c) Upon declaration of a Level 2 Water Supply Shortage, Olivenhain Municipal Water District may suspend consideration of annexations to its service area.
- (d) Upon declaration of a Level 2 Water Supply Shortage, the Board of Directors may discontinue the provision of new potable water service, new temporary meters or permanent meters, and/or statements of immediate ability to serve or provide potable water service (such as will serve letters, certificates, or letters of availability), except under the following circumstances:
1. A valid, unexpired building permit has been issued for the project; or
 2. The project is necessary to protect the public's health, safety, and welfare; or
 3. 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 Olivenhain Municipal Water District.
- This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less.
- (e) A Level 2 Water Supply Shortage may be discontinued when the amount of current wholesale water supplies available to Olivenhain Municipal Water District, the amount of potable water available to Olivenhain Municipal Water District from other sources, the amount of recycled water produced at the 4S Ranch Water Reclamation Facility, and the amount of recycled water available to Olivenhain Municipal Water District from other sources are together greater or equal to 90 percent of the average of Olivenhain Municipal Water District's last three years of total demand plus a growth factor equivalent to the percentage of growth over the last fiscal year, at the discretion of the Board of Directors. If a Level 2 Water Supply Shortage has been implemented in order to comply with emergency

regulations imposed upon Olivenhain Municipal Water District by state or federal agencies, the Level 2 Water Supply Shortage may also be discontinued upon expiration or cancellation of the emergency regulations.

SECTION 6.0: LEVEL 3 WATER SUPPLY SHORTAGE

- (a) A Level 3 Water Supply Shortage applies when the San Diego County Water Authority notifies its member agencies or Olivenhain Municipal Water District's Board of Directors determines that, due to increasing cutbacks caused by reduction of supplies, a consumer demand reduction is required in order to have sufficient supplies available to meet anticipated demands. A Level 3 Water Supply Shortage also applies if required to comply with emergency regulations imposed upon Olivenhain Municipal Water District by state or federal agencies. Olivenhain Municipal Water District's Board of Directors shall declare the existence of a Level 3 Water Supply Shortage and implement the Level 3 water use efficiency measures identified in this ordinance.
- (b) All Persons using Olivenhain Municipal Water District water shall comply with Level 1 and Level 2 water use efficiency measures during a Level 3 Water Supply Shortage and shall also comply with the following additional mandatory water use efficiency measures:
1. Limit residential and commercial landscape irrigation to no more than one (1) assigned day per week on a schedule established by the General Manager and posted by Olivenhain Municipal Water District. This section shall not apply to commercial growers or nurseries. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather-based controllers, drip/micro-irrigation systems and stream rotor sprinklers.
 2. Stop filling or re-filling 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 water supply shortage level under this ordinance.
 3. Stop washing vehicles except at commercial carwashes that re-circulate water.
 4. Repair all leaks within forty-eight (48) hours of notification by Olivenhain Municipal Water District unless other arrangements are made with the General Manager.

- (c) Olivenhain Municipal Water District may establish a water allocation for property served by Olivenhain Municipal Water District using a method that does not penalize Persons for the previous implementation of water use efficiency methods or the installation of water-saving devices. If Olivenhain Municipal Water District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which Olivenhain Municipal Water District customarily mails the billing statement for fees or charges for ongoing water service. Olivenhain Municipal Water District is not required to comply with Proposition 218 to impose fines on Persons using water in violation of its restrictions on water use or in passing through penalties levied upon it by Metropolitan as a result of excessive use by some Olivenhain Municipal Water District customers. Following the effective date of the water allocation as established by Olivenhain Municipal Water District, any Person that uses water in excess of the allocation shall be subject to a penalty in the amount of twice the Metropolitan Tier 2 rate if under 115 percent of the allocation and four times the Metropolitan Tier 2 rate if over 115 percent in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.
- (d) A Level 3 Water Supply Shortage may be discontinued when the amount of current wholesale water supplies available to Olivenhain Municipal Water District, the amount of potable water available to Olivenhain Municipal Water District from other sources, the amount of recycled water produced at the 4S Ranch Water Reclamation Facility, and the amount of recycled water available to Olivenhain Municipal Water District from other sources are together greater or equal to 80 percent of the average of Olivenhain Municipal Water District's last three years of total demand plus a growth factor equivalent to the percentage of growth over the last fiscal year, at the discretion of the Board of Directors. If a Level 3 Water Supply Shortage has been implemented in order to comply with emergency regulations imposed upon Olivenhain Municipal Water District by state or federal agencies, the Level 3 Water Supply Shortage may be discontinued upon expiration or cancelation of the emergency regulations.

SECTION 7.0: LEVEL 4 WATER SUPPLY SHORTAGE

- (a) A Level 4 Water Supply Shortage applies when the San Diego County Water Authority notifies its member agencies or Olivenhain Municipal Water District's Board of Directors determines that, due to increasing cutbacks caused by reduction of supplies, a significant consumer demand reduction is required in order to have sufficient supplies available to meet anticipated demands. A Level 4 Water Supply Shortage also applies if required to comply with emergency regulations imposed upon Olivenhain Municipal Water District by state or federal agencies.

- (b) All Persons using Olivenhain Municipal Water District water shall comply with water use efficiency measures required during Level 1, Level 2, and Level 3 conditions and shall also comply with the following additional mandatory water use efficiency measures:
1. 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 Olivenhain Municipal Water District has determined that recycled water is available and may be lawfully applied to the use.
 - A. Maintenance of trees and shrubs that are watered on the same schedule set forth in section 6 (b) (1) by using hand-held hose with a shut-off nozzle, or low-volume non-spray irrigation;
 - B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;
 - C. Maintenance of existing landscaping for erosion control;
 - D. Maintenance of plant materials identified to be rare or essential to the wellbeing of rare animals;
 - E. 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 one (1) days per week according to the schedule established under section 6 (b) (1);
 - F. Watering of livestock; and
 - G. Public works projects and actively irrigated environmental mitigation projects.
 2. Repair all water leaks within twenty-four (24) hours of notification by Olivenhain Municipal Water District unless other arrangements are made with the General Manager.
- (c) Olivenhain Municipal Water District may establish a water allocation for property served by Olivenhain Municipal Water District. If Olivenhain Municipal Water District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement or by any other mailing to the address to which Olivenhain Municipal Water

District customarily mails the billing statement for fees or charges for ongoing water service. Olivenhain Municipal Water District is not required to comply with Proposition 218 to impose fines on Persons using water in violation of its restrictions on water use or in passing through penalties levied upon it by Metropolitan as a result of excessive use by some Olivenhain Municipal Water District customers. Following the effective date of the water allocation as established by Olivenhain Municipal Water District, any Person that uses water in excess of the allocation shall be subject to a penalty in the amount of twice the Metropolitan Tier 2 rate if under 115 percent of the allocation and four times the Metropolitan Tier 2 rate if over 115 percent in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this ordinance.

- (d) A Level 4 Water Supply Shortage may be discontinued when the amount of current wholesale water supplies available to Olivenhain Municipal Water District, the amount of potable water available to Olivenhain Municipal Water District from other sources, the amount of recycled water produced at the 4S Ranch Water Reclamation Facility, and the amount of recycled water available to Olivenhain Municipal Water District from other sources are together greater or equal to 60 percent of the average of Olivenhain Municipal Water District's last three years of total demand plus a growth factor equivalent to the percentage of growth over the last fiscal year, at the discretion of the Board of Directors. If a Level 4 Water Supply Shortage has been implemented in order to comply with emergency regulations imposed upon Olivenhain Municipal Water District by state or federal agencies, the Level 4 Water Supply Shortage may be discontinued upon expiration or cancelation of the emergency regulations.

SECTION 8.0: CORRELATION BETWEEN WATER SHORTAGE AND DROUGHT RESPONSE PLAN AND WATER SUPPLY SHORTAGE LEVELS

- (a) Olivenhain Municipal Water District may move to a Level 1, Level 2, Level 3, or Level 4 Water Supply Shortage with San Diego County Water Authority's Water Shortage and Drought Response Plan, Olivenhain Municipal Water District may implement any level of this ordinance at any time, whether independently or in order to comply with emergency regulations imposed by state or federal agencies, upon the appropriate findings and notice required herein.
- (b) The Water Supply Shortage levels identified in this ordinance generally correspond with San Diego County Water Authority's Water Shortage and Drought Response Plan as identified in the table below:

Response Levels	Use Restrictions	Conservation Target	WSDRP Stage
Level 1 Water Supply Shortage	Voluntary	Up to 10 percent	None, or Stage 1 or 2
Level 2 Water Supply Shortage	Mandatory	Up to 20 percent	Stage 2 or 3
Level 3 Water Supply Shortage	Mandatory	Up to 40 percent	Stage 3
Level 4 Water Supply Shortage	Mandatory	Above 40 percent	Stage 3

SECTION 9.0: PROCEDURES FOR DETERMINATION AND NOTIFICATION OF WATER SUPPLY SHORTAGE LEVELS

- (a) The existence of a Level 1 Water Supply Shortage may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of Olivenhain Municipal Water District and provided to Olivenhain Municipal Water District’s Board of Directors. The General Manager may publish a notice of the determination of existence of Level 1 Water Supply Shortage in one or more newspapers, including a newspaper of general circulation within Olivenhain Municipal Water District. Olivenhain Municipal Water District may also post notice of the water supply shortage level on their website. To end a Level 1 Water Supply Shortage, the General Manager may issue a written declaration of facts that conditions have been met by which to discontinue the Level 1 Water Supply Shortage.

- (b) The existence of a Level 2 or Level 3 Water Supply Shortage may be declared by resolution of Olivenhain Municipal Water District’s Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory water use efficiency measures applicable to Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, Olivenhain Municipal Water District shall publish a copy of the resolution in a newspaper used for publication of official notices. To end a Level 2 or Level 3 Water Supply Shortage, the Board of Directors may adopt by resolution a declaration that conditions necessary to discontinue the Level 2 or Level 3 Water Supply Shortage have been met.

- (c) The existence of a Level 4 Water Supply Shortage may be declared in accordance with the procedures specified in California Water Code sections 351 and 352. The mandatory water use efficiency measures applicable to a Level 4 Water Supply Shortage shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, Olivenhain Municipal Water District shall publish a copy of the resolution in a newspaper used for publication of official notices. If

Olivenhain Municipal Water District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which Olivenhain Municipal Water District customarily mails the billing statement for fees or charges for ongoing water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice. To end a Level 4 Water Supply Shortage, the Board of Directors may adopt by resolution a declaration that conditions necessary to discontinue the Level 4 Water Supply Shortage have been met.

- (d) Olivenhain Municipal Water District's Board of Directors may declare an end to a water supply shortage level at any time by the adoption of a resolution at any regular or special meeting held in accordance with state law.

SECTION 10.0: HARDSHIP VARIANCE

- (a) If, due to unique circumstances, a specific requirement of this ordinance would result in undue hardship to a Person using agency water or to property upon which agency water is used, that is disproportionate to the impacts to Olivenhain Municipal Water District water users generally or to similar property or classes of water uses, then the Person may apply for a variance to the requirements as provided in this section.
- (b) The variance may be granted or conditionally granted, only upon a written finding by Olivenhain Municipal Water District of the existence of facts demonstrating an undue hardship to a Person using agency water or to property upon with agency water is used, that is disproportionate to the impacts to Olivenhain Municipal Water District water users generally or to similar property or classes of water use due to specific and unique circumstances of the user or the user's property. The burden proving all grounds satisfying a variance shall be on the applicant.
 - 1. Application. Application for a variance shall be a form prescribed by Olivenhain Municipal Water District.
 - 2. Supporting Documentation. The application shall be accompanied by photographs, maps, drawings, and other information, including a written statement of the applicant.
 - 3. Required Findings for Variance. An application for a variance shall be denied unless Olivenhain Municipal Water District finds, based on the information provided in the application, supporting documents, or such additional information as may be

requested, and on water use information for the property as shown by the records of Olivenhain Municipal Water District, all of the following:

- A. That the variance does not constitute a grant of special privilege inconsistent with the limitations upon other Olivenhain Municipal Water District customers.
 - B. That because of special circumstances applicable to the property or its use, such as an Olivenhain Municipal Water District customer on life support, the strict application of this ordinance would have a disproportionate impact on the property or use that exceeds the impacts to customers generally.
 - C. That the authorizing of such variance will not be of substantial detriment to adjacent properties, and will not materially affect the ability of Olivenhain Municipal Water District to effectuate the purpose of this chapter and will not be detrimental to the public interest.
 - D. That the condition or situation of the subject property or the intended use of the property for which the variance is sought is not common, recurrent or general in nature.
4. Approval Authority. The General Manager shall exercise approval authority and act upon any completed application no later than 10 days after submittal and may approve, conditionally approve, or deny the variance in the General Manager's discretion. This approval by the General Manager may be determined upon a recommendation from a Citizens Advisory Task Force, if Olivenhain Municipal Water District forms one for hardship hearings. The applicant requesting the variance shall be promptly notified in writing of any action taken. Unless specified otherwise at the time a variance is approved, the variance applies to the subject property during the term of the mandatory drought response.
 5. Appeals to Olivenhain Municipal Water District Board of Directors. An applicant may appeal a decision or condition of the General Manager on a variance application to Olivenhain Municipal Water District's Board of Directors within 10 days of the decision upon written request for a hearing. The request shall state the grounds for the appeal. At a public meeting, the Board of Directors shall act as the approval authority and review the appeal de novo by following the regular variance procedure. The variance may be approved, conditionally approved, or denied in the discretion of the Board of Directors of Olivenhain Municipal Water District. The decision of the Board of Directors is final.

SECTION 11.0: VIOLATIONS AND PENALTIES

- (a) Any Person, who uses, causes to be used, or permits the use of water in violation of this ordinance is guilty of an offense punishable as provided herein.
- (b) Upon the issuance of a warning and/or fine as provided in Section 11.0 (c), the customer will be afforded a grace period of 21 days during which no additional warnings and/or fines will be issued. Each violation of this ordinance occurring outside of the 21-day grace period is considered a separate offense.
- (c) Administrative fines may be levied at the sole discretion of the General Manager or his/her designee for each violation of a provision of this ordinance as follows:
 - 1. A warning will be issued for the first violation.
 - 2. The customer will be fined one hundred dollars for a second violation.
 - 3. The customer will be fined two hundred dollars for a third violation of any provision of this ordinance within one year.
 - 4. The customer will be fined five hundred dollars for each additional violation of this ordinance within one year.
- (d) Violation of a provision of this ordinance is subject to enforcement through installation of a flow-restricting device in the meter.
- (e) Each violation of this ordinance may be prosecuted as a misdemeanor punishable by imprisonment in the county jail for not more than thirty (30) days or by a fine not exceeding \$1,000, or by both as provided in Water Code section 377.
- (f) Willful violations of the mandatory water use efficiency measures and water use restrictions as set forth in Section 7.0 and applicable during a Level 4 Water Supply Shortage may be enforced by discontinuing service to the property at which the violation occurs as provided by Water Code section 356.
- (g) All remedies provided for herein shall be cumulative and not exclusive.

SECTION 12.0: WATER SUPPLY SHORTAGE CONSERVATION RATES

During any stage of implementation of this ordinance, Olivenhain Municipal Water District's Board of Directors may choose, in its sole discretion, to implement the water supply shortage conservation rates that are currently adopted and notified to customers under a Proposition 218 process, in order to effectuate an appropriate and desired level of water conservation by Olivenhain Municipal Water District's customers.

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

AYES:
NOES:
ABSTAIN:
ABSENT:

Edmund K. Sprague, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Christy Guerin, Secretary
Board of Directors
Olivenhain Municipal Water District