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	Latest Revision Date February 13, 2019	Ordinance No. 463
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ARTICLE 20. EMPLOYER-EMPLOYEE RELATIONS

Sec. 20.1 revised via Ordinance No. 463 / February 13, 2019

Sec. 20.1. revised via Ordinance No. 320 / July 27, 2005

Sec. 20.1. **Equal Employment Opportunity.** It is and shall be the continuing policy of the Olivenhain Municipal Water District that all persons are entitled to equal employment opportunity regardless of gender, race, color, ancestry, religious creed, national origin, mental or physical disability, age, marital status, registered domestic partner status, or any other legally protected status as defined in California Family Code, Section 297, complaints filed with the Department of Fair Employment, birth or adoption of a child, domestic partner’s child or leave for the care of an immediate family member (spouse, registered domestic partner as defined in California Family Code, Section 297, child, domestic partner’s child or parent) with a serious health condition pursuant to all applicable state and federal laws.

- A. Employment opportunities are and shall be open to all qualified applicants solely on the basis of their experience, aptitudes, and abilities.

- B. Advancement is and shall be based entirely on the individual's achievement, performance, ability, attitude and potential for promotion.

- C. All relations and decisions pertaining to employment, promotions, demotion, transfer, recruiting, Reductions-in-Workforce (RIW), terminations, training, rates of pay and benefits will be executed without regard to gender, race, color, ancestry, religious creed, national origin, mental or physical disability, age, marital status, registered domestic partner status, or any other legally protected status, complaints filed with the Department of Fair Employment, birth or adoption of a child, registered domestic partner’s child or leave for the care of an immediate family member (spouse, registered domestic partner as defined in California Family Code, Section 297, child, domestic partner’s child or parent) with a serious health condition pursuant to all applicable state and federal laws.

Section 20.2. revised via Ordinance No. 463 / February 13, 2019

Section 20.2. revised via Ordinance No. 320 / July 27, 2005

Sec. 20.2. **Affirmative Action Program.** It is the personnel policy of the Olivenhain Municipal Water District to utilize available personnel resources in selecting the best qualified person for the job to be performed on the

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basis of qualifications which are essential in order that an employee may perform well, including such factors as ability, availability, capability, aptitude, experience, education, and willingness to work and serve. The object is to use qualified personnel in such a manner so as not to discriminate against any person, employee or job applicant for employment because of gender, race, color, ancestry, religious creed, national origin, mental or physical disability, age, marital status, registered domestic partner status, or any other legally protected status, complaints filed with the Department of Fair Employment, birth or adoption of a child, registered domestic partner's child or leave for the care of an immediate family member (spouse, registered domestic partner as defined in California Family Code, Section 297, child, registered domestic partner's child or parent) with a serious health condition pursuant to all applicable state and federal laws.

- A. Recruitment. The Olivenhain Municipal Water District will consider all qualified applicants for vacancies in all job classifications on the basis of individual qualifications and job performance.

- B. Job Placement and Promotions. The Olivenhain Municipal Water District will provide promotional and upgrading opportunities when they become available to all qualified employees on the basis of individual qualifications and essential job performance.

- C. Training and Development. All training and educational programs conducted on the job, and all outside training and educational seminars for employees will be made available to all employees.

- D. Compensation and Employee Benefits. The District will pay all personnel fairly according to their job classification. The District-supported benefit programs for employees will be made equally available to all personnel.

- E. Working Conditions and Facilities. District facilities, except restrooms and dressing rooms, will not be segregated on the basis of gender.

- F. RIW and Terminations. Whenever necessary to reduce the District workforce, RIW or recall to work decisions will be made without regard to gender, race, color, ancestry, religious creed, national origin, mental or physical disability, age, marital status, registered domestic partner status, or any other legally protected status, complaints filed with the Department of Fair Employment, birth or adoption of a child, registered domestic partner's child or

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leave for the care of an immediate family member (spouse, registered domestic partner as defined in California Code Section 297, child, domestic partner’s child, or parent) with a serious health condition pursuant to all applicable state and federal laws.

When it becomes necessary to terminate any employees, such termination will be without discrimination due to gender, race, color, ancestry, religious creed, national origin, mental or physical disability, age, marital status, registered domestic partner status, or any other legally protected status, complaints filed with the Department of Fair Employment, birth or adoption of a child, registered domestic partner’s child or leave for the care of an immediate family member (spouse, registered domestic partner as defined in California Code Section 297, child, domestic partner’s child, or parent) with a serious health condition pursuant to all applicable state and federal laws.

Sec. 20.3. District Employee Relations Officer. The Board of Directors shall appoint an Employee Relations Officer to serve at the pleasure of the Board in matters relating to Employee-Employer Relations. Unless otherwise appointed by the Board of Directors, the General Manager is the Employee Relations Officer.

Sec. 20.4 revised via Ordinance No. 451 / July 19, 2017
Sec. 20.4. revised via Ordinance No. 382 / August 25, 2010
Section 20.4. revised via Ordinance No. 375 / March 24, 2010
Sec. 20.4. revised via Ordinance No. 320 / July 27, 2005

Sec. 20.4. Board of Directors Personnel Committee. The Board of Directors shall create and maintain a Personnel Committee in accordance with Sec. 2.2. of this Administrative Code. The Personnel Committee shall consider matters referred to it by the Board of Directors, or matters within the scope of its duties, which are presented by its members or by the District’s Employee Relations Officer or his/her designee. The Committee shall have authority only to submit recommendations to the Board of Directors. A meeting may be called at any time for consideration of matters requiring immediate attention.

- A. Duties and Functions of the Personnel Committee.
- (1) The form of the District's organization, including the flow of authority and responsibility; salaries, special benefits, hours of work; personnel working conditions, disagreements and problems; the employment of

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consultants, advisors and specialists and the conditions of their employment.

- (2) The organization and classification of positions, job duties, salaries, employees' organizations, and pension plans.
- (3) The District's Equal Employment Opportunity Policies, Affirmative Action Program and District employee-employer relations policies.
- (4) Interviewing and recommending individuals to serve as General Manager, General Counsel, Treasurer, and any other employee who may not be subject directly to the supervision of the General Manager.
- (5) The acknowledgement and honoring of Board Directors, employees, and others for services rendered.
- (6) Changes in the Administrative Code based upon experience and the best administrative practices.

Sec. 20.5. revised via Ordinance No. 463 / February 13, 2019

Sec. 20.5. revised via Ordinance No. 403 / December 12, 2012

Sec. 20.5. revised via Ordinance No. 320 / July 27, 2005

Sec. 20.5. Employment Requirements. The following requirements must be completed for employment in conformance with the time stipulations:

A. Physical Examinations. Successful applicants for employment, physically capable for the job requirements, are required to have a pre-placement medical examination given by a doctor of the District's choice. The examination shall be made after the job offer and prior to commencement of employment. The examination will be made at District expense. (See Article 4, Section 4.1.)

B. Loyalty Oath. Each new employee will be required to sign a loyalty oath, pursuant to State Law, prior to employment.

LOYALTY OATH / AFFIRMATION

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the

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United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

- (1) This Loyalty Oath is required by the California Constitution and Government Code sections 3101 and 3102 to administer a loyalty oath to all employees, except legally employed aliens.
- (2) State law also requires that public employees sign the loyalty oath. It is a prerequisite to compensation and reimbursement for expenses incurred. One who cannot take the oath, in effect, is rendered ineligible for public employment.
- (3) OMWD has granted authority to administer the oath to the General Manager. The General Manager may appoint any person authorized in writing by his/her appointing power. The Loyalty Oath does not need to be notarized.
- (4) OMWD will not permit changes or alterations to the loyalty oath; however, an employee could sign the oath and add a separate note to their personal file that expresses his/her views. Thus, attachments or addenda will be allowed with the following caveats:
 - i. Attachments or addenda that are incompatible, inconsistent, and negate the meaning of the loyalty oath will not be accepted.
 - ii. Attachments or addenda will need to be approved by the General Manager and the General Counsel before being allowed to be attached to the Loyalty Oath.
- (5) If an employee did not take and sign a loyalty oath before they began their employment with the District, the oath may be done so retroactively and the employee will be considered as fulfilling the requirement from the first day of employment. This must be done within 7 working days of the finding of the error by either the employee or District.

C. Political Activity. Public employees may be restricted in accordance with State Law.

D. Conflict of Interest. A conflict of interest statement may be required pursuant to current State and County statutes and District rules (See Article 27 of the District's Administrative Code and the Conflict of Interest Code of the Olivenhain Municipal Water District).

Sec. 20.6. revised via Ordinance No. 463 / February 13, 2019

Sec. 20.6. revised via Ordinance No. 451 / July 19, 2017

Sec. 20.6. revised via Ordinance No. 320 / July 27, 2005

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Sec. 20.6. Selection Process.

- A. Announcement. Positions, which become vacant or are newly created, shall be publicized by posting announcements via email and by such other methods deemed necessary by the General Manager. The announcements shall include the title and pay of the position; the position specification including: the nature of the work required by the position, the manner of making application, and the application deadline; and other pertinent information, including that the District is an equal opportunity employer.

- B. Application Forms. Applications shall be made as prescribed on the announcement. Application forms shall require information, which may include certificates, references and work history. All applications, applicant releases, and authorizations must be signed by the person applying, and will remain the property of the District.

- C. Disqualifications. The General Manager shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position, has misrepresented any factual information requirement or is not a citizen of the United States, except when citizenship is not required by law. All applicants shall be notified of the job placement, whether successful or not.

- D. Examination. Selection techniques may require an examination which will be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the General Manager, fairly measure the relative capabilities of the persons examined to execute the duties and responsibilities of the position to which applicants seek appointment. The test may include, but not be limited to, achievement and aptitude tests, other written tests, personal interviews, performance tests, work samples or any one or combination of these or other tests.

- E. Appointment. If the General Manager does not consider it in the best interest to fill the position by promotion, transfer, reinstatement, reemployment or demotion, a position will be filled externally. After interview and background investigation, the General Manager shall make

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appointments. The persons accepting appointment shall present themselves on the date of appointment and present themselves for duty within such period of time as prescribed, otherwise, they shall be deemed to have declined the appointment.

Sec. 20.7. revised via Ordinance No. 320 / July 27, 2005

Sec. 20.7. Sexual Harassment. Sexual harassment in employment violates the provisions of the Federal Equal Employment Opportunity Commission, and California Fair Employment and Housing Act, specifically Government Code Sections 12940 (a),(h) and (i).

The Fair Employment and Housing Act defines harassment because of sex as including sexual harassment, gender harassment, and harassment based on pregnancy, childbirth or related medical conditions. The Fair Employment and Housing Commission regulations define sexual harassment as unwanted sexual advances or visual, verbal or physical conduct of a sexual nature. This definition includes many forms of offensive behavior and includes sexual harassment of a person of the same sex as the harasser. The following is a partial list: unwanted sexual advances or request for sexual favors made a condition of getting, keeping or advancing a job, making or threatening reprisals after a negative response to sexual advances, visual forms of sexual harassment e.g. derogatory posters, cartoons, photographs, pictures or drawings based on sex, verbal harassment e.g. epithets, derogatory comments or slurs based on sex and physical harassment e.g. assault, impeding or blocking movement or any physical interference with normal work or movement when directed at an individual based on sex. Consensual sexual conduct does not constitute sexual harassment.

The District maintains a strict policy prohibiting all forms of sexual harassment at the workplace. Regular training about this policy is conducted and reviewed annually for all employees. This policy applies to ALL employees, supervisors, agents and non-employees who have contact with employees during working hours. Disciplinary action will be taken promptly against any employee, supervisory or otherwise, who engages in unlawful sexual harassment as defined by the Fair Employment and Housing Act. There may be personal liability for a person who commits the harassment or aids and abets in the harassment, depending on the circumstances.

Anyone who is subject to or witnesses sexual harassment as defined by the Fair Employment and Housing Act at the Olivenhain Municipal

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Water District is expected to promptly contact any Manager. If the complaint involves a Manager, it shall be immediately reported to the General Manager of the District. Retaliation for complaining about harassment is illegal, even if it cannot be demonstrated that the harassment actually occurred.

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and will not be tolerated by this District.

If employees are aware of any violation of this law, they are expected to report the circumstances to any Manager. If the complaint involves a Manager, it shall be immediately reported to the General Manager of the District.

The District considers accusations of harassment in the workplace serious and will conduct an immediate, thorough, objective and complete investigation. All persons with information regarding the matter will be interviewed and a determination made. The results will be communicated to the complainant, the alleged harasser, and as appropriate to all others directly concerned.

Employees of the District who believe they have been subjected to sexual harassment as defined by the Fair Employment and Housing Act may also file a complaint with the Department of Fair Employment and Housing (DFEH). Complaint forms may be obtained from DFEH by calling (800) 884-1684.

All District supervisors or managers informed of any sexual harassment or harassment, as defined by the Fair Employment and Housing Act, are required to immediately report any claims to the Human Resources Manager, or General Manager.

All employees of the District are advised that the District will not tolerate any conduct on the part of any employee accused of sexual harassment that might be construed as retaliatory in nature. Retaliatory conduct or actions by any District employee following a claim of harassment are separate and independent grounds for disciplinary action and/or termination by the District.

If the results of the District's investigation confirm the offense, immediate disciplinary action up to and including discharge and appropriate legal action will be taken against the person violating this policy.