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	Latest Revision Date January 23, 2008	Ordinance No. 357

ARTICLE 29. RULES AND REGULATIONS FOR AGREEMENT FOR PAYMENTS FOR ADDITIONAL EDUs IN ASSESSMENT DISTRICT 96-1

Sec. 29.1. Declaration of Policy

The Olivenhain Municipal Water District established, pursuant to Municipal Improvement Act of 1913 (Streets and Highways Code Section 10,000) an Assessment District designated as Assessment District 96-1 for the purpose of financing a portion of the cost to construct Water Storage Facilities to benefit and serve all properties located within the boundaries of the Assessment District.

The cost of the Water Storage Facilities financed through the Assessment District were required by the Municipal Improvement Act of 1913 to be apportioned among the parcels within the Assessment District according to the direct and special benefit to be received by such parcels. The Assessment Engineer for the Olivenhain Municipal Water District established that the direct and special benefits to the parcels within the Assessment District were to be measured by the number of equivalent dwelling units (EDUs), which could be constructed on each parcel as determined in accordance with the methodology designed in the Engineer's Report for Assessment District 96-1.

From time to time additional EDUs are requested by owners of properties within Assessment District 96-1 when a land use agency authorizes new development that exceeds the EDUs assessed for a particular parcel. Without payment to the Olivenhain Municipal Water District of an amount equal to the increased equivalent dwelling units actually obtained on the subject property, there will be inadequate water facilities within the District in the future to serve all District customers and as a result other property owners in the Assessment District would be subsidizing this changed land use, approved by other legislative bodies.

This Ordinance provides that, if an owner decides to subdivide or further develop property with demands that exceed the EDUs assessed by Assessment District 96-1, then that owner must pay an amount equal to two thousand five hundred dollars (\$2500.00) for each additional equivalent dwelling unit actually obtained; plus fifty dollars (\$50.00) per year commencing October 1996 for each year that has passed since October of 1996 and shall be paid in full for each year or portion thereof after October of any particular year.

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Sec. 29.2. Legislative Findings

The Board of Directors of the District hereby finds and determines that the storage capacity available to the District in the Olivenhain Water Storage Project was based upon the number of equivalent dwelling units needed to provide adequate water storage to all properties within Assessment District 96-1 calculated on the basis of the number of equivalent dwelling units each property could achieve based upon the existing general plan, zoning ordinance, and development constraints. The Board of Directors of the District further finds and determines that a request by property owners for an increase in the number of equivalent dwelling units over those authorized by Assessment District 96-1 will have an impact on the ability of the District to provide adequate water facilities to all properties within Assessment District 96-1 in the future by causing a requirement for greater storage capacity than was authorized when Assessment District 96-1 was formed. The Board of Directors of the District further finds and determines that the District will have inadequate water facilities to accommodate all properties within Assessment District 96-1 in the future in the event property owners are not required to mitigate their impacts upon the District's water storage system when property owners are requesting an increase in the number of equivalent dwelling units for their properties over the number of equivalent dwelling units authorized by Assessment District 96-1. The Board of Directors of the District further finds and determines that collection of a payment is necessary from property owners desiring an increase in the number of equivalent dwelling units over the number authorized by Assessment District 96-1 so that the District can provide additional water facilities in the future to ensure an adequate water supply for all property owners within Assessment District 96-1.

The Board of Directors of the District further finds and determines that it is necessary to obtain a contractual agreement for payment for each equivalent dwelling unit requested by property owners exceeding the number of equivalent dwelling units authorized the property owner by Assessment District 96-1, is necessary to ensure that the District has adequate water facilities available in the future to serve all properties within Assessment District 96-1. The Board of Directors of the District finds and determines that without this payment there will be inadequate facilities available in the future to

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serve all of the properties within Assessment District 96-1 and the failure to execute an agreement and collect a payment will result in other property owners subsidizing impacts to the District's water system caused by new development not paying its fair share of the need for future water facilities within Assessment District 96-1.

Sec. 29.3. Establishment of Contractual Payments

Property owners within Assessment District 96-1 desiring an increase in the number of equivalent dwelling units (EDUs) over the number of EDUs authorized by Assessment District 96-1 shall be required to execute the agreement approved by the District and to pay an amount equal to two thousand five hundred dollars (\$2,500) for each additional EDU. The payment shall be collected based upon the formulas outlined in the Final Engineer's Report for Assessment District 96-1, dated October 4, 1996, and the projected capital cost of expanding the District's recycled water system. Payments shall be by a contractually binding agreement, whereby the additional water service desired shall be provided only after the agreement is executed and payment for such is received by the District. The projected capital cost of expanding the District's recycled water system shall be adjusted from time to time by the Board of Directors of the District.

Sec. 29.4. Payment of Fees

1. All projects not classified as subdivisions under the Subdivision Map Act shall pay all payments agreed upon at the time that the first potable water meter is installed. In the event that the potable water meter is already installed, the payment shall be due and payable at the time that the agreement is executed by the landowners and the District.

2. All subdivisions (excluding all lot splits, boundary adjustments and minor subdivisions) shall pay 100% of the payment concurrent with the District's execution of the Final Subdivision Map.

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Sec. 29.5. Penalties and Interest for Non-Payment

All payments shall be paid to the District on the dates they are due. In the event any payment is not paid on the date it is due, a penalty equal to ten percent (10%) of the amount due, plus interest at the rate of one and one-half percent (1½%) per month shall be due and the District may pursue all or any of the remedies specified in the written agreement.

Sec. 29.6. Water Service Requirements

Owners of property requesting increased water storage demand beyond what was originally authorized by Assessment District 96-1 will be required to comply with all District Ordinances, Rules and Regulations for obtaining any additional water service, sewer service and recycled water service for the subject properties. As a material term of receipt of approval for additional water service to the subject property owner(s), heirs, successors and interest shall be required to expressly waive the right to contest the validity of the Assessment District 96-1 and the validity of the additional payments and the total amount of the payments due and payable in accordance with this Ordinance in order for development to receive the increases in water storage benefits that are necessary for greater development densities.

Sec. 29.7. Deposits of Payments Received

The payment(s) received shall be deposited into the Recycled Water Capacity Fee Fund and the Assessment District 96-1 Bond Service Redemption Fund.

Sec. 29.8. Agreement for Increased EDUs for Water Improvements in Assessment District 96-1

Owners of property requesting increased EDUs over the number authorized by Assessment District 96-1 will be required to execute the agreement approved by the District to receive increased EDUs.

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Sec. 29.9. is hereby added by Ordinance No. 297 / August 21, 2002

Sec. 29.9. Application for Apportionment

Pursuant to Sections 8740 et. sequence of the California Streets and Highways Code the District will require an application for apportionment to be filed with the District for any lot or parcel of land within the District where there is an unpaid assessment represented by any bonds issued under the Improvement Bond Act of 1915 that is being subdivided including any division into condominium interests or that is being transferred to any other person. If any lot or parcel is being subdivided or ownership of a portion of a parcel is transferred, the owner shall file an application for apportionment with the District. The application shall indicate how the lot was divided or transferred, request an apportionment of assessment and be accompanied by a fee in an amount fixed by the Board of Directors of the District. The fee must be paid to the District with the application. Once received, the application will be processed. The amended assessment will be recorded along with the amended assessment diagram. The Directors of the District hereby establish the following apportionment fees for each lot subdivided or transferred.

Applications containing (4) four or less new parcels - \$990 flat fee

Applications containing (5) five or more new parcels - \$40 flat fee; plus \$1,900 for each subdivision/tract map required and \$25 for each new parcel required.