

ORDINANCE NO. 1070

AN ORDINANCE OF THE CITY OF BELMONT AMENDING BELMONT CITY CODE PROVISIONS IN CHAPTERS 7 AND 21 PERTAINING TO SEWER LATERALS

THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. BCC SECTION 21-1 AMENDED

Belmont City Code Chapter 21, Article I, Section 21-1 is amended in part as follows:

Sec. 21-1 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Authority means the Joint Powers Authority for the South Bayside System Authority, a public entity established by agreement between the Cities of San Carlos, Belmont, and Redwood City, California, and the Menlo Park Sanitary District (now named West Bay Sanitary District) dated November 13, 1975, and any successor entity thereof.

Building sewer means the horizontal piping of a drainage system that extends from the end of a building drain and that receives the discharge of the building drain and conveys it to the sewerage facilities. See *sewer lateral*.

Beneficial uses means the uses of the waters of the city or state which may or do require protection against quality degradation thereof, including but not necessarily limited to water used for domestic, municipal, agricultural and industrial uses, power generation, recreation, aesthetic enjoyment, or navigation purposes, or for the preservation and enhancement of fish, wildlife or other aquatic resources or reserves, and such other uses, both tangible or intangible, as are or may be specified by federal or state law as beneficial uses.

Charge means a rental or other charge established pursuant to this chapter for services and facilities furnished by the city to any premises in connection with the operation of the sewerage facilities.

Compatible pollutant means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, additional pollutants identified in the city's national pollutant discharge elimination system (NPDES) permit, and such other pollutants as may be designated by the director upon a finding by him that such pollutants are substantially treated and removed by the sewerage facilities.

Contamination means an impairment of the quality of the waters of the city or state by waste to a degree which creates a hazard to the public health. Contamination shall include any equivalent effect resulting from the disposal of wastewater whether or not waters of the city or state are affected thereby.

Director means the director of public works of the city, or his designees, including but not limited to duly authorized personnel of the authority.

District means the Mid-Peninsula Water District or entity or successor that delivers water to the city's sewer customers.

Entity means the city.

Finance director means the director of finance of the city, or his designees, including but not limited to duly authorized personnel of the authority.

Fixture means any sink, tub, shower, water closet or other facility connected by a drain to the sewer.

Holding tank waste means any waste from sewerage or waste disposal holding tanks such as are associated with vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trunks.

Incompatible pollutant means any pollutant which is not a compatible pollutant.

Interference means an inhibition or disruption of the sewerage facilities, their treatment processes or operations or their sludge processes, use or disposal which causes or significantly contributes to either a violation of the authority's NPDES permit or to the prevention of sewerage sludge or disposed by the authority in accordance with the applicable state and federal statutory provisions and regulations or permits issued thereunder.

Living unit shall mean any residence, apartment house, habitation or other structure customarily occupied by a single person or family requiring sewer disposal services.

Major contributing industry means any wastewater contributor identified in the Standard Industrial Classification (SIC) Manual, prepared and published by the Executive Office of Management and Budget of the United States, classified within divisions A, B, D, E and I therein, the wastewater of which has any one (1) or more of the following characteristics:

- a. A discharge flow of fifty thousand (50,000) gallons or more per average work day (if seasonal, the average shall be based upon the seasonal discharge);
- b. A flow or pollutant loading greater than five (5) percent of the design capacity of the sewerage facilities;
- c. Toxic pollutants in amounts defined in standards issued pursuant to section 307(a) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 33 U.S.C. § 1151, et seq.);
- d. A significant impact (determined by the director), either individually or in combination with other contributing industries, on the sewerage facilities, or upon the quality of effluent from the sewerage facilities.

Mass emission rate means the weight of material discharged to the sewerage facilities during a specified time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular waste constituent or combination of constituents.

Metered water delivery means each one hundred (100) cubic feet of water (to the nearest ten (10) cubic feet) as metered by the Mid-Peninsula Water District and as contained in the

district's official records.

Outlet means any part of a sewer system to which a fixture may be connected.

Pass Through means the discharge of pollutants through the sewerage facilities into navigable waters in quantities or concentrations which cause or significantly contribute to violation of the authority's NPDES permit.

Person means any individual, firm, company, partnership, association, private corporation, public corporation, or governmental entity, authority or agency, and the officers, agents or employees of such organizations.

Pollution means an alteration of the quality of the waters of the city or state by waste to a degree which unreasonably affects such waters for any beneficial use or affects pollution. The term "pollution" may also include contamination.

Premises means a parcel of land, or portion thereof, including any improvements which are directly or indirectly connected to the sewerage facilities for purposes of receiving, using and paying for service, or other purposes relating to the sewerage facilities, by an individual user. Each dwelling unit of a duplex, apartment or any other multifamily residence shall be deemed a separate premise. Subject to the provisions of this section 21-106, the director shall determine what constitutes a premise.

Public sewer (sewer main) means any main-line sewer constructed in any street, highway, alley, place, right-of-way or easement dedicated for public use and accepted by the city. *Public sewer* does not include sewer laterals.

Reclaimed water means water which, as a result of treatment of waste, is suitable for direct beneficial use, or a restricted beneficial use, which would not otherwise occur but for such treatment.

Report means the report referred to in California Health and Safety Code Section 5473.

Requirement of law or other requirements of law means any pertinent provisions of the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500, 33 U.S.C. § 1151 et seq.), or of any statute, ordinance, rule, regulation, order, directive, or of the city's or authority's National Pollutant Discharge Elimination System (NPDES) permit, or of any amendments thereto.

Sewer connection charge means fees or other charges paid to obtain a permit to connect one or more fixtures to the sewerage system.

Sewer lateral means the sanitary sewer line, including cleanouts, overflow valves, backflow valves, "wye" brand and appurtenances that connect the building drain pipe to the public sewer main. The portion of the sewer lateral located on private property may be referred to as the "*upper*" or "*building*" lateral and the portion of the sewer lateral located within the public right of way or easement may be referred to as the "*lower*" lateral. The sewer lateral may also be referred to as the *building sewer*.

Sewer service charges means fees, tolls, rates, rentals or other charges for services and facilities furnished by the city in connection with its sanitation or sewerage system.

Sewerage facilities means any or all devices, facilities, equipment, improvements or systems owned or used by the city or the authority in the collection, storage, treatment, recycling, reclamation or disposal of wastes or wastewater, including interceptor sewers, outfall sewers, or lines, sewerage collection systems, pumps, power plants, treatment plants, recycling or reclamation plants, and other equipment and appurtenances thereto; extensions, improvements, remodeling, modifications, additions or alterations thereof; chemicals, materials or supplies used in connection therewith; stormwater, flood control, and drainage maintenance facilities that reduce inflow and infiltration to the sanitary sewer system; or any other facilities, including land and improvements thereon, which are an integral part of the treatment process of the city or the authority, or which are used for ultimate disposal of residues, effluent or discharges, resulting from such treatment, or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of wastes or wastewater, including storm water runoff, industrial wastes, domestic wastes or any combination thereof.

Unit shall mean each one hundred (100) cubic feet of water or wastewater when referring to volumetric measures.

Unpolluted water means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the city or authority for disposal to storm or natural drainages, or directly to surface waters.

User means any person who discharges, causes or permits the discharge of wastewater into the sewerage facilities.

User classification means a classification of users based upon classifications set forth in the Standard Industrial Classification (SIC) Manual, 1972 Edition, prepared and published by the Executive Office of Management and Budget of the United States.

Waste means sewerage and any and all waste substances, whether liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Wastewater means waste and water, whether treated or untreated, discharged into the sewerage facilities.

Wastewater constituents and characteristics means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity or strength of wastewater.

Waters of the city or state means any water, whether surface or underground, and whether saline or non-saline, within the boundaries of the city, or within the boundaries of the city and flowing into, touching or otherwise combined with waters outside the city but within the boundaries of the state.

SECTION 2. BCC SECTION 21-2 AMENDED

Belmont City Code Chapter 21, Article I, Section 21-2 is amended as follows:

Sec. 21-2 Prohibitions.

(a) It is unlawful for a person to connect, erect, construct, alter, enlarge, convert, move or maintain any improvement, pipe, or facility contrary to the provisions of this article.

(b) It is unlawful for a person to use any land, building or premises established or maintained contrary to the provisions of this article.

(c) Any improvement, pipe, or facility connected, erected, constructed, altered, enlarged, converted, moved or maintained, and any land, building or premises established or maintained contrary to the provisions of this article is a public nuisance.

SECTION 3. BCC SECTION 21-4 AMENDED

Belmont City Code Chapter 21, Article I, Section 21-4 is amended as follows:

Sec. 21-4 Reserved.

SECTION 4. BCC SECTION 21-20 AMENDED

Belmont City Code Chapter 21, Article II, Section 21-20 is amended as follows:

Sec. 21-20 Permit Required; Excavation Permit Pre-requisite.

(a) It is unlawful for any person to connect a fixture to a public sewer or sewer lateral without first obtaining a written sewer connection permit from the building official and paying the established fees for such connection.

(b) A permit shall not be issued to construct a sewer lateral within a public easement or right of way unless a temporary encroachment permit is approved in accordance with Chapter 22.

SECTION 5. BCC ARTICLE VII ADDED.

Belmont City Code Chapter 21 is amended by adding Article VII entitled "Sewer Laterals".

SECTION 6. BCC SECTION 21-210 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-210 is added as follows:

Sec. 21-210 Property Owner Responsible for Installation and Maintenance of Sewer Laterals.

(a) A property owner must install and maintain in good repair all portions of the sewer lateral servicing his or her property including the connection of the lateral to the public sewer main and any back flow prevention devices or cleanouts required by this Chapter or Chapter 7.

(b) If the city manager determines that any portion of a property owner's sewer lateral is damaged, not in good repair, or otherwise in a condition which may result in stoppage, leakage, infiltration or backflow, the city manager may issue a notice to repair to the property

owner. The notice shall specify the nature of the defect requiring repair and specify a date by when the property owner must repair or replace the damaged or defective portion of the lateral.

(c) The property owner must perform all necessary repair or replacement by the date as determined by the city manager.

SECTION 7. BCC SECTION 21-211 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-211 is added as follows:

Sec. 21-211 Emergency Maintenance.

(a) The city manager may at his or her discretion provide emergency maintenance assistance to a property owner to determine if a sewer stoppage is within the public sewer main or within the property owner's sewer lateral if a standard cleanout as defined by Section 7-19 has been installed at the property line or easement line.

(b) Neither the city nor the city manager shall not be responsible for the repair or replacement of any portion of the sewer lateral damaged as a result of emergency maintenance, and before performing emergency maintenance the city manager shall require the property owner to sign a release waiving any claim against the city that may arise in whole or in part from the performance of emergency maintenance.

SECTION 8. BCC SECTION 21-212 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-212 is added as follows:

Sec. 21-212 Disclosure and Sewer Lateral Certificate; When Required.

(a) This section applies to real property that is required by the provision of this code to be improved with a sewer lateral.

(b) Beginning June 1, 2013, a real property owner must disclose the requirements of this article to the interested parties as defined in subsection (g).

(c) A real property owner must possess a valid sewer lateral certificate issued under Section 21-213 before receiving a final building permit for -

(1) improvements valued by the building official at \$200,000 or more, or

(2) work associated with a change in water service (e.g. change in meter size or adding a second meter).

(d) Subsection (b) does not apply to the sale or transfer of title to individual units within a condominium or cooperative apartment complex.

(e) For purposes of this section, "title transfer" means the sale or transfer of the entire real property estate or the fee interest in that real property estate, except as provided in subsection (f).

(f) “Title transfer” does not mean:

- (1) the sale or transfer of a partial interest, including a leasehold;
- (2) transfer to a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust;
- (3) transfers from one co-owner to one or more other co-owners;
- (4) transfers to a revocable trust if the trust is for the benefit of the grantor(s);
- (5) transfers made by a trustor to fund an inter vivos trust;
- (6) transfers between spouses or registered domestic partners; or
- (7) transfers to a financial institution as a result of foreclosure or similar process.

(g) For purposes of this section, “interested parties” mean

- (1) the transferor’s real estate broker, if any,
- (2) the transferee,
- (3) the transferee’s real estate broker, if any, and
- (4) the escrow holder, if any.

(h) The director shall prepare a handout for distribution to the public describing the requirements of this article. The disclosure obligation in subsection (b) may be satisfied by providing a copy of the current handout.

SECTION 9. BCC SECTION 21-213 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-213 is added as follows:

Sec. 21-213 Sewer Lateral Certificate Issuance.

(a) *Issuance criteria.* The director may issue a sewer lateral certificate for a property when:

- (1) the entire sewer lateral was lawfully constructed within the past 15 years and the director does not suspect that the lateral may be in need of repair, or
- (2) the property owner has shown by testing and inspection to the director’s satisfaction that the sewer lateral is in good repair and condition.

(b) *Effective period and fee.*

- (1) A sewer lateral certificate issued under subsection (a)(1) may be issued at no cost and shall be effective for a period equal to the difference of 15 years minus the number of years since construction of the lateral unless the director establishes a shorter period.

(2) A sewer lateral certificate issued under (a)(2) may be issued upon payment of a sewer lateral certificate application review fee and shall be effective for the period of four (4) years unless determined by the director based on the circumstances including the age of the lateral and other factors affecting the integrity and reliability of the lateral.

SECTION 10. BCC SECTION 21-215 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-215 is added as follows:

Sec. 21-215 Inspection of Sewer Lateral.

(a) *Authority to require inspection.* Notwithstanding that a valid sewer lateral certificate exists for a property, the director may require a property owner to inspect a sewer lateral if the director has a reasonable basis to believe the lateral may not be in good repair or condition.

(b) *Cost of inspection.* The property owner is responsible for the costs of testing and inspection of sewer laterals required by this code.

(c) *Testing and inspection requirements.* The director may establish requirements for testing and inspection of sewer laterals.

SECTION 11. BCC SECTION 21-216 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-216 is added as follows:

Sec. 21-216 Back Flow Prevention.

In addition to the requirements in Chapter 7, the director may require the installation of backflow prevention devices and gate valves on a sewer lateral when the director reasonably believes backflow has or may occur, or when backflow is alleged to have occurred by the property owner.

SECTION 12. BCC SECTION 21-217 ADDED

Belmont City Code Chapter 21, Article VII, Section 21-217 is added as follows:

Sec. 21-217 No Mandatory Duty.

Nothing in this article is intended to create a mandatory duty on the part of the city or city employees to protect persons or property from a violation of the provisions of this article.

SECTION 13. BCC SECTION 7-19 ADMENDED

Belmont City Code Chapter 7, Article III, Section 7-19 is amended as follows:

Sec. 7-19 Sewer Lateral Cleanout.

When a main sewer is located in the street, alley or easement, there must be provided a cleanout brought up flush with the sidewalk level next to the curb; and if no curb or sidewalk exists, then the cleanout must be located inside the lot line. Riser shall be the same size as the

drain it serves, brought up to the level of the ground by a wye and branch fittings, and top of same to be provided with a regulation cleanout. If the sidewalk space mentioned is entirely concrete, then a cast-iron sidewalk box, with loose cover fitted with brass screws, shall be installed. The maximum size for a cleanout plug shall be four (4) inches.

SECTION 14. BCC SECTION 1-12 ADDED

Belmont City Code Chapter 1, Section 1-12 is added as follows:

Sec. 1-12 Service of Notice.

(a) Whenever a notice is required to be given under this code, unless different provisions herein are otherwise specifically made, the notice may be given either by personal delivery to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to the person at person's last known business or residence address as the same appears in the public records of the city or other records pertaining to the matter to which the notice is directed. Notice by mail shall be deemed to have been completed at the time of deposit in the post office, mail box, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service.

(b) Proof of giving any notice may be made by the certificate of any officer or employee of the city, or by affidavit of any person over the age of 18 years, which shows service in conformity with this code, or other provisions of law applicable to the subject matter concerned.

SECTION 15. CEQA EXEMPTION.

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

SECTION 16. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 17. EFFECTIVE DATE.

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 18. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c) of the, once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of

Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The City Council of the City of Belmont, California introduced the foregoing ordinance, on April 9, 2013 and adopted the ordinance at a regular meeting held on April 23, 2013 by the following vote:

Ayes: Braunstein, Warden, Feierbach, Wozniak

Noes:

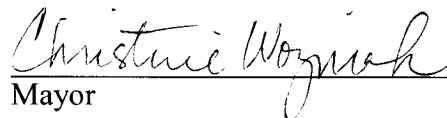
Absent: Lieberman

Abstain:

ATTEST:

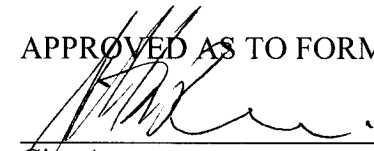


City Clerk



Mayor

APPROVED AS TO FORM:



City Attorney