

CITY OF ALAMEDA ORDINANCE NO. 3114

New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY REPEALING IN ITS ENTIRETY SECTION 18-5 (ABATEMENT OF IMPROPER SEWER CONNECTIONS), REPEALING IN ITS ENTIRETY SECTION 18-6 (SEWER LATERAL TESTING) AND ADDING A NEW REVISED SECTION 18-5 (SEWER LATERAL ORDINANCE)

WHEREAS, the City of Alameda has separate sanitary sewer and storm water drainage systems; and

WHEREAS, stormwater that should enter the storm drainage system but instead enters the sewer system through defects in the sewer pipes causes excessive sanitary flows during wet weather events; and

WHEREAS, a Sewer System Evaluation Study (SSES) conducted in the early 1980's as part of the region-wide East Bay Infiltration/Inflow Study resulted in a long-term plan to reduce excessive sanitary flows during wet weather events through sewer system upgrades and rehabilitation; and

WHEREAS, in the period since completion of the SSES, Alameda has eliminated known cross-connections between the sanitary and storm drain systems, constructed relief sewer improvements to provide needed system capacity, rehabilitated sewers in the public system, and implemented a program requiring the inspection and rehabilitation of privately-owned sewer laterals at specific triggering events; and

WHEREAS, in 2009 the Environmental Protection Agency and others filed lawsuits against the East Bay Municipal Utility District (EBMUD), the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont and the Stege Sanitary District, all of which discharge to the EBMUD interceptor and regional wastewater treatment plant, based on allegations of "unpermitted" discharges or sanitary sewer overflows (SSOs); and

WHEREAS, the parties to the litigation engaged in negotiations and thereafter entered into a Stipulated Order requiring detailed maintenance and sewer rehabilitation work to address the continued influx of storm water into the sewer collection systems; and

WHEREAS, the Stipulated Order remained binding until a final remediation program was codified in the Final Consent Decree for Case Nos. C09-00186 and 09-05684; and

WHEREAS, it is generally accepted that privately-owned sewer laterals can contribute up to 50% of the storm water entering older sewer collection systems like Alameda's; and

WHEREAS, per a Stipulated Order requirement, EBMUD adopted a regional ordinance requiring the replacement of privately-owned sewer laterals upon the sale of any property or as a condition of issuance for specific building permits or increase in water meter size (the "Regional Sewer Lateral Program"); and

WHEREAS, on June 29, 2012, the Alameda City Council adopted Ordinance No. 3048 N.S. to amend the City's private sewer lateral program so as to achieve a no less stringent status as compared to the Regional Sewer Lateral Program; and

WHEREAS, it is the best use of ratepayer funds for the City to participate in the Regional Sewer Lateral Program, administered by EBMUD, in place of implementing its own program.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda:

Section 1. Ordinance No. 2404 N.S. and Section 18-5 (Abatement of Improper Sewer Connections) of the Alameda Municipal Code are hereby repealed in their entirety.

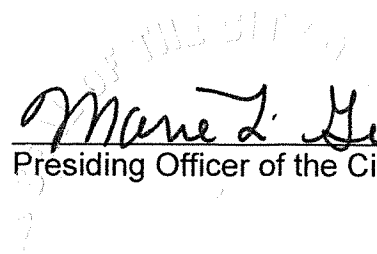
Section 2. Ordinance No. 3048 and Section 18-6 (Sewer Lateral Testing) of the Alameda Municipal Code are hereby repealed in their entirety.

Section 3. A new section 18-5, Sewer Lateral Ordinance of the City of Alameda, is hereby added to the Alameda Municipal Code, to read as follows:

See Exhibit A, attached hereto and incorporated herein by reference.

Section 4. If any section, subsection, sentence, clause or phrase of this ordinance, for any reason, is held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase of this ordinance, regardless of the fact that one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

Section 5. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.


Maria L. Gilmore
Presiding Officer of the City Council

Attest:

Lara Weisiger
Lara Weisiger, City Clerk

Exhibit A

18-5.1 Title.

This section shall be known as the "Sewer Lateral Ordinance of the City of Alameda."

18-5.2 Definitions.

The following definitions shall apply to this section and augment definitions found in the California Plumbing Code Standard Code:

- a. *City* means the City of Alameda, a municipal corporation, in Alameda County, California.
- b. *Cleanout* means a pipe fitting and associated piping connected to a building sewer or lateral sewer line that provides access to the line for purposes of routine flushing, rodding, cleaning and other maintenance, and diagnostic purposes.
- c. *Common Interest Development* means a development managed or governed by a Homeowners' Association. Examples of Common Interest Developments may include condominium projects, planned unit developments, community apartment projects (in which the individual units are owned) and stock cooperatives.
- d. *Compliance Certificate* means (1) a completed inspection card approved by a City Building Inspector prior to the effective date of this Ordinance indicating that the sewer lateral has successfully passed the testing requirements of the City, or (2) a certificate issued by the District after the effective date of this Ordinance indicating that all Upper Sewer Laterals associated with a parcel have demonstrated compliance with the requirements of this Chapter and the Regional Ordinance by passing a Verification Test.
- e. *District* means the East Bay Municipal Utility District, Special District No. 1.
- f. *District Director* means the Director of the Wastewater Department of the East Bay Municipal Utility District, or his or her designated representative.
- g. *Exemption Certificate* means a certificate issued by the District as described in the Regional Ordinance. A Property Owner who holds an Exemption Certificate for a given parcel need not obtain a Compliance Certificate for that parcel during the period the Exemption Certificate remains valid.
- h. *Homeowners' Association* means a nonprofit corporation or unincorporated association created for the purpose of managing or governing a Common Interest Development and that operates in accordance with governing

documents, whether or not the corporation or association is formally designated or commonly referred to as a Homeowners' Association.

- i. *Lineal Consanguinity Relationship* means a relationship with another person where, and only where, one person is a direct descendent of the other person. The following are examples of Lineal Consanguinity Relationships: parent and child, grandparent and grandchild, and great-grandparent and great-grandchild. Persons are not in a Lineal Consanguinity Relationship if neither person is directly descended from the other, even if both persons are descended from a common ancestor. The following are not Lineal Consanguinity Relationships: aunt and niece, uncle and nephew, siblings, and cousins of any degree.
- j. *Lower Sewer Lateral* means the part of the Sewer Lateral extending from the property line to the publicly owned Sewer Main including the connection to the Sewer Main.
- k. *Parcel Group* means two or more contiguous or directly adjacent parcels of real property under common ownership.
- l. *Property Owner* means a person that owns a parcel of real property, or that person's authorized representative. As used in this paragraph, "person" means an individual, trust, corporation, nonprofit organization, Homeowners' Association, partnership, firm, joint venture, limited liability company, or association. A Public Entity is excluded from this definition.
- m. *Public Entity* means any city or county; any special district or agency of the state formed pursuant to general law or special act for the local or regional performance of governmental or proprietary functions within limited boundaries; any agency or entity created pursuant to the Joint Exercise of Powers Act (Cal. Gov. Code § 6500, et seq.); a school district or a community college district; the University of California; the California State University; an air pollution control district or an air quality maintenance district; a housing authority; and any other entity with the capacity to own real property created by any of the above.
- n. *Public Works Director* means the Public Works Director or his or her designee.
- o. *Regional Ordinance* means the Regional Private Sewer Lateral Ordinance adopted by the District (EBMUD Ord. No. 359-13) and all amendments and modifications thereto.
- p. *Remodel* means any significant improvement, addition, construction, reconstruction, modification or alteration of or to an existing or previously existing Structure.
- q. *Repair* means construction activities, performed by a licensed contractor to bring an Upper Sewer Lateral into compliance with this Chapter and the Regional

Ordinance, consisting of the correction of less than the entire Upper Sewer Lateral.

- r. *Replacement* means construction activities, performed by a licensed contractor to bring an Upper Sewer Lateral into compliance with this Chapter and the Regional Ordinance, consisting of the replacement or lining of the complete length of the Upper Sewer Lateral.
- s. *Sewer Lateral* means a pipe or pipe and appurtenances that conveys wastewater from the plumbing of a Structure to a Sewer Main. Also referred to as "building sewer" in the California Standards Building Code.
- t. *Sewer Main* or *Main Sewer* means a sanitary sewer pipe owned and controlled by the City of Alameda. The Sewer Main does not include any portion of the Sewer Lateral.
- u. *Structure* means any structure or building as defined in the California Building Code that is required to be provided with public sewer service by the City of Alameda, or that is actually provided with public sewer service, or that is served by a Sewer Lateral.
- v. *Time Extension Certificate* means a certificate issued by the District in connection with a Title Transfer transaction to a Property Owner, or to a transferee, that extends the deadline to obtain a Compliance Certificate for 180 days from the date the Time Extension Certificate is issued.
- w. *Title Transfer* means the sale or transfer of an entire real property estate or the fee interest in that real property estate, excluding the sale or transfer of partial interest such as a leasehold. The following are not Title Transfers for purposes of this Chapter and the Regional Ordinance:
 - 1. a transfer to an heir by a trustee or other fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
 - 2. a transfer from one co-owner to one or more other co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors;
 - 3. a transfer made by a trustor to fund an inter vivos trust;
 - 4. a transfer made to a spouse, or to a registered domestic partner as defined in Section 297 of the Family Code, or to a person or persons in a Lineal Consanguinity Relationship with one or more of the transferors;
 - 5. a transfer between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or resulting from a decree of legal separation or from a property settlement agreement incidental to a decree; and

- 6. a transfer from a Property Owner to a financial institution as a result of a foreclosure or similar process. A transfer from a financial institution to a new Property Owner is a Title Transfer for purposes of this Chapter or the Regional Ordinance.
- x. *Two-way cleanout* means a cleanout at or near the property line or street curb line that allows flushing, rodding, cleaning and other maintenance and diagnostic procedures in the Sewer Lateral. Two-way cleanouts shall be a Kelly cleanout or approved equal and shall conform to City of Alameda requirements, as shown on the City's Standard Drawings and as described in the City's specifications.
- y. *Upper Sewer Lateral* means the part of the Sewer Lateral extending from the property line to the building drain or Structure served. When a Sewer Lateral connects to a rear or side yard Sewer Main located in an easement, the entire Sewer Lateral, including the connection to the Sewer Main, shall be considered an Upper Sewer Lateral. An Upper Sewer Lateral is associated with a parcel if it, or any portion of it, is located upon the parcel or conveys sewage and liquid waste from any Structure located on that parcel. More than one Upper Sewer Lateral may be associated with an individual parcel.
- z. *Verification Test* means a test witnessed by the District's authorized representative(s) to verify that all Upper Sewer Laterals associated with a parcel comply with the requirements of this Chapter and the Regional Ordinance.

18-5.3 Property Owner Responsibility for Sewer Lateral.

- a. Property Owners own the entire Sewer Lateral and must maintain, Repair and Replace all Sewer Laterals associated with their parcels to the extent necessary to ensure the Sewer Laterals meet the standards of this Chapter. The minimum standards are as follows:
 - 1. Sewer Lateral shall be kept free from roots, grease deposits, and other solids which may impede the flow or obstruct the transmission of waste.
 - 2. The Sewer Lateral shall have a Two Way Cleanout located at the property line or at the Sewer Main easement. All Cleanouts shall be securely capped with a proper cap at all times.
 - 3. There shall be no Non-Sanitary Sewer Connections to the Sewer Lateral or to any plumbing that connects thereto.
 - 4. All joints of the Sewer Lateral shall be watertight and all Sewer Lateral pipe shall be sound to prevent exfiltration by waste or infiltration by ground water or storm water.
 - 5. The Sewer Lateral shall be free of any structural defects, cracks, breaks, openings, rat holes, or missing portions and the grade shall be uniform without sags or offsets.

- b. Property Owners must perform any Repair or Replacement and perform any inspections necessary to ensure the Upper Sewer Laterals meet the above standards and requirements of the Regional Ordinance.
- c. All Property Owners must obtain a Compliance Certificate for the Upper Sewer Lateral from the District at the time and in the manner required by the Regional Ordinance.
- d. Before completing a Title Transfer associated with a parcel containing any Structure, either the transferor or transferee, as negotiated between them, shall obtain a Compliance Certificate for the Upper Sewer Lateral from the District, unless a Time Extension Certificate is obtained, see paragraph g. After the Title Transfer is complete, the transferee is solely responsible for obtaining a Compliance Certificate for the Upper Sewer Lateral. The requirement to obtain a Compliance Certificate for the Upper Sewer Lateral before Title Transfer in no way affects the legality of the transfer of title in the underlying property transaction.
- e. Whenever a Property Owner submits an application for any permit or other approval needed for new construction upon a parcel, or for Remodeling of an existing or previously existing Structure, the Property Owner shall obtain a Compliance Certificate for the Upper Sewer Lateral from the District before obtaining a final permit. This paragraph applies to construction and Remodeling if the cost of the permitted work exceeds the dollar amount specified in the Regional Ordinance.
- f. Whenever a Property Owner applies for any permit or other approval from the District for an increase or decrease in size of the Property Owner's water meter, the Property Owner shall obtain a Compliance Certificate for the Upper Sewer Lateral from the District before obtaining a final permit or approval. The District may permit or approve an increase or decrease in water meter size without first requiring the Property Owner to obtain a Compliance Certificate for the Upper Sewer Lateral if the Property Owner has submitted a pending application for a permit subject to paragraph e above.
- g. A Property Owner may at any time voluntary request a Compliance Certificate for the Upper Sewer Lateral for a given parcel from the District, and the District shall issue the Compliance Certificate as provided by the Regional Ordinance if the Upper Sewer Lateral located upon the parcel passes a Verification Test.
- h. If a Compliance Certificate for the Upper Sewer Lateral cannot be obtained before the Title Transfer, the transferor, transferee, or other interested party or parties may obtain a Time Extension Certificate from the District in accordance with the Regional Ordinance. Time Extension Certificates are issued in connection with Title Transfer transactions *only*.

- i. A Property Owner may request an Exemption Certificate from the District in accordance with the Regional Ordinance.
- j. Property Owners within Common Interest Developments must obtain Compliance Certificates for the Upper Sewer Lateral from the District as described in the Regional Ordinance.
- k. The Property Owner of any parcel or any Parcel Group with Upper Sewer Laterals exceeding 1000 feet in total combined length within the parcel or Parcel Group must comply with the requirements for a Condition Assessment Plan, Corrective Action Work Plan and Compliance Certificate as specified in the Regional Ordinance.
- l. The City may establish fees for administration of this Chapter. The Property Owner shall be responsible for paying any fees established by the City in addition to any fees established by the District.

18-5.4 Abatement of Improper Sewer Connections.

- a. Improper Sewer Connections. All Sewer Laterals or sewer Cleanouts which contain leaks or breaks, uncapped sewer clean-outs, sump pumps, down spouts or yard drains which discharge into the sewer system, and all other sources of accidental, negligent or intended introduction of storm run off or similar waters into the sanitary sewer system are hereby declared to be a public nuisance, and shall be abated by the owner of the property, who is hereby required to remove or correct such improper sewer connections.
- b. Resolution Declaring Nuisance. Whenever any such improper sewer connection exists upon any private property or in any street or alley within the City, the Public Works Department will notify the Property Owner in writing of the condition and order them to abate the condition within a specified time frame and that if the work is not done within the timeframe that the department will pursue the passage of a City Council resolution for the work to be done by the City and expenses thereof assessed upon the Property Owner from which the nuisance is removed. Such resolution shall fix the time and place for hearing any objections to the proposed correction or removal.
- c. Protests; Filing and Hearing. At any time not later than the time set for hearing objections the Property Owner of any real property liable to be assessed for the proposed abatement may file with the City Clerk, addressed to the Council, a written protest against the proposed improvement and no other protests shall be considered. At the time set for hearing protests, or such time as such hearing may be adjourned, the Council shall hear such protest or protests and pass upon the same, and its decisions thereupon shall be final and conclusive, whereupon it shall acquire jurisdiction to proceed and perform the work of

correction of the improper sewer connection. The action of the Council at the conclusion of such hearing shall be final and conclusive.

d. Resolution Ordering Work:

1. After final action shall have been taken by the Council on the disposition of all objections, or in the case no objections, shall have been received, the City Council shall by resolution order the City Engineer to abate, or cause to be abated, such nuisance, by having the improper sewer connection corrected or removed, and the Public Works Director, or authorized representative, and his/her assistants, employees, contracting agents or other representatives are hereby authorized to enter upon private property for that purpose.
2. As an alternate remedy, the City may take such legal action as may be necessary to require correction or removal of the improper sewer connection by the property owner.
3. Any property owner shall have the right to correct or remove such improper sewer connections himself or have the same corrected at his/her own expense, provided that such correction or removal shall have been completed prior to the arrival of the Public Works Director or his/her representatives to perform such work.

- e. Account and Report of Cost. The City Engineer shall keep an account of the cost of abating such nuisance upon each separate lot or parcel of land, and include such account in a report and assessment list to the City Council, which shall be filed with the Clerk. Such report shall refer to each separate lot or parcel of land by description sufficient to identify such lot or parcel, together with the expense proposed to be assessed against each separate lot or parcel of land therefor respectively.
- f. Notice of Hearing and Confirmation of Report. The City Clerk shall post a copy of such report and assessment list at or near the City Clerk's office and shall notify property owners that they may appear and object to any matter contained herein. The notice shall be mailed at least ten (10) days before the time such report will be considered by the City Council.
- g. Hearing and Confirmation of Assessment. At the time and place fixed for receiving and considering such report, the City Council shall hear the same together with any objections which may be filed by any of the property owners liable to be assessed for the work of abating the nuisance mentioned in this section, and the Public Works Director, or authorized representative, shall attend such meeting with his/her record thereof, and at such hearing, the City Council may make such modifications in the proposed assessment therefor it may deem just and proper, after which such report and assessment list shall be confirmed by resolution.

The amount of the cost of abating the nuisance upon the property referred to in the report of the Public Works Director, and as finally concluded by resolution of the City Council, shall constitute a special assessment against that parcel of property, and if not paid within thirty (30) days of City Council's confirming resolution, shall be a lien on the property for the amount thereof which lien shall continue until the assessment and all interest thereon is paid, or until it is discharged of record.

- h. Collection on Tax Roll. The City Clerk shall transmit a copy of the resolution to the Alameda County Tax Collector. Thereafter, such amounts shall be collected at the time and in the same manner, as general City taxes are collected, and shall be subject to the same interest and penalties, and the same procedure and sale in case of delinquency. All laws and ordinances applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such special assessments.
- i. Payment of Assessments, Annual Installments, Interest. The payment of any assessments of four hundred (\$400.00) dollars or more upon single family residence may be made in annual installments, not to exceed five (5); the payment of assessments so deferred shall bear interest on the unpaid balance at the statutory rate of interest as prescribed by the State. Said interest shall begin to run on the 31st day after the confirmation of the assessments.

18-5.5 Abandonment of Upper Sewer Laterals.

It is the responsibility of the Property Owner to abandon Upper Sewer Laterals in the following manner. Upper Sewer Laterals to be abandoned shall be securely closed at all pipe ends by a watertight plug of concrete or concrete grout not less than two (2) feet thick. Before a building connected to the City of Alameda sewer system is removed or modified in a manner which requires a physical disconnection of the Structure from the sewer, the Property Owner of the Structure shall obtain the appropriate permit from the City of Alameda. The physical disconnection shall be inspected by City personnel. The Property Owner shall disconnect and plug the Upper Sewer Lateral with a watertight plug of concrete or an approved fitting at the Sewer Main prior to demolition work. Structures to be abandoned shall have all openings, inlets and outlets sealed off as set forth for sewer lines and the structure shall be removed to a point three (3) feet below the proposed street grade or ground surface. If the structure is in State, County, or City of Alameda roadway right-of-way, it must be filled with TYPE I backfill. If the structure is outside of the State, County or City of Alameda roadway right-of-way it shall be filled with earth and compacted.

18-5.6 Enforcement.

Any violation of any provisions of this section shall be deemed a misdemeanor but may be cited and prosecuted, in the discretion of the enforcing officer, as an infraction, and

shall be punishable as set forth in Section 1-5 of the Alameda Municipal Code. The District shall enforce all provisions of the Regional Ordinance.

18-6 — 18-10 RESERVED.

I, the undersigned, hereby certify that the foregoing ordinance was duly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 18th day of November, 2014, by the following vote.

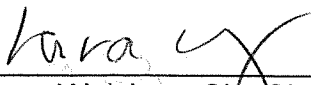
AYES: Councilmembers Chen, Daysog, Ezzy Ashcraft, Tam and Mayor Gilmore – 5.

NOES: None.

ABSENT: None.

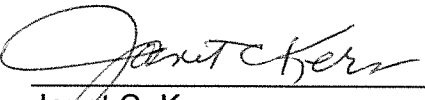
ABSTENTIONS: None.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 19th day of November, 2014.



Lara Weisiger, City Clerk,
City of Alameda

APPROVED AS TO FORM:



Janet C. Kern
City Attorney