

## ORDINANCE NO. 73

### AN ORDINANCE REGULATING THE CONSTRUCTION, USE AND MAINTENANCE OF PRIVATE SEWER LATERALS

#### RICHARDSON BAY SANITARY DISTRICT

THE DISTRICT BOARD OF DIRECTORS HEREBY ESTABLISHES AN ORDINANCE TO REGULATE THE CONSTRUCTION, USE AND MAINTENANCE OF PRIVATE SEWER LATERALS

IN ORDER TO ENSURE THE PROPER CONSTRUCTION AND MAINTENANCE OF PRIVATE SEWER LATERALS WITHIN THE SANITARY DISTRICT (HEREINAFTER REFERRED TO AS "THE AGENCY"), THE BOARD OF DIRECTORS DO HEREBY ORDAIN:

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#### Section 100: FINDINGS

Agency finds and determines that Infiltration and Inflow (hereinafter referred to as I & I) is a serious problem for the Agency in that during heavy rains a significant amount of water is

introduced into the Agency's system as a result of I & I from breaches in the entire pipeline system that leads to the SASM treatment facility. To a great extent, much of this I & I is introduced into the Agency's pipelines and sewer mains from the sewer laterals or unpermitted drainage structures leading from a property to the Agency's sewer mains. As a result of I & I, the Sewerage Agency of Southern Marin's (SASM's) sewer treatment facilities have the potential to become overburdened during periods of heavy rains leading to sewage overflows and possible spills into the waters of Richardson Bay. Such overflows and spills can lead not only to significant fines and penalties against the Agency by state and federal water regulatory agencies, but may pose a significant risk to the environment, and the health and safety of the public at large.

The Agency has determined that it is in the public interest to address I & I contributed by private sewer laterals and, as such, it is an Agency priority to authorize the enforcement of the upgrade and repair of private sewer laterals.

### **Section 150: DEFINITIONS**

**LATERAL SEWER, LATERAL or PRIVATE SEWER LATERAL** is hereby defined as a privately owned sewer which conveys sewage from a building to the Agency's collection system, including all pipes, fittings, and appurtenances, from the outer face of the building served to the connection into the Agency's sewer main, including the connection itself.

**INFLOW** means any water other than sewage that is directed toward or connected to the Agency's collection system through drainage ditches, open or enclosed culverts, roof drains, yard or area drains, or any other source of storm or ground water.

**INFILTRATION** means water other than sewage which enters into the Agency's collection system through cracks, breaks, open joints, or other deficiencies which may exist in laterals or in the Agency's system.

**INFLOW AND INFILTRATION** are sometimes referred to collectively as "I and I".

**COMMERCIAL BUILDING** means any building, or portion thereof, designed, intended or used to accommodate a business, commercial, mixed commercial and residential or industrial enterprise, or a public or private school.

**COMMON INTEREST DEVELOPMENT** means a development characterized by individual ownership of a condominium housing unit or a residential parcel coupled with the shared ownership of (or right to use) common areas and facilities, including, but not limited to, condominium projects, community apartment projects, stock cooperatives and planned unit developments, which contains three (3) or more dwelling units and which has a sewer service lateral shared by three (3) or more dwelling units.



**NOTICE TO REPAIR** means the notice issued by the Agency Engineer to the Owner advising that the Owner appears to be in violation of the respective Code or Ordinance with respect to the Owner's sewer service lateral, or in violation of the Code or Ordinance in a manner of the sewer service lateral's connection to the Agency Sewer System, which order directs the abatement of the identified violation in a timely manner.

**OWNER** means any person, partnership, association, corporation or fiduciary having legal title (or any partial interest) in any real property situated within the Agency.

**REPAIR** means restoration of the lateral in a manner that eliminates breaks, voids, separations, sags, or other defects that allow non-sewage materials, including but not limited to groundwater, roots, soils, and infiltration, to enter the lateral.

**SEWER MAIN** means an Agency owned pipeline designed and operated to accept sewage from a sewer service lateral for disposal.

**SEWER SERVICE LATERAL INSPECTION** means an inspection of a sewer service lateral that consists of the retention of a licensed plumber by the Owner in order to visually examine and inspect a sewer service lateral in the manner deemed appropriate by the Agency Engineer. Such an inspection shall, at a minimum, include the use of a closed-circuit television inspection device for the purposes of determining whether the sewer service lateral complies with the requirements of this Chapter.

#### **Section 200: NEW CONSTRUCTION SEWER LATERALS**

All new residential, apartments, industrial and commercial buildings shall have installed a new sewer service lateral. A minimum four-inch lateral shall serve single or duplex residential dwelling units. A minimum six inch lateral shall be installed to serve buildings with three or more residential units, and industrial and commercial buildings. Construction shall conform to Agency standards.

#### **Section 250: CONNECTION PERMITS**

Prior to constructing a lateral or connecting a new building to an existing lateral, or undertaking a major repair of a lateral, the owner shall apply for and obtain a connection permit from the Agency. The application shall include a plan showing the location of the lateral and the proposed repair or replacement, and all buildings, other utilities, significant features and topography of the property and showing the public right-of-way or easement in which the lateral and the Agency sewer are located, and the proposed connection of the lateral to the Agency's sewer.



**Section 280: IMPROPER AND ILLEGAL CONNECTIONS TO PRIVATE SEWER LATERAL**

It shall be improper and illegal for a Contractor or Homeowner to connect the following to a private sewer lateral: storm drains, roof drains, pool drains and/or non-sewage pipes or drains. Violation of this Section is punishable under Section 570.

**Section 300: OWNERSHIP, MAINTENANCE AND REPAIR OF PRIVATE SEWER LATERALS**

A. Private sewer laterals shall be owned, maintained and repaired by the owner of the property, which the lateral serves. The entire service lateral, from the building connection to and including the "wye" connection or other-tie-in to the sewer main, shall fall within the owner's responsibility for installation, maintenance and repair.

B. Property owners must clean, maintain and repair laterals serving their property sufficient to keep the lateral in operable condition at all times. The property owner shall perform such duties as may be required in response to observed overflows or seepage attributable to the lateral, or as discovered by smoke testing, televising or other surveys of the lateral. Where such maintenance requires excavation and/or replacement of existing facilities, the property owner shall apply for and receive a connection permit (see Section 250 above) from the Agency.

Where there are multiple connections to a sewer lateral, please refer to Section 450 A. for recommendations on sharing costs for maintenance.

**Section 400: MANDATORY INSPECTIONS**

A. **HEALTH AND SAFETY BASIS FOR REQUIRING A SEWER SERVICE LATERAL INSPECTION.** An Owner shall have the sewer service lateral of his or her real property inspected in accordance with the requirements of this Chapter (as directed and within the time period indicated by the Agency Engineer) upon the occurrence of any of the following events:

1. **Overflow or Malfunction.** Whenever the Agency Engineer determines that the sewer service lateral has recently overflowed or has recently malfunctioned;
2. **Lateral Failure or Lack of Maintenance.** Whenever the Agency Engineer finds that there is sufficient evidence to conclude that the sewer service lateral has failed, is likely to fail, or has not been properly maintained.
3. **Public Health Threat.** Upon any other reasonable cause to believe that there is a threat to the public health, safety, or welfare due to the condition of a sewer service lateral.
4. **Age of pipes and/or extent of foliage causing higher flow within the service area.** Whenever the District Engineer determines that the age of pipes (clay, plastic or other material) in combination with observed foliage (tree roots near the sewer lateral



suggesting root intrusion causing infiltration) or the age of the pipes independently are causing a higher than average flow in a neighborhood or area, the District Engineer may direct an inspection of the sewer service lateral to determine the need for repair.

5. This Section shall apply to residential properties, fixed and floating properties, commercial properties, publicly owned buildings, common interest developments, apartment buildings and any structure which has a sewer lateral.

**B. EVENTS REQUIRING A SEWER SERVICE LATERAL INSPECTION –**

**ALL PROPERTIES.** An Owner shall have the sewer service lateral of his or her Property inspected in accordance with the requirements of this Chapter upon the occurrence of any of the following events:

1. **Additions and Improvements.** Prior to the issuance of a county or city building permit for a building addition or new improvements on the real property where said addition or improvements (or cumulative additions or improvements through multiple projects over the prior 3 years) have a value of \$50,000 or greater.
  - a. Agency shall notify the relevant jurisdiction (City or County) of this requirement so that Issuance of a building permit is conditioned upon meeting the requirement of a lateral inspection.
2. **Transfer of Property Title.** Where the sale of any real property with sewer improvements is proposed, the seller shall have the sewer service lateral inspected prior to transfer of property title.
  - a. It is suggested that the seller provide an inspection report to the agency engineer as specified in Section 420 of the sewer lateral upon offering the home for sale. **The responsibility for any repair of a lateral is an issue between the buyer and seller.**
  - b. Should the seller fail to have an inspection conducted on the property prior to the sale of the property, the Agency shall require the new owner to conduct an inspection and make any necessary repairs to the lateral.
3. **Whenever the Agency is replacing a sewer main or conducting repair of a sewer main or the City or County is doing road resurfacing on or near the road where the private sewer lateral connects to the sewer main.** Owners will be notified by the Agency of the current work and need for an inspection report on their lateral prior to the road work or construction so that any remedial work to the lateral is completed prior to the construction or road work.

**Where an Owner refuses to provide an inspection, District may conduct a televised inspection and Owner shall be responsible for the costs of such inspection. Should an inspection reveal the need for repairs, the District may issue a Notice of Repair to the Owner and have the remedies provided for in Section 430 D. of this Ordinance to ensure repairs are made and costs are paid.**

**C. EXCEPTION TO INSPECTION FOR RECENT PRIOR INSPECTIONS AND REPAIRS.** The following exceptions do not apply to any Inspection required under subparagraph A. above. The following are exceptions to the Inspection requirements of subparagraph B. above as indicated.



1. **Prior Replacement of Service Lateral.** An Owner otherwise required to perform a sewer service lateral inspection under B. above hereof shall not be required to perform such an inspection if the Owner (or the Owner's predecessor-in-interest) has originally installed or has replaced his or her Property's sewer service lateral within the twenty (20) years prior to the date of the application for a building permit, listing the property for sale or the road work or sewer repair.
2. **Prior Inspection or Repair of a Service Lateral.** An Owner otherwise required to perform an inspection under B. above shall not be required to perform such an inspection if the Owner has either completed a remedial inspection (conducted in accordance with the Inspection requirements of this Chapter) or completed a permitted repair of the sewer lateral within the three (3) years prior to the date the inspection would otherwise be required.
3. **Proof of Prior Replacement, Prior Inspection or Repair of a Sewer Service Lateral.** Owner shall provide proof of any prior replacement, inspection or repair of a sewer service lateral in the form of a certificate, a paid bill or any sufficient documentation that ensures such prior replacement, repair or inspection of a sewer service lateral occurred pursuant to Sections 1. and 2. above. The form and content of the document or proof must be deemed sufficient by the agency or its designated representative.

#### **Section 410: ACCESS TO PROPERTIES FOR SEWER LATERAL INSPECTIONS**

The Agency Engineer (or any designated representative thereof) is hereby authorized to inspect private laterals with advance notice to the property owner for the following purposes:

- A. To determine the size, depth, and location of any sewer connection.
- B. To determine the end outlet of any sewer connection by depositing harmless testing materials in any plumbing fixture attached hereto and flushing the same, if necessary.
- C. To determine, by measurements and samples, the quantity and nature of the sewage or wastewater being discharged into any sewer.
- D. To determine the location of the roof, swimming pool, floor and surface drains, and whether or not they physically connect to a sewer.
- E. To assess the condition of the lateral where he/she suspects that the lateral may be allowing inflow or infiltration.

Nothing herein shall be deemed to provide the Agency Engineer with any right or authority to enter a building or other apparently private or interior area of a real property, except to the extent such entry is expressly authorized by state law or by consent or permission of the resident.

**Section 420: SEWER LATERAL INSPECTION REPORT – REQUIREMENTS**

**A. INSPECTION REPORT STANDARDS.** The sewer service lateral Inspection Report required by this Chapter shall be prepared in accordance with the following requirements and specifications.

1. The Inspection Report shall be prepared by a licensed plumber; the written inspection report shall be accompanied by a DVD of the sewer service lateral.
2. The Inspection Report shall identify all of the following:
  - a. Any and all defects that could allow infiltration into the lateral or otherwise create a maintenance issue in the Agency sewer system. Such defects may include but not be limited to the following: displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow or infiltration or extraneous water, root intrusion, grease and sediment deposits or other conditions likely to increase the chance for blockage of the sewer service.
  - b. Whether any connection, by pipes or otherwise, allows rainwater to groundwater to enter the sewer service lateral or public sewer.
  - c. Whether the sewer service lateral has an installed backwater device where any outlet or trap of the sewer service lateral is below the level of the nearest manhole. If a backwater device is already installed, the report shall indicate whether the backwater device is functioning properly.
3. The Inspection Report shall contain an express certification from the certified inspector that the property has been inspected for any outdoor drain connection to the Agency sewer system and that no such unpermitted Lateral exists. The Report shall be prepared in a format acceptable to the Agency.
4. Alternatively, and subject to staff availability and work load, the property owner may request an inspection by Richardson Bay Sanitary District. An inspection by RBSD staff shall not require a video recording, ie. DVD.
5. Based upon the Agency staff evaluation of the deficiencies outlined in the Report, the Agency will determine the level of repair or replacement that is necessary.

**B. COMPLIANCE WITH REGULATIONS.** The Inspection Report shall, in all other aspects, comply with the requirements and specifications described in the Agency Engineer's specification for a sewer service lateral Inspection Report as established in subsection 1, below.



1. Requirements for an Inspection Report: The following items are required to be addressed in an inspection report:
  - a. Date of inspection;
  - b. Name of inspector and name of plumbing firm along with license #;
  - c. Certification that a televised video was taken of the lateral;
  - d. A certification that no roof, swimming pool, floor and/or surface drains or any other non-sewage drains are physically connected to the lateral or sewer main;
  - e. Identification with respect to the sewer lateral of any displaced joints, open joints, root intrusion, substantial deterioration of the line, cracks, leaks, inflow or infiltration or extraneous water, root intrusion, grease and sediment deposits or other conditions likely to increase the chance for blockage of the sewer service.
  - f. Certification that an installed backwater device is in place where any outlet or trap of the sewer service lateral is below the level of the nearest manhole. If a backwater device is already installed, the report shall indicate whether the backwater device is functioning properly.
  - g. A Declaration under penalty of perjury that the report is true and correct.

#### **Section 430: SEWER LATERALS – REQUIRED REPAIRS**

**A. NOTICE TO REPAIR.** Upon receipt of the sewer service lateral Inspection Report pursuant to this Chapter, the Agency Engineer will determine whether it indicates any deficiencies in the operation of the sewer service lateral and, thereafter, shall provide the Owner(s) with a Notice to Repair as may be deemed appropriate by the Engineer. The Agency Engineer shall provide the determination and issue a Notice to Repair within 3 business days after receipt of the Inspection Report. The Notice to Repair/Replace shall specifically identify the deficiencies to be corrected and shall establish a deadline of 180 days, within which the Owner(s) shall complete the required corrective actions. The corrective action may include a requirement that the lateral be replaced altogether and also may include the installation of cleanouts and backwater valves if those devices are otherwise required by this Ordinance or any uniform code adopted by the Agency.

**B. OBLIGATIONS OF THE OWNER.** The Owner shall repair his or her sewer service lateral to the satisfaction of the Agency Engineer, and, if a building permit is required for the repairs, the Owner shall obtain a final permit inspection and approval of the relevant Building Official.

**C. REPAIRS TO IMPROPER CONNECTIONS CONSISTING OF MULTIPLE PRIVATE CONNECTIONS TO A COMMON LATERAL.** A sewer service lateral serving more than one residential dwelling, except as provided for in Section 450 is an improper connection and shall be repaired or replaced as deemed appropriate by the Agency Engineer. The Owner of each affected residential dwelling shall be responsible for disconnecting their sewer service lateral from the common lateral and connecting to the nearest sewer main.



**D. FAILURE TO REPAIR UPON AGENCY NOTIFICATION:** Should an Owner fail to conduct the required repairs upon issuance of a Notice to Repair by the Agency, the Agency shall have several options in order to ensure that the repair or replacement is completed:

- 1. Public Nuisance:** Continued habitation of any home, building or continued operation of any industrial facility in violation of a Notice to Repair or Replace a private sewer lateral is hereby declared to be a Public Nuisance. The Agency may cause proceedings to be brought for the abatement of the occupancy of the home, building or industrial facility (i.e., a court order directing the occupant(s) to vacate the home, building or industrial facility until the directed repairs are made) during the period of such violation. The Agency shall have the right to recover its attorney fees and costs for the pursuit of the abatement.
- 2. Disconnection of Private Sewer Lateral to Sewer Main:** The Agency shall have the right to commence proceedings in Marin Superior Court to seek a court order disconnecting the private sewer lateral from the sewer main, thus leaving the home, building or industrial facility without sewer service. The Agency shall have the right to recover its attorney fees and costs for the pursuit of disconnection.
- 3. Corrections of Violations:** Section 6523 of the California Health and Safety Code provides that in order to enforce the provisions of any Ordinance of an Agency, the Agency may correct any violation of an Ordinance of the Agency. The cost of such correction may be added to any sewer service charge payable by the person violating the Ordinance or the owner or tenant of the property upon which the violation occurred, and/or the Agency may place a lien on the property wherein the violation occurred or the Agency may pursue a civil action for recovery of the costs. Whatever option the Agency pursues under this subsection 3. the Agency shall be entitled to its costs and attorney fees.

#### **Section 440: COMMON INTEREST DEVELOPMENTS**

The Homeowners association of a Common Interest Development shall, along with the Owner, be jointly and severally liable for the duties and obligations imposed by this Chapter in relation to any sewer service lateral located within a common area of the Development. If no homeowners association exists, then the individual unit owners, considered jointly, shall be liable for the duties and obligations with respect to sewer service laterals established by this Chapter.

#### **Section 450: PRIVATE SEWER LATERALS – MULTIPLE CONNECTIONS**

It shall be the policy of the Agency to require one private sewer lateral serving one single family home. However, the Agency is cognizant that the sewer service system within the Agency is very old and contains many hillside single-family homes that are serviced by one private sewer lateral (e.g., one private sewer lateral for two or more



homes). Where no apparent deficiency exists with a shared service lateral, the Agency shall allow the multiple service lateral. Where repairs are necessary, the owners of the residences served by the lateral shall jointly be responsible for the repairs. Where repairs and/or replacement of such a lateral is necessary, the Agency may require the construction of a new private service lateral for each residential single family home or the construction of a new larger private service lateral to accommodate the multiple residences.

Where multiple residential connections are allowed to one private sewer lateral, the Agency encourages the homeowners to enter into a maintenance agreement between all of the homeowners sharing the private lateral to ensure that there is a mechanism in place to pay for required repairs and/or replacement of the private sewer lateral. In general terms, a common method is to proportion the costs of the maintenance, repair or replacement among the homeowners sharing the lateral. For example, homeowners upstream of the shared-lateral section requiring rehabilitation would proportion their costs relative to the length of the shared lateral which serves their home divided by the length of the entire shared lateral from the sewer main upstream to the point of the repair. The relative percentage may vary along the pipe depending on the number of connections upstream of the repair. Owners that are part of a multiple lateral connection are not subject to the transfer of property title requirement (400 B 2).

#### **Section 500: PROHIBITED DISCHARGES**

A. No person shall discharge or deposit, or cause or allow to be discharged or deposited into the Agency sewer system any wastewater which contains any of the following:

1. Cooking grease whether emulsified or not.
2. Waste automotive radiator coolant
3. Explosive mixtures
4. Radioactive wastes
5. Solid or viscous wastes which may cause obstruction to the flow in a sewer pipeline, including cleansing wipes or "flushable" wipes.
6. Any toxic substances in excess of the United States Environmental Protection Agency standards pursuant to Section 307 (a) of the Clean Water Act, or any other substances which may interfere with the biological processes of the wastewater system.
7. Petroleum products of any kind.

#### **Section 550: PUNISHMENT FOR VIOLATION OF PROHIBITED DISCHARGES**

A. Misdemeanor: Section 6523 of the California Health and Safety Code provides that the violation of any ordinance, rule or regulation of a sanitary district by any person is a misdemeanor punishable by imprisonment in the county jail not to exceed 30 days or by a fine not to exceed one thousand dollars (\$1,000) or both. Each and every connection, occupancy, prohibited discharge in violation of this Ordinance shall be deemed a separate



violation and each and every day or part of a day a violation of the Ordinance, rule or 426 regulation continues shall be deemed a separate offense hereunder and shall be punishable as such.

**Section 560: DAMAGE TO DISTRICT SEWER SYSTEM**

It is unlawful for any person to maliciously, wilfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the District 434 Sewer System. Any violation of this Section shall be punishable under Section 550 (above) and any 435 violation may constitute other crimes under the California Penal Code or the United States Codes.

**Section 570: PUNISHMENT – CONTRACTORS – VIOLATION OF SECTION 280**

Should a Contractor make any connections in violation of Section 280 of this Ordinance, the Contractor shall be guilty of a misdemeanor within the meaning of Section 6523 of the California Health and Safety Code and shall be punished in accordance with the provisions of Section 550 of this Ordinance. Additionally, the Agency shall report such a Contractor to the State Licensing Board.

**Section 600: OPTIONAL LOAN PROGRAM**

Where an Agency has the funds, it can insert options here for payment including a loan program that will either be repaid on the property tax bill or a lien may be placed on the property that will be paid to the Agency upon sale of the property.

**Section 700: SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section 750: EFFECTIVE DATE OF ORDINANCE**

This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Directors voting for or against the same, in the Marin Independent



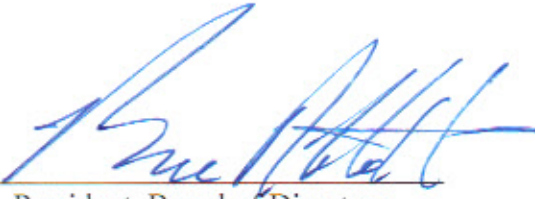
Journal, a newspaper of general circulation published in the County of Marin, State of California.

**PASSED AND ADOPTED** at a regular meeting of the Board of Directors of the Richardson Bay Sanitary District, held on the 19 day of Aug., 2014 by the following vote:

AYES Kosciusko, Morpew, Benvenuti and Abbott

NOES None

ABSENT: Sotelo



President, Board of Directors

ATTEST:



Secretary

