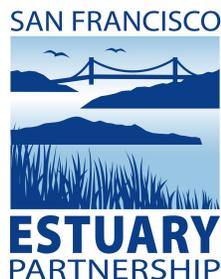


# Private Sewer Lateral Ordinance Report: San Francisco Bay Area

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## Executive Summary

Aging, overburdened sewer systems constitute one of the nation's most pressing infrastructure challenges. Sewers need continuous upkeep to address damages, aging components need upgrades, and treatment capacity needs to be increased to meet growing water use and disposal needs.

In the San Francisco Bay Area, most sewer systems are old and in need of improvements. Because of defects in the pipes, sewage escapes the system and stormwater infiltrates it. Excessive stormwater in the sewer system overwhelms treatment plants, which are sometimes forced to discharge sewage that has not received full treatment procedures. These inefficiencies result in pollution of the Bay, as well as cleanups and repairs that are expensive to both government agencies and private property owners.

Sewer laterals, which connect properties to the sewer main, are typically privately owned. They are a major portion of the sewer system, and host many of its malfunctions. In order to systematically identify and address problems in sewer laterals, a city or wastewater agency can pass a Private Sewer Lateral (PSL) Ordinance that requires property owners to inspect and repair/replace their lateral based on certain triggering events. The system of inspection and repairs mandated by the ordinance is known as a PSL Program.

Litigation by environmental groups and the EPA has pressured reforms from cities and wastewater agencies that routinely violate the Clean Water Act. As a standard component of comprehensive sewer upgrades, PSL ordinances are becoming more common in the Bay Area. This report provides a summary of sewage pollution issues in the region, and a primer on PSL ordinances.

## 1. Acronyms and Definitions

**Cleanout:** a capped pipe that provides access to the sewer lateral, allowing for inspection and maintenance. Blockages in the lateral can sometimes be removed via the cleanout.

**EBMUD:** East Bay Municipal Utility District.

**Effluent:** wastewater (treated or untreated) that is discharged from a wastewater treatment facility.

**I/I:** inflow and infiltration. Defects in the sewer system allow I/I, resulting in flows that exceed the capacity of wastewater treatment plants.

**Infiltration:** the flow of stormwater or groundwater into the sewer system when the water flows through soil and into cracks or leaks in the pipes.

**Inflow:** the flow of stormwater into the sewer system via direct connection points, such as an illegal sump pump connection

**Influent:** untreated sewage flowing into a wastewater treatment plant

**Lower Lateral:** the portion of a sewer lateral running from the cleanout or the property line to the sewer main.

**MGD:** million gallons per day.

**POS:** point of sale; refers to the transfer of property in a real estate transaction. Ordinances use POS as a triggering mechanism to initiate private sewer lateral inspections.

**POTW:** Publicly owned treatment works; a sewage treatment plant.

**PSL:** private sewer lateral; the privately owned pipe connecting a home or other building to the sewer main

**Repair:** defective pipes in the sewer system may require *repair* or *replacement*. At times, this report simply uses “repair” to refer to any improvements on a sewer pipe, including replacement.

**San Francisco Bay Area:** this report deals with cities and towns in the following nine counties: Alameda, Contra Costa, San Francisco, Santa Clara, San Mateo, Marin, Sonoma, Napa, and Solano. This area roughly matches the boundaries of Region 2 of the California State Water Board. Unincorporated areas may not be accounted for in some of this report’s data.

**Sewer Main:** the principal pipe in a sewage collection system. The sewer main receives connections from sewer laterals, and moves sewage to a treatment facility.

**SSO:** sanitary sewer overflow; the discharge of untreated sewage from a sewer prior to reaching a treatment facility.

**Upper Lateral:** the portion of a lateral running from a building’s plumbing system to a cleanout, or to the property line.

**Water Year:** a time unit used for water data; the twelve month period from October 1 through September 30 of the following year. The water year is designated by the year in which it ends. The water year ending on September 30, 2017 is the “2017 water year.”

## 2. Purpose

The purpose of this report is to provide San Francisco Bay Area governments, wastewater agencies, and other interested parties with information on ordinances promoting inspection and repair of defective sewer laterals. This report will 1) explain sewage pollution processes, and the state of affairs in the Bay Area regarding sewage pollution; 2) provide information on PSL ordinances and the options available when passing an ordinance; 3) offer best practice recommendations for PSL ordinances, and recommendations for funding PSL programs.

## 3. Problem

Many Bay Area sewage collection systems contain aging pipes that are in poor condition. Defects in the pipes, such as cracks opened by tree roots, compromise the sewer system. Spills known as sanitary sewer overflows (SSOs) occur when sewage is released from the sewer system and runs into streets, waterways, or even indoors. Intentional releases also occur, when the capacity of wastewater facilities is exceeded, due to the inflow and infiltration of stormwater into the collection system. This leads to an event known as a “bypass,” in which the wastewater facility is forced to discharge material that has only been partially treated.

Untreated sewage that reaches the Bay or its contributing waters poses a human health threat to those that use it for recreational activities such as swimming. The bacteria and viruses in sewage can cause skin and sinus infections, and digestive disorders. The nutrients in sewage

are also disruptive to the chemical balance of a body of water, depleting oxygen and threatening plant and animal life. The Bay has a long history of both pollution and adaptation. In the late 1930s, oystering was abandoned in the Bay due to poor conditions caused by water pollution, and shellfish harvest was quarantined in 1932 due to threats to human health.<sup>1</sup> After the passage of the Clean Water Act in 1972, new sewage treatment standards contributed to vast improvements in the Bay's water quality. With an increased human population and a degraded system of sewer pipes, a proactive approach to preventing sewage pollution is important for maintaining water quality and promoting ecosystem recovery.

Both SSOs and bypasses pollute the water that they enter. When these spills and discharges violate the EPA Clean Water Act, fines and litigation may result. Lawsuit settlements have forced a number of Bay Area jurisdictions to attend to their failing sewer systems. The East Bay Municipal Utility District (EBMUD) and a number of East Bay cities have taken measures to improve sewer mains and laterals following the EPA's 2014 determination that the district's SSOs and bypasses were violations of National Pollutant Discharge Elimination System (NPDES) permits. The environmental nonprofit Baykeeper, along with the EPA, has settled a number of suits holding various cities accountable for sewage pollution, resulting in infrastructure upgrades and the adoption of PSL ordinances.

Some Bay Area jurisdictions, such as Berkeley, have been proactive in addressing sewage concerns, while others have been compelled to act by legal pressure. However, SSOs and sewage pollution into the Bay remain a problem for most jurisdictions.

## **4. Background**

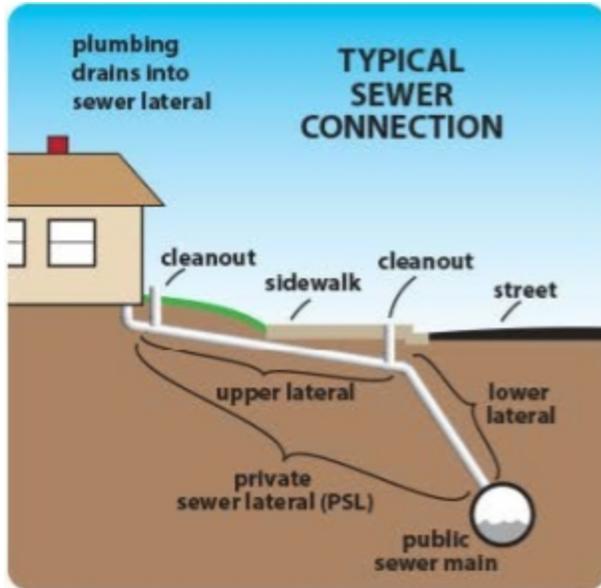
### **4.1 Inflow and Infiltration**

A sewer lateral is the pipe that connects a building's plumbing system to the public sewer. The sewer main is publicly owned, while a lateral is typically privately owned. The upper lateral is the portion of the lateral running from the building to a cleanout or to the property line. The lower lateral runs from the cleanout, or from the property line, to the sewer main. Approximately 20% of California wastewater agencies are responsible for the lower lateral, while an additional 10% are responsible for the entire lateral.<sup>2</sup> In the remaining 70% of instances, property owners have full ownership of their lateral, although they may be unaware of this responsibility until a problem occurs. The sewer lateral is an unseen portion of a property, transferred from owner to owner in a property sale.

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<sup>1</sup> Cloern, J. E., and A. D. Jassby (2012), Drivers of change in estuarine-coastal ecosystems: Discoveries from four decades of study in San Francisco Bay, *Rev. Geophys.*, 50, RG4001, doi:10.1029/2012RG000397.

<sup>2</sup> Larson Consulting (2010). North Bay Watershed Association Marin Lateral Program Report.



**Figure 1: Sewer Lateral Layout**

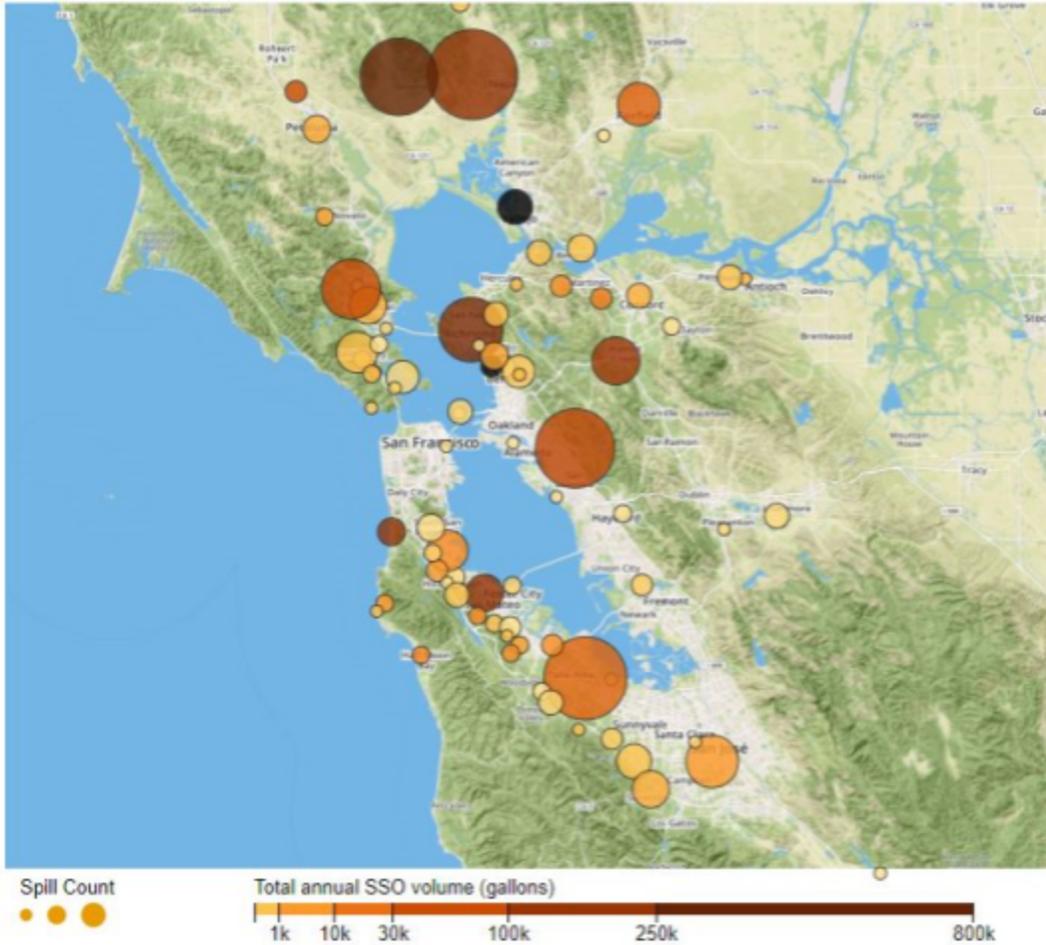
Source: East Bay Regional Private Sewer Lateral Program

Sewer laterals are commonly old and defective, leading to problematic inflow and infiltration (I/I). The sewer system is distinct from the stormwater system (San Francisco’s combined sewer is an exception), but sewer collection defects lead to I/I following rainfall. Inflow is the flow of stormwater into the sewer system via direct connection points, such as downspouts, that flow into the sewer, or defective sewer components such as an open joint at the top of the sewer. Inflow is often the result of an illegal connection, such as a sump pump that has been fitted to drain directly into the sewer. Infiltration is the flow of stormwater or groundwater into the sewer system when the water flows through soil and into cracks or leaks in the pipes. Defects in sewer pipes are frequently caused or worsened by the intrusion of tree roots.

#### **4.2 Sanitary Sewer Overflows**

The EPA estimates that between 23,000 and 75,000 sanitary sewer overflows occur annually nationwide, spilling between three billion and ten billion gallons of untreated wastewater. SSOs are point source discharges caused by blockages, breaks, or overloads in the sewer line that allow raw sewage to leave the collection system; the sewage may be released indoors through a backed-up plumbing fixture, overflow onto a street through a manhole, or be diverted to an outfall pipe. Spillage from SSOs frequently ends up in bodies of water, threatening public health and the environment.

California’s wastewater agencies are required to report SSOs. In Region 2 of the State Water Board, which roughly encompasses the Bay Area, 712 SSOs were reported in the first half of the 2017 water year. The total spilled volume of sewage contaminated water was 15.2 million gallons. Over 14 million gallons reached surface waters. In this time period, the Bay Area, home to about 18% of California’s population, accounted for over 38% of the state’s SSO volume, and over 51% of SSO volume that reached surface waters.



**Figure 2: Sanitary Sewer Overflows Oct. 1, 2016 - Feb. 21, 2017**

Source: San Francisco Baykeeper

**Table 1: Most Gallons Spilled by Sanitary Sewer Overflows\***

Collection System	Total SSO Locations	Total Volume of SSOs (gallons)
1. EBMUD	4	6,682,000
2. Richmond City	50	2,196,965
3. Vallejo Sanitation & Flood Control District	8	1,918,951
4. Sonoma Valley County Sanitary District	43	874,410
5. Sewer Authority Mid-Coastside (Half Moon Bay)	2	748,400

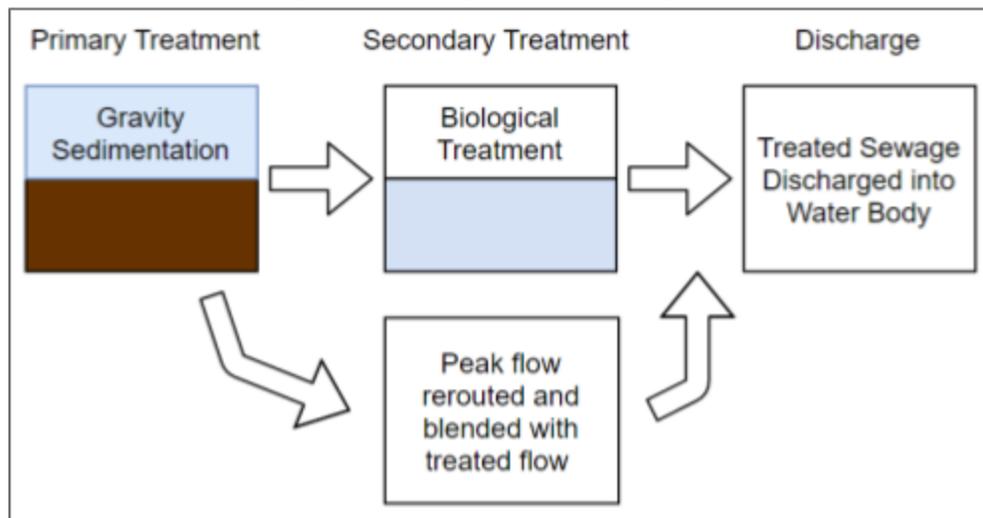
\*Oct. 1, 2016 - March 31, 2017

### 4.3 Peak Wet Weather Discharges

Heavy rains result in increased flows to wastewater treatment plants, due to I/I into the collection system. The peak wet weather flow sometimes exceeds a plant’s capacity to store and treat all of the sewage before discharging it. Figure 3 displays the process in which partially

treated effluent is discharged into bodies of water. Primary treatment is a physical process consisting of screening and the removal of suspended and settled solids. Secondary treatment is a managed biological process in which wastewater is treated with microorganisms in order to meet sanitary standards for discharge. During wet weather, a plant's capacity to apply secondary treatment to all of its influent (untreated sewage entering the plant) may be exceeded. The peak flow is diverted past the secondary treatment stage, then reenters the process at the discharge phase. The combining of flow that bypassed secondary treatment with flow that received secondary treatment is known as "blending". The degree of treatment that occurs in a blending event depends on the event's conditions and the plant's permit requirements. Blending provides some dilution of the bypassed flow, and some treatment procedures, such as chlorination, but does not receive the degree of treatment that would be possible if capacity were not exceeded.

**Figure 3: Sewage Treatment Bypass**



Blending is undesirable, and permitted only under certain conditions. Typical conditions for blending include a specified influent threshold, the exhaustion of secondary treatment capacity, and public notice of any human health risks posed to receiving waters.

Blending is currently permitted at the thirteen (of 48 total) Bay Area publicly owned treatment works (POTW) listed in Table 2. The POTWs are designed to manage a certain amount of influent under dry conditions, but are able to manage a much larger volume during wet weather. Peak wet weather secondary capacity is often more than triple the average dry weather design flow. However, plants are still forced to resort to blending, indicating the magnitude of stormwater infiltration in their collection systems.

**Table 2: POTWs Permitted to Blend**

Discharger*	Average Dry Weather Design Flow (MGD)	Peak Wet Weather Secondary Treatment Capacity (MGD)
City of Burlingame and North Bayside System Unit	5.5	16
Central Marin Sanitation Agency (San Rafael)	10	30
EBMUD (Oakland)	120	320
Las Gallinas Valley Sanitary District (San Rafael)	2.92	8
City of Pinole	4.06	20
City of San Mateo and City of Foster City Estero Municipal Improvement District, a joint powers authority	15.7	40
Sausalito-Marin City Sanitary District	1.8	6
Sewerage Agency of Southern Marin (Mill Valley)	3.6	24.7
Cities of South San Francisco and San Bruno and North Bayside System Unit	13	30
Sanitary District No. 5 of Marin County (Tiburon)	0.98	2.3
Vallejo Sanitation and Flood Control District	15.5	35
West County Agency, City of Richmond	16	20
City and County of San Francisco, Oceanside**	43	43
City and County of San Francisco, Southeast***	58	150

\*city names contained in ( ) specify the location of the discharger’s treatment facility

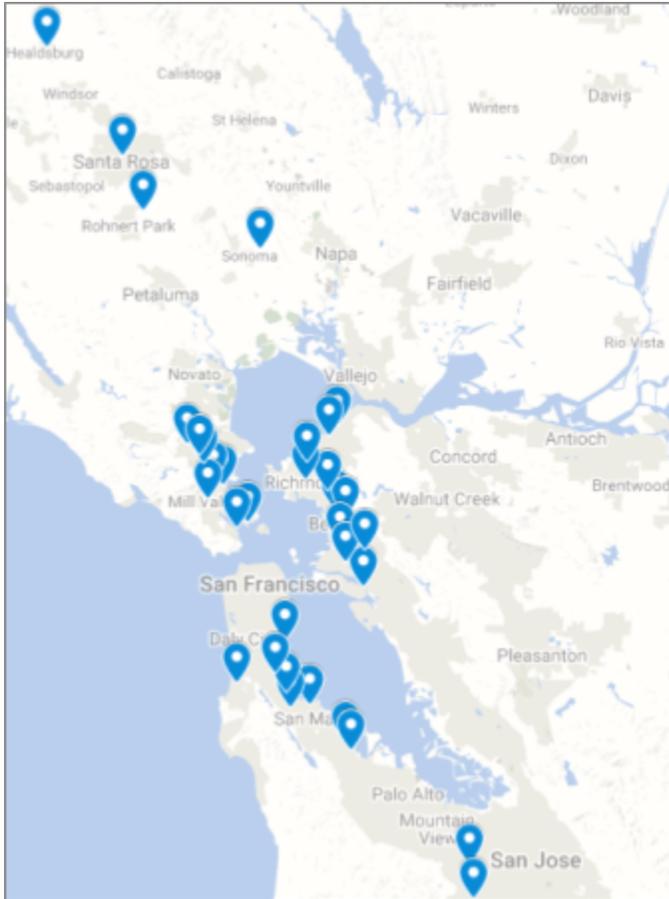
\*\*partially treated sewage discharges do not occur from the Oceanside plant, but from the Westside Wet Weather Facilities, which are dispersed storage/transport structures for the combined sewer collection system

\*\*\*combined sewer system processes both sewage and stormwater

#### 4.4 Private Sewer Lateral Ordinance Adoption in the Bay Area

Upgrades to any portion of the sewer system can be used to address SSOs and bypasses. Upgrade options include: increasing capacity at wastewater plants, inspection and repair of sewer mains, inspection and repair of private sewer laterals (PSLs), and implementation of green infrastructure that reduces peak flows to treatment plants. This report focuses on ordinances promoting inspection and repair of PSLs.

Of the 101 Bay Area cities and towns, 34 have some form of PSL ordinance. This tally is exclusive to ordinances that specify any triggering mechanism requiring inspection of a lateral, such as the sale of a home. The ordinances highlighted in Figure 4 have varying degrees of strength. Triggering mechanisms are discussed in Section 6 of this report, and Appendix A lists the coverage status of all Bay Area jurisdictions.



**Figure 4:  
Bay Area  
Jurisdictions  
Covered by Private  
Sewer Lateral  
Ordinances**

## 5. Environmental Protection Agency Clean Water Act Compliance

The EPA Clean Water Act (CWA) is a federal law governing water pollution. Discharges of pollutants from wastewater treatment plants and sewer collection systems are regulated by The CWA's National Pollutant Discharge Elimination System (NPDES) program.

The CWA prohibits SSOs and generally prohibits blending. Permits are issued for blending as a matter of necessity for treatment plants that are incapable of providing secondary treatment to the entirety of their peak wet weather flow. However, the awarding of blending permits should not be expected to continue indefinitely, because capacity overload is a fixable problem; peak flow can either be reduced (by improvements in the collection system) or accommodated (by expanding treatment capacity in POTWs). In the Federal Register (vol. 70, no. 245, 2005) the EPA stated:

EPA strongly discourages reliance on peak wet weather flow diversions around secondary treatment units as a long-term wet weather management approach... over time, the need to undertake peak wet weather flow diversions at POTW treatment plants serving separate sanitary sewer conveyance systems can be eliminated from most systems in a variety of ways.

Legal actions taken by Baykeeper have brought attention to the Bay Area's sewage pollution problem, revealing that public records of many cities indicate substantial long-term CWA violations. Baykeeper has been consistently successful in achieving policy reforms in the cities that it brings suits against, reaching agreements with San Jose, South San Francisco, Richmond, and others. In 2011, Baykeeper, partnering with the EPA, settled a suit against EBMUD, which serves Oakland, Emeryville, Piedmont, Berkeley, Alameda, Albany, Kensington, El Cerrito, and Richmond Annex. The case was settled with a consent decree in which EBMUD and the individual cities agreed to implement action plans to reduce sewage pollution. The pledged actions, similar to those agreed upon in other Baykeeper suits, included improvements to the sewer mains, and institution of a regional PSL ordinance. Additionally, fines were levied against EBMUD and the cities.

## **6. Private Sewer Lateral Ordinances: Details and Options**

Private sewer lateral ordinances are a means of improving a sewage collection system. Upkeep of laterals decreases I/I, leading to less frequent and less severe SSOs and bypasses. PSL ordinances have gained traction in recent years as Bay Area governments recognize the negative impacts of allowing aging laterals to continuously malfunction. The specifications of an ordinance determine its effectiveness and the degree of responsibility that it places on homeowners.

This section primarily refers to “homeowners” rather than “property owners”; ordinance design should consider and express whether rules apply to all properties or are restricted to residences.

### **6.1 Delineation of Ownership and Responsibility**

In a minority of jurisdictions, sewer laterals are publicly owned. In these cases, private sewer lateral ordinances are not applicable, as there is no private ownership. When only the lower lateral is publicly owned, the jurisdiction can inspect and repair lower laterals as it would for the sewer main, while separately addressing upper laterals with homeowners. Homeowners are likely to be unaware of the details of their PSL ownership. Governments and wastewater agencies should communicate these details.

Ordinances, public notices, and city/district websites should also clearly describe the geographic boundaries of wastewater districts. Residents should be able to easily find the following information: 1) what wastewater agency they are served by; 2) what wastewater treatment facility they are served by; 3) whether or not they are affected by an ordinance that has been passed in their city or district. This may not be immediately clear because cities are often served by multiple wastewater districts, and wastewater districts often serve multiple cities.

### **6.2 Triggering Mechanisms**

A PSL ordinance uses defined events, termed “triggers”, to initiate inspections. Triggers include the following:

### **6.2.1 Point of Sale**

“Point of sale” (POS) refers to a property sale or transfer of title. This is the most commonly used trigger, and is usually the primary driver in an ordinance’s ability to initiate inspections. A PSL inspection triggered by POS functions in the property sale process similarly to a termite inspection, as part of the disclosure process that informs the buyer of potential hazards and costs associated with the property. In addition to improving the city’s sewer system, the POS trigger is a protection for homebuyers. Like a termite infestation, a defective lateral is a hidden and significant problem that can be inherited by an unknowing buyer. Furthermore, a seller is likely to have money made available by the sale transaction, making this event an opportune time to perform repairs.

### **6.2.2 Major Remodel or Added Fixture**

A major remodel trigger uses a threshold such as a \$50,000 cost of work done to a property. Addition of a plumbing fixture, such as a sink or a toilet, can also be used as a trigger. Additional fixtures may represent an increase in sewage output, so the lateral should be inspected to ensure that it can handle the changes. A trigger based on home improvements is a helpful addition to a PSL program, but should not be expected on its own to constitute an effective program if a POS trigger is not also included.

### **6.2.3 Lateral Age**

An age-based trigger requires inspections of laterals based on their age or the date of their most recent inspection. This trigger is ambitious and guarantees effective results. The Sonoma Valley County Sanitation District passed an ordinance in 2017 using an age trigger, requiring inspections of laterals over thirty years old. Homeowners will not be charged inspection costs, but will be required to repair defective laterals.

### **6.2.4 SSO or Public Nuisance**

An SSO signals defective piping. If the SSO occurs on private property, the lateral should be inspected to address the problem and prevent recurrence. An SSO that stems from private property but spills onto public property can be considered a public nuisance.

### **6.2.5 Other Triggers**

The triggers described above are the most significant mechanisms for requiring PSL inspections. Ordinances may also use a number of other triggers, including the following:

- *Change in Use*: applies to residences converted to commercial use, or commercial properties converting to a different commercial category.
- *Flow Monitoring*: applies when public records indicate that a property is located in an area in which I/I is a particular problem.
- *Sewer Main Inspection*: applies when inspection of the sewer main reveals a problem with an adjacent lateral.

### **6.3 Inspection Process and Compliance Certification**

There are several methods for inspecting sewer laterals, including: closed-circuit television inspection, low pressure air testing, and water leakage testing. This report does not cover inspection methods in detail, but recommends the *North Bay Watershed Association Marin Lateral Program Report (2010)* for method descriptions.

PSL inspection programs function by requiring and awarding Compliance Certificates that are issued to a property owner whose lateral passes inspection. Certificates are required based on an ordinance's triggering mechanisms. For example, when a POS trigger applies, the home seller must present a Compliance Certificate as proof of the PSL's functional condition. The certificate is then transferred to the new owner. Compliance Certificates are valid for a certain period, such as ten or twenty years. Newly constructed laterals may have longer validity durations than re-inspected laterals.

### **6.4 Public Education and Customer Assistance**

Informing and assisting residents is part of a PSL program. Information should be published informing the public of the need to rehabilitate the sewage collection system. Factors that necessitate the program, and should be communicated, include the following: 1) defective PSLs contribute to water pollution in the Bay; 2) defective PSLs lead to sudden, large expenses for homeowners, and should not be passed from seller to buyer; 3) defective PSLs can contribute to a failure to comply with EPA rules, which can bring fines against the city.

Residents should be presented with information, in online and printed forms, that will assist in their compliance with the PSL program. Compliance information should include:

- Requirements of the PSL ordinance
- Information on inspection and repair costs, and information on any available financial support that the program offers
- List of approved contractors
- Contact information for support

## **7. Funding a PSL Inspection Program**

Repair or replacement of a PSL typically costs several thousand dollars. A city that passes a PSL ordinance often institutes a financial assistance program. Relief is offered to homeowners burdened with the costs of PSL inspection and repair. To offer financial assistance, a system of procuring and distributing funds must be established.

### **7.1 Forms of Financial Assistance**

Forms of financial assistance to homeowners in a PSL program include those listed below. Ideally, aid is available to all who qualify, but if a city allocates a fixed amount of funds to a rebate program, those funds can be awarded on a first-come, first-served basis.

### **7.1.1 Free Inspections or Inspection Fee Waived when Repairs are Performed**

Contractors sometimes waive inspection fees if they are hired to do repairs on a lateral. Or, the city may reimburse inspection costs, either for all inspections or only for inspections that result in repairs. Example: City of Sausalito offers 100% refund of inspection costs following completion of repairs.

### **7.1.2 Rebate for Repair Costs**

A city may offer to rebate homeowners for the cost of repairs. The rebated amount may cover all or a portion of the repair cost. In most instances, a rebate covers a percentage of the cost, with a cap. Example: Sewerage Agency of Southern Marin will fund 50% of repair costs, up to \$2,200.

### **7.1.3 Low Interest or Zero Interest Loans**

A city may offer loans for PSL repair costs, charging low interest or zero interest. Example: Ross Valley Sanitary District offers loans for PSL replacement costs, with values up to \$10,000 at 3.6% annual interest for terms up to ten years.

### **7.1.4 Assistance for Low-Income or Senior Citizen Homeowners**

Any form of financial assistance offered for inspection or repair costs may be stipulated to only apply to low-income or senior citizen homeowners. This form of assistance would specify an income threshold or a minimum homeowner age. Example: City of Berkeley offers no-interest, deferred payment loans for PSL program compliance; loans are reserved for homeowners with incomes not in excess of 80% of the Area Median Income for Alameda County.

### **7.1.5 Performing Inspection and Repairs in Conjunction with Sewer Main Work**

When work is being done on the sewer main, nearby homeowners may benefit from reduced costs by contracting inspection and repairs at this time. Costs may be reduced by the following factors: 1) economy of scale, which may include contracting and billing through the wastewater agency; 2) the contractor is already mobilized in the area; 3) the sewer main work may involve digging that exposes the lateral connection, allowing for cheaper concurrent inspection and repairs of the lateral. Example: Sanitary District No. 5 (serving Belvedere and Tiburon) issued a notice encouraging homeowners to take advantage of reduced costs while laterals were exposed during its 2016-17 sewer rehabilitation project.

A city may also choose to publicly fund and perform repairs of lower laterals in conjunction with sewer main repairs. This approach is very effective, but expensive.

## **7.2 Funding Methods**

A funding source is required in order to provide financial assistance to homeowners in a PSL program. Additionally, running the program involves administrative costs. The *North Bay Watershed Association Marin Lateral Program Report* estimated these costs at \$268 per lateral inspected. To fund a PSL program, cities may utilize one of the following funding mechanisms:

### **7.2.1 Taxes, Fees and Fines**

To distribute the program cost evenly across all homeowners, property taxes can be raised, or a special fee can be added. Example (outside of Bay Area): St. Louis, MO funds its PSL program with a \$28 fee on residential property taxes.

Fees may be charged for services associated with PSL compliance, and fines may be issued for failure to comply. Example: EBMUD charges \$225 for issuance of a compliance certificate.

### **7.2.2 Mandatory Insurance Coverage**

An insurance pool can be established to defray the costs to homeowners that are required to repair their PSL. Enrollment is mandatory and the premium is paid along with the sewer service charge. The city manages the funds and pays for PSL repairs.

An alternative form of insurance coverage is to use a third party insurance provider. Three Bay Area cities - Daly City, San Bruno, and San Carlos - have formed an agreement to offer the National League of Cities Service Line Warranty Program to their residents. The agreement allows insurance provider Utility Service Partners to sell warranties for sewer, water, and plumbing lines. These agreements are cost-free for city governments.

## **7.3 Potential External Funding Sources**

It may be possible for a jurisdiction to procure PSL program funding from external sources, although such a mechanism has not yet been established in the Bay Area. Externally sourced funds could be managed by the city and distributed in the form of grants or loans to homeowners performing lateral inspection and repairs. The following have been identified as potential funding sources for consideration:

### **7.3.1 Clean Water State Revolving Fund**

A Clean Water State Revolving Fund (CWSRF) is a fund managed by a state that provides low-interest loans for water and sanitation infrastructure investments. California's CWSRF has significant financial assets, and has funded wastewater treatment projects. PSLs are not an eligible funding target for the CWSRF because they are privately owned; however, a change in CWSRF requirements could eventually make the funds available for PSL work. A jurisdiction that owns the lower lateral may be eligible for CWSRF funds under the current requirements.

### **7.3.2 Water & Waste Disposal Loan & Grant Program**

The United States Department of Agriculture Office of Rural Development's Water & Waste Disposal Loan & Grant Program provides funding for drinking water and wastewater improvements. Only rural areas or towns with populations of 10,000 or less are eligible. These funds would be awarded as loans or grants to a jurisdiction, and then awarded by the city to homeowners.

### **7.3.3 Section 504 Home Repair Program**

The United States Department of Agriculture Office of Rural Development runs a Single Family Housing Repair Loans & Grants program, known as the Section 504 Home Repair Program. This program provides loans in rural areas to very-low-income homeowners for home repairs and improvements, as well as grants to elderly very-low-income homeowners to remove health and safety hazards. These funds would be awarded directly to homeowners, but jurisdictions with eligible homeowners could help to facilitate the application process. Due to population density, only homeowners in certain portions of the Bay Area would be eligible.

### **7.3.4 Clean Beaches Initiative Grant Program**

The California EPA's Clean Beaches Initiative Grant Program funds projects that restore and protect water quality, and lists sewer collection system improvements as an eligible project type. The program aims to address "the causes of degradation, rather than the symptoms." Eligible recipients include public agencies and cities.

### **7.3.5 Other Grant Sources**

As grant opportunities change over time, it is important for private landowners and local jurisdictions to review current grants available at the local, state, and federal level. As PSL repairs combat water pollution, funding might be available from the EPA, State, or NGO sources, either to fund city PSL programs or to be awarded directly to homeowners. Additionally, home repair grants and loans for disadvantaged or rural communities could be available for PSL repair by state and federal agencies.

## **8. Recommendations**

The authors of this report recommend that all Bay Area jurisdictions operate PSL inspection and repair programs. Municipal codes that do not have a PSL ordinance typically state that "it is the responsibility of the homeowner to maintain and repair their sewer lateral." This passive stance allows for laterals to malfunction for years and years. The magnitude of SSOs and bypass discharges in the Bay Area clearly indicate that enough is not being done to upgrade old laterals, and that jurisdictions need to be more proactive in their management.

Of the 101 Bay Area cities and towns, 67 are not covered by a PSL ordinance, while others are covered only partially or by weak ordinances that lack a POS trigger. While a strong PSL program is recommended for all jurisdictions, those listed below meet criteria that make adoption or strengthening of an ordinance particularly advisable. Some jurisdictions meet multiple criteria. This information is also presented in Appendix B of this report.

- *Jurisdictions whose collection systems spilled more than 5,000 gallons in sanitary sewer overflows in the most recent half year data period (18):* Campbell, Concord, Fairfield, Half Moon Bay, Martinez, Menlo Park, Mountain View, Napa, Palo Alto, Petaluma, Redwood City, San Francisco, San Jose, San Mateo, San Rafael, St. Helena, Vallejo, Woodside

- *Jurisdictions that send sewage to POTWs that discharge blended effluent (7):* Foster City, San Francisco, San Mateo, San Rafael, South San Francisco, Tiburon, Vallejo
- *Jurisdictions that have already instituted financial assistance programs for PSL repairs (6):* American Canyon, Brentwood, Calistoga, Novato, Petaluma, Vallejo
- *(to amend the ordinance) Jurisdictions that have an ordinance, but lack a strong triggering mechanism (10):* Belmont, Brisbane, Corte Madera, Cupertino, Healdsburg, Rohnert Park, San Carlos, Santa Rosa, Saratoga, Tiburon
- *(to adopt the ordinance citywide) Jurisdictions that are partially covered by an ordinance, due to wastewater district boundaries (4):* Corte Madera, Santa Rosa, Saratoga, Tiburon

The current status quo of sewage collection in the Bay Area involves processing a massive amount of stormwater through sewage systems. Sewage treatment is a complicated and expensive process, and flooding treatment plants with stormwater is an inefficiency that must be addressed.

Defective PSLs continuously move stormwater into the sewer, while risking backups and spills. Similar to a termite infestation, a defective PSL is a concealed problem that grows worse over time, and will need to be fixed eventually. A PSL program facilitates the process of locating and fixing the laterals that compromise the sewer system, and protects homebuyers from purchasing a property that has a hidden need for major repairs. PSLs are estimated to be the source of about 40% of the I/I that enters collection systems.<sup>3</sup> Studies have shown that a program with effective triggers is estimated to inspect up to 40% of a city's homes within five years of implementation.<sup>4</sup> Many old laterals are made from clay, which is particularly susceptible to problems with tree root intrusion. When one of these compromised laterals is replaced, the incessant infiltration of stormwater that may have been occurring at that location for decades can finally be halted. The long-term savings attributed to locating and amending sources of I/I will far outweigh the program's costs.

The importance of sewer systems cannot be overstated, yet they are often sorely in need of upgrades. The condition of laterals, in particular, tends to be especially poor. Fortunately, the privately owned segments of the sewer system can be efficiently and justly rehabilitated through a PSL program. By instituting a robust program of inspection and repair, a city can combat the costs associated with spills, stormwater infiltration treatment, fines, and emergency repairs.

### **About this Report**

This report was prepared by the San Francisco Estuary Partnership. The San Francisco Estuary Partnership was established in 1988 by the State of California and the U.S. Environmental Protection Agency under the Clean Water Act's National Estuary Program. The Partnership is a collaboration of local, state, and federal agencies, NGOs, academia and business leaders

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<sup>3</sup> EPA (2014). Private sewer laterals. *Water Infrastructure Outreach*.

<sup>4</sup> City of Mill Valley Patch Contributor (2014). Mill Valley city council to consider a proposal to require sewer lateral inspections. *Mill Valley Patch*.

working to protect and restore the San Francisco Bay-Delta Estuary. The Partnership's work is guided by the development and implementation of the Estuary Blueprint, a comprehensive, collective vision for the Estuary's future.

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## Appendix A: Private Sewer Lateral Ordinance Adoption in Bay Area Jurisdictions

JURISDICTION	COUNTY	POPULATION (2010 Census)	ORDINANCE	POINT OF SALE TRIGGER	DATE
Alameda	Alameda	73,812	✓	✓	1988
Albany	Alameda	18,539	✓	✓	1997
American Canyon	Napa	19,454			
Antioch	Contra Costa	102,372			
Atherton	San Mateo	6,914			
Belmont	San Mateo	25,835	✓		2013
Belvedere	Marin	2,068	✓	✓	2014
Benicia	Solano	26,997			
Berkeley	Alameda	112,580	✓	✓	2006
Brentwood	Contra Costa	51,481			
Brisbane	San Mateo	4,282	✓		2015
Burlingame	San Mateo	28,806	✓	✓	1986
Calistoga	Napa	5,155			
Campbell	Santa Clara	39,349			
Clayton	Contra Costa	10,897			
Cloverdale	Sonoma	8,618			
Colma	San Mateo	1,792			
Concord	Contra Costa	122,067			
Corte Madera	Marin	9,253	✓*		2002
Cotati	Sonoma	7,265			
Cupertino	Santa Clara	58,302	✓		2014
Daly City	San Mateo	101,123			
Danville	Contra Costa	42,039			
Dixon	Solano	18,351			
Dublin	Alameda	46,036			
East Palo Alto	San Mateo	28,155			

✓\* signifies jurisdiction that is partially covered by an ordinance, due to wastewater district boundaries

El Cerrito	Contra Costa	23,549	✓	✓	2014
Emeryville	Alameda	10,080	✓	✓	2014
Fairfax	Marin	7,441	✓	✓	2013
Fairfield	Solano	105,321			
Foster City	San Mateo	30,567			
Fremont	Alameda	214,089			
Gilroy	Santa Clara	48,821			
Half Moon Bay	San Mateo	11,324			
Hayward	Alameda	144,186			
Healdsburg	Sonoma	11,254	✓		2013
Hercules	Contra Costa	24,060	✓	✓	2010
Hillsborough	San Mateo	10,825	✓	✓	2012
Lafayette	Contra Costa	23,893			
Larkspur	Marin	11,926	✓	✓	2013
Livermore	Alameda	80,968			
Los Altos	Santa Clara	28,976			
Los Altos Hills	Santa Clara	7,922			
Los Gatos	Santa Clara	29,413			
Martinez	Contra Costa	35,824			
Menlo Park	San Mateo	32,026			
Mill Valley	Marin	13,903	✓	✓	2015
Millbrae	San Mateo	21,532	✓	✓	2011
Milpitas	Santa Clara	66,790			
Monte Sereno	Santa Clara	3,341			
Moraga	Contra Costa	16,016			
Morgan Hill	Santa Clara	37,882			
Mountain View	Santa Clara	74,066			
Napa	Napa	76,915			
Newark	Alameda	42,573			
Novato	Marin	51,904			
Oakland	Alameda	390,724	✓	✓	2014
Oakley	Contra Costa	35,432			
Orinda	Contra Costa	17,643			
Pacifica	San Mateo	37,234	✓	✓	2012
Palo Alto	Santa Clara	64,403			
Petaluma	Sonoma	57,941			
Piedmont	Alameda	10,667	✓	✓	2014
Pinole	Contra Costa	18,390	✓	✓	2012
Pittsburg	Contra Costa	63,264			
Pleasant Hill	Contra Costa	33,152			
Pleasanton	Alameda	70,285			

Portola Valley	San Mateo	4,353			
Redwood City	San Mateo	76,815			
Richmond	Contra Costa	103,701	✓	✓	2006
Rio Vista	Solano	7,360			
Rohnert Park	Sonoma	40,971	✓		2011
Ross	Marin	2,415	✓	✓	2013
St. Helena	Napa	5,814			
San Anselmo	Marin	12,336	✓	✓	2013
San Bruno	San Mateo	41,114	✓	✓	2015
San Carlos	San Mateo	28,406	✓		2011
San Francisco	San Francisco	805,235			
San Jose	Santa Clara	945,942			
San Leandro	Alameda	84,950			
San Mateo	San Mateo	97,207			
San Pablo	Contra Costa	29,139	✓	✓	2008
San Rafael	Marin	57,713			
San Ramon	Contra Costa	72,148			
Santa Clara	Santa Clara	116,468			
Santa Rosa	Sonoma	167,815	✓*		2017
Saratoga	Santa Clara	29,926	✓*		2014
Sausalito	Marin	7,061	✓	✓	1991
Sebastopol	Sonoma	7,379			
Sonoma	Sonoma	10,648	✓	age-based trigger	2017
South San Francisco	San Mateo	63,632			
Suisun City	Solano	28,111			
Sunnyvale	Santa Clara	140,081			
Tiburon	Marin	8,962	✓*		2014
Union City	Alameda	69,516			
Vacaville	Solano	92,428			
Vallejo	Solano	115,942			
Walnut Creek	Contra Costa	64,173			
Windsor	Sonoma	26,801			
Woodside	San Mateo	5,287			
Yountville	Napa	2,933			
			Total: 34	Total: 24	

**Appendix B: Prioritized Jurisdictions for Adoption or Strengthening of a Private Sewer Lateral Ordinance**

Jurisdiction	Weak Ordinance	Partial Coverage	SSO Severity	Sends Sewage to POTW that Blends	Existing Financial Aid Program for PSLs
American Canyon					✓
Belmont	✓				
Brentwood					✓
Brisbane	✓				
Calistoga					✓
Campbell			✓		
Concord			✓		
Corte Madera	✓	✓			
Cupertino	✓				
Fairfield			✓		
Foster City				✓	
Half Moon Bay			✓		
Healdsburg	✓				
Martinez			✓		
Menlo Park			✓		
Mountain View			✓		
Napa			✓		
Novato					✓
Palo Alto			✓		
Petaluma			✓		✓
Redwood City			✓		
Rohnert Park	✓				
San Carlos	✓				
San Francisco			✓	✓	
San Jose			✓		
San Mateo			✓	✓	
San Rafael			✓	✓	
Santa Rosa	✓	✓			

Saratoga	✓	✓			
South San Francisco				✓	
St. Helena			✓		
Tiburon	✓	✓		✓	
Vallejo			✓	✓	✓
Woodside			✓		

**Appendix C: Sanitary Sewer Overflow Volume, Region 2,  
October 1, 2016 - March 31, 2017**

Responsible Agency	Number of SSO locations	Total Vol of SSOs (gallons)
East Bay MUD (CS & SSOs)	4	6,682,000
Richmond City	50	2,196,965
Vallejo San & Flood Control District	8	1,918,951
Sonoma County Water Agency (SCWA) R1	43	874,410
Sewer Authority Mid-Coastside	2	748,400
Napa Sanitation District	77	555,728
San Mateo City	14	538,777
City of Pacifica	6	357,035
Central Contra Costa Sanitary District	22	324,390
Oakland City DPW	52	222,866
St. Helena City	9	131,005
Sanitary District #1 of Marin	30	127,222
Fairfield City	15	92,078
Palo Alto City	68	56,787
Burlingame City PWD	7	50,029
West Bay Sd	6	46,380
Sausalito-Marín City San District	2	32,991
Mt View Sanitary District	6	28,892
San Jose City	36	24,701
San Mateo County DPW	3	22,915
San Mateo County DPW	4	22,794
San Mateo County DPW	5	22,436

Source: California Environmental Protection Agency State Water Resources Control Board.

<http://www.swrcb.ca.gov/ciwqs/publicreports.shtml> - Interactive SSO Report

Half Moon Bay City	3	21,425
CCSF - San Francisco Airport	12	17,290
Pinole City	3	16,825
Woodside	1	13,500
Montara	2	11,030
Redwood City	6	9,420
Stege Sanitary District	6	9,001
Millbrae City	5	8,945
Novato Sanitary District	2	7,990
Petaluma City DPW	6	7,051
West Valley SD	11	5,788
Concord City	5	5,393
San Rafael Sanitation District	12	5,085
Delta Diablo Sanitation District	1	3,743
Oro Loma Sanitary District	3	3,560
UC Berkeley	2	3,310
West County Wastewater District	4	3,052
Hercules City	1	3,000
San Mateo County DPW	1	2,200
Cupertino Sanitary District	10	2,014
Mill Valley City	12	1,987
Sonoma County Water Agency (SCWA) R1	2	1,979
Tamalpais Community San Dist	3	1,850
Crockett Community Services District	4	1,798
South San Francisco City	11	1,718
Belmont City	3	1,664
Town of Los Altos Hills	1	1,400
Town Of Hillsborough	6	1,254
Berkeley City of Public Works	10	1,245
Benicia City	9	1,232
Pittsburg City	5	1,204
Sunnyvale City	3	1,135
Los Altos City	6	932
Homestead Valley Sanitary District	3	900

Yountville, Town of	2	870
Union Sanitary District	4	860
National Park Service, Golden Gate National Recreation Area	1	800
Foster City PWD	2	650
Sausalito City	1	650
US Navy Treasure Island	6	581
California Department of Corrections and Rehabilitation	1	500
Treasure Island Development Authority	1	500
Port of San Francisco	1	499
San Bruno City	2	428
Marin Cnty Sanitary District 5	10	427
Pleasanton City	2	426
Livermore City	5	406
Santa Clara City	1	350
Mountain View City	2	330
San Francisco Public Utilities Commission	1	200
Albany City	3	160
South County Regional WW Authority	1	160
San Carlos City	3	120
Almonte SD	1	100
San Mateo County DPW	1	88
US Dept of Energy	3	81
Alameda City	1	75
Las Gallinas Valley Sanitary District	1	67
Sanitary District #2 of Marin	3	67
CSU East Bay	4	62
San Leandro City	1	20
UC Berkeley	1	20
Fairfield Suisun Sewer District	1	12
East Bay Regional Park District	1	10
County Sanitation District #2-3	1	3
Brisbane City	1	1
Totals	712	15,267,195

## Appendix D: Sample Private Sewer Lateral Ordinance Website Material from the City of Millbrae

[Departments & Services](#) » [Public Works](#) »

### Testing Sanitary Sewer Lateral Upon Transfer Of Ownership

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Prior to transfer of ownership (close of escrow), property owners must perform an in-line closed circuit video inspection of their existing sanitary sewer lateral from the building to the City main per Millbrae Municipal Code section 8.20.450 ([link below](#)). The inspection is exempt if the lateral has been tested and passed within the last 5 years or if the entire lateral has been replaced within the last 20 years.

During the video inspection the Sanitary Sewer Lateral Inspection Form ([link below](#)) shall be filled out and submitted to the Public Works Engineering Division. The video submitted must be in DVD format and must be performed from the building to the City main. The City has an approximate one week turn-around time on all videos submitted and follow-up is performed via e-mail.

The City of Millbrae is providing rebates to assist property owners with the cost of upgrades made to their sanitary sewer laterals in order to meet current Millbrae Municipal Code requirements. Recently separated sanitary sewer laterals, sewer laterals that are required to upgrade to current City code, sewer laterals at risk of overflowing and broken sewer laterals, may qualify for a rebate from the City in the amount of 20% of the total cost paid for the upgrade or up to \$1,000.00. Funds are limited and are available on a first-come, first-serve basis. Each residence is limited to one rebate from the City. Please see [link below](#) for Sanitary Sewer Lateral Rebate Program.

- [Sanitary Sewer Ordinance Update Dated April 22, 2011](#)
- [Sanitary Sewer Lateral Video Inspection Form](#)
- [Common Questions and Answers](#)
- [Sanitary Sewer Lateral Rebate Program](#)
- [Sanitary Sewer Lateral Video Inspection Listing](#)

## **Appendix E: Sample Private Sewer Lateral Ordinance from the City of Hercules**

### **ORDINANCE NO. 457**

**AN ORDINANCE OF THE CITY OF HERCULES AMENDING TITLE 5, SANITATION AND HEALTH, OF THE HERCULES MUNICIPAL CODE BY ADDING CHAPTER 9 REQUIRING TESTING, INSPECTION, REPAIR AND REPLACEMENT OF BUILDING SEWER LATERALS AND INSTALLATION OF CLEANOUTS AND BACKWATER PROTECTION DEVICES**

**THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 9, entitled "TESTING, INSPECTION, REPAIR AND REPLACEMENT OF BUILDING SEWERS AND SEWER LATERALS" is hereby added to Title -2\_ of the Hercules Municipal Code, to read as follows:

#### **TITLE 5 Chapter 9**

#### **TESTING, INSPECTION, REPAIR AND REPLACEMENT OF BUILDING SEWERS AND SEWER LATERALS**

##### **Sec. 5-9.01 Purpose.**

The purposes of this ordinance are (i) to provide for operation and maintenance of the City's sewer system in a reliable and serviceable condition, (ii) to eliminate or minimize sewage overflows by eliminating or minimizing stoppages and reducing sources of infiltration and inflow into the City's sewer system, (iii) to comply with applicable legal requirements pertaining to the City's sewer system and (iv) to protect the public health and safety by establishing and providing a mechanism for enforcing performance standards for private sewer laterals that connect or are connected to a City Public Sewer Main.

##### **Sec. 5-9.02 Definitions.**

As used in this ordinance, the following words, phrases and terms shall have the following definitions:

(a) "Air Testing" or "Air Tested" shall mean and refer to a method whereby a Building Sewer Lateral is pressurized with air for the purpose of detecting leaks or defects in the pipe being tested. An Air Tested Building Sewer Lateral will be deemed defective for purposes of this Ordinance if it does not hold 3.5 pounds per square inch of air pressure (psi-air) for at least 2 minutes with at least 2.5 psi-air remaining at end of the Air Test.

(b) "Backwater Prevention Device" includes, but is not limited to, backwater overflow devices, backwater check valves, pressure relief devices, shutoff systems, and any other devices the City may approve for the purpose of preventing or minimizing the possibility that raw sewage will back up into any structure or for any similar purpose.

(c) "Building Drain" shall mean and refer to that part of the lowest piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes within the building or structure and conveys it to the Building Sewer Lateral. The point of connection of the Building Drain to the Building Sewer Lateral shall be within two (2) feet of the outside of the Building Wall. A cleanout and Backwater Prevention Device shall be installed at the point of connection of the Building Drain to the Building Sewer Lateral.

(d) "Building Sewer Lateral" shall mean and refer to that part of a drainage system which extends from the end of the Building Drain and conveys discharge to a Public Sewer or other point of disposal. The Building Sewer Lateral shall terminate at the wye or other Manufactured Connection to the public sewer.

(e) "Building Wall" shall mean and refer to the exterior component part of a structure built, erected, framed and designed for the housing, shelter, enclosure or support of persons, animals, or property of any kind.

(f) "Certificate of Compliance" shall mean and refer to a written certificate issued to a Property Owner by the City Engineer or his/her designee certifying that a Building Sewer Lateral is properly equipped, structurally sound and complies with all standards established by the City.

(g) "Defective Sewer Lateral" shall mean and refer to any Building Sewer Lateral that displays leaks or defects upon the completion of Video Inspection or that is deemed by the City, in its discretion, to be defective upon completion of Air Testing or any other testing method required by the City.

(h) "Manufactured Connection" shall mean and refer to a commercially manufactured and available sewer "wye" or "tee" fitting of the proper size and material for the subject application.

(i) "Property Owner" shall mean and refer to any individual or entity owning property within the boundaries of the City that is connected to a City Public Sewer.

(j) "Public Sewer" shall mean and refer to the sewers owned or maintained by the City lying within the limits of the public streets, roads, easements, reserves, non-exclusive easements or other public rights of way serving or intended to serve two or more separate properties, persons, or parcels. That portion of the Building Sewer Lateral which may lie within any public street or right of way is not a Public Sewer in the City.

(k) "Video Inspection" shall mean and refer to a process whereby a camera is placed into, run through, photographs and electronically records the inside of a Building Drain, Building Sewer Lateral or Public Sewer for the purpose of detecting leaks or other obvious defects.

**Sec. 5-9.03 Requirement for Backwater Prevention Device and Sewer Lateral Clean-out.**

A clean-out and a Backwater Prevention Device conforming to City requirements shall be installed as close as possible to the beginning of the Building Sewer Lateral.

**Sec. 5-9.04 Testing of New Building Sewer Lateral.**

All new Building Sewers Laterals shall be tested by Air Testing or water method conforming to City requirements. The method used shall be at the discretion of the City. Testing shall be conducted throughout the full length of the Building Sewer Lateral.

**Sec. 5-9.05 Testing of Existing Building Sewer Lateral.**

(a) **General.** It shall be unlawful for any Property Owner to maintain a Building Sewer Lateral in a defective condition. As used in this ordinance, "defective condition" includes, but is not limited to: (a) displaced joints; (b) root intrusion; (c) substantial deterioration; (d) damaged or missing cleanout; (e) damaged or missing Backwater Prevention Device; (f) in a condition that will allow infiltration and inflow of extraneous water or exfiltration of sewage; (g) in a condition that materially increase the possibility of a blockage or overflow; (h) constructed without a proper permit or with materials not approved by the City; (i) lack of a Manufactured Connection to the City's sewer system; (j) otherwise in violation of City requirements; or (k) in such a condition that the tests required by this Chapter cannot be accomplished to the satisfaction of the City.

(b) **Conditions Requiring Cleaning and Inspection of Existing Building Sewer Lateral.** All existing Building Sewer Laterals, including but not limited to those serving residential, multiple residential, commercial and industrial properties connected to the City's Public Sewer be cleaned and inspected at the Property Owner's expense, when any of the following events occur:

(1) The installation of additional plumbing facilities that produce a major increase, in the judgment of the City, in sewage flow from the house, building, property or other structure served.

(2) A change of use of the house, building, property or other structure served from residential to business, commercial, or other non-residential use; or from nonresidential, non-restaurant, non-commercial, non-industrial to restaurant, commercial or industrial uses.

- (3) Upon repair or replacement of any portion of the Building Sewer Lateral.
- (4) Upon the determination by the City that the cleaning, testing, repair or replacement is required for the protection of the public health, safety and welfare.
- (5) Prior to the close of escrow upon a sale or other transfer of the house, building, property or other structure served or, if there is no escrow, prior to recording a deed or other document transferring title to the house, building, property or other structure served. A transfer of ownership between family members does not require testing if reassessment of property value is not required by the Contra Costa County Tax Assessor.
- (6) In a probate or other testamentary proceeding or in the event of a transfer pursuant to the terms of a revocable living trust, joint tenancy termination or other similar instrument, within 180 days after the sale, transfer or conveyance of the house, building, property or other structure served.
- (7) Upon request by the City at any time commencing upon the expiration of the fifth year after the effective date of this ordinance.

**(c) Inspection Procedures for Existing Building Sewer/Sewer Lateral.**

- (1) All existing building sewers/sewer laterals shall be inspected by Video Inspection method in accordance with City requirements.
- (2) Prior to testing, the Building Sewer Lateral shall be thoroughly cleaned.
- (3) All Video Inspections shall be witnessed by a representative of the City.
- (4) The Property Owner or an agent for the Property Owner shall notify the City of the Video Inspection's time and date at least seven (7) calendar days prior to the Video Inspection.
- (5) The Video Inspection shall be conducted by a person and/or firm qualified to do such work and meeting the approval of the City.
- (6) A Video Inspection shall be valid for a period of six months from the date of the inspection. If a Property Owner fails to obtain a Certificate of Compliance within six months after obtaining a Video Inspection, the City may, in its discretion, require the Property Owner to obtain another Video Inspection before issuing a Certificate of Compliance.

**Sec. 5-9.06 Mitigation of Failed Test or Inspection**

When the City determines, in its discretion, that a Building Sewer Lateral is in a defective condition, the Property Owner shall cause all repairs necessary to bring the Building Sewer Lateral into compliance. All costs of repair or replacement of the Building Sewer Lateral shall be borne by the Property Owner.

Upon completion of repairs to or replacement of the Building Sewer Lateral, a Video Inspection shall be conducted to verify that the repairs or replacement have been properly completed.

**Sec. 5-9.07 Repair or Replacement of Building Sewer Lateral upon Sale or Transfer of Property.**

The repairs or replacement of a Building Sewer/Sewer Lateral that result from the testing required as a result of the sale or transfer of property in a non-probate transaction shall be completed prior to the close of escrow of the sale or, if there is no escrow, prior to recording the deed or other document transcending title. For properties sold or transferred in a probate or other testamentary proceeding, pursuant to the terms of a revocable living trust or similar instrument, or pursuant to the termination of a joint tenancy or similar proceeding, any repair or replacement of a Building Sewer Lateral shall be completed within 180 days after the probate sale or other transfer.

**Sec. 5-9.08 Building Sewer Lateral Compliance and Issuance of Certificate of Compliance.**

The City shall review the final submitted Video Inspection for compliance with this ordinance. When all conditions are met to the satisfaction of the City, the Building Sewer Lateral shall be certified as complying with the provisions of the Hercules Municipal Code. The City shall thereupon issue a Certificate of Compliance to the Property Owner, noting that the Building Sewer Lateral serving the property is properly equipped, structurally sound and meets the requirements of the City. Once a Certificate of Compliance is issued, the Building Sewer Lateral for which the Certificate of Compliance is issued shall not require testing for a period of ten (10) years from the date of issuance of the Certificate of Compliance unless the City has reason to believe the Building Sewer Lateral is in a defective condition. The Certificate of Compliance shall not imply a warranty or guarantee of any kind.

**Sec. 5-9.09 Common Interest Developments.**

The homeowners association of a Common Interest Development shall provide Video Inspection verification of all privately-owned Building Sewers laterals within the common interest areas at least once every ten (10) years for compliance with the duties and obligations imposed by the Hercules Municipal Code in relation to any Building Sewer Lateral located within a common area of the development. If no homeowners association exists, then the individual unit owners, both jointly and individually, shall be liable for the duties and obligations with respect to Building Sewer Lateral established by the Hercules Municipal Code.

**Sec. 5-9.10 Residential Rental Units**

Not more than 180 days prior to the annual residential rental unit inspection required to be conducted within one year after the effective date of this ordinance pursuant to Title 9, Chapter 6 of the Hercules Municipal Code, the Property Owner or the Property Owner's designee shall have the Building Sewer Lateral Video Inspected in accordance with the procedures set forth in this

Chapter. All necessary replacements and repairs shall be completed prior to the issuance of a Residential Rental Unit Certificate of Compliance. Residential rental unit Building Sewer Laterals shall be re-inspected every ten (10) years after issuance of the Certificate of Compliance.

**Sec. 5-9.11 Hardship Deferrals for Building Sewers and Sewer Laterals Repair or Replacement.**

In the event that the Property Owner establishes to the satisfaction of the City that repair or replacement of a Building Sewer Lateral before the close of escrow in a non-probate sale will result in undue hardship inconsistent with the purpose or intent of this Chapter, a request for hardship status may be submitted to the Public Works Director. The Public Works Director shall make a hardship finding only if the requesting Property Owner presents facts that clearly demonstrate, in the Public Works Director' sole discretion , that the Property Owner's payment for and completion of a Building Sewer Lateral repair or replacement at the required time would result in an undue hardship. If hardship status is granted, the Property Owner who is selling the property, or the purchaser of such property, shall have no more than 180 days after the close of escrow or other transfer of the property to repair or replace the Building Sewer Lateral.

(a) For purposes of this section, undue hardship shall be defined as (1) the severe illness or incapacitation of the Property Owner; (2) the immediate transfer or removal of the Property Owner from the state, thereby making the hiring of a contractor to repair or replace the Building Sewer Lateral impractical or overly burdensome; or (3) any physical or financial situation that would render compliance with the time limits for the repair or replacement of Building Sewer Lateral extraordinarily difficult or impractical. The Property Owner shall bear the burden of submitting documentation and proving the existence of such a bona fide hardship to the satisfaction of the Public Works Director.

(b) Any Property Owner to whom a hardship finding is granted shall be given written notice of the finding. Said notice shall inform the Property Owner that the Building Sewer Lateral repair or replacement requirement is only deferred up to 180 days after the close of escrow- not waived entirely. A copy of the notice shall be sent to both the Property Owner who is selling the property and to the purchaser of the property.

(c) In the event of a failure to comply with the this Ordinance within the allotted

time, the City may bring an enforcement action and exercise any other remedy provided by the Municipal Code and/or applicable law against the Property Owner and any other responsible party. In addition thereto, any Property Owner who fails to fully comply with this Ordinance shall be responsible for all damages that arise from or relate to such failure. For purposes of this Section, "damages" include all compensatory damages, fines, penalties, assessments and other monetary exactions that may be awarded to, levied or assessed by any person, firm, corporation, company or public entity.

#### **5-9.12 NOTICES TO CORRECT VIOLATIONS.**

If the City Engineer receives notice that a Building Sewer Lateral does not or may not meet the standards set forth in this Chapter and the Property Owner does not agree in writing to perform the repairs or replacements necessary to bring the Building Sewer Lateral into compliance, then the City Engineer shall give written notice to the Property Owner of any conditions that violate this Chapter. Such notice shall specify the repair or replacement necessary to correct the condition and the time in which to make the correction, and shall advise the Property Owner of the enforcement provisions of this Chapter. If the repairs are not completed within the time allowed by the City, or if the City determines that the property may be transferred before the required testing or repairs can be completed, the City shall record a Notice of Violation in the Official Records of Contra Costa County specifying the nature of the violation and the action needed to correct it. The Notice shall only be rescinded when the Building Sewer Lateral serving such property has been repaired or replaced to the satisfaction of the City. Recording a Notice of Violation is in addition to all other remedies available to the City.

#### **5-9.13 COORDINATION OF LATERAL REPAIRS WITH CITY UTILITY AND STREET IMPROVEMENT PROJECTS**

Whenever the City plans a project to maintain, repair or replace a Public Sewer that involves excavation of a street, the City shall notify all Property Owners whose Building Sewer Laterals connect to that Public Sewer Main where the project is to be performed. The City shall work with interested Property Owners to develop a comprehensive program for repair/replacement of Building Sewer Laterals needing replacement at the same time the City's project is performed. If a Building Sewer Lateral needs repair or replacement within five years after a public right of way is newly paved, the Property Owner repairing or replacing the Building Sewer Lateral shall comply with all requirements of this Chapter and any other requirements imposed by the City to repair or replace the paving on the public right of way.

#### **5-9.14 REGULATIONS TO IMPLEMENT THIS CHAPTER.**

The City may establish rules, regulations, guidelines and policies for implementing and enforcing this Chapter.

#### **5-9.15 NUISANCE.**

Any Building Sewer Lateral or appurtenance thereto that is in violation of this Chapter is hereby

declared to be unlawful and a public nuisance and subject to abatement pursuant to Hercules Municipal Code Title 4, Chapter 10 as currently in effect or as hereafter amended. Such nuisance conditions include, but are not limited to, any Defective Sewer Lateral, any Building Sewer Lateral with or sewer clean-outs which contain leaks or breaks; any Building Sewer Lateral to which a clean out and a Backwater Prevention Device is not properly attached or properly functioning; any uncapped or improperly capped sewer clean-outs; sump pumps, down spouts or yard drains or other sources which discharge into the City's Public Sewer; and all other sources of

accidental, negligent or intended introduction of storm water run off or similar waters into the City's Public Sewer.

#### **5-9.16 RIGHT OF ENTRY.**

As a condition of receipt of City sewer services and use of the Public Sewer, the City Engineer, or his or her designee, may enter, inspect, collect wastewater samples, and test any buildings, structures, or premises to secure compliance or prevent a violation of this Chapter. Unless there is an emergency threatening the public health, safety or welfare, the City Engineer shall provide at least ten (10) business days' notice to the Property Owner of intent to enter upon property. The City Engineer may also request that a Property Owner provide all written records of Building Sewer Lateral inspection, maintenance, repair and replacement at the time of inspection or within ten (10) or more business days after receipt of the request.

#### **SECTION 2. Publication and Effective Date.**

a. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:

1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or

2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or

3. Publishing a summary of the Ordinance prepared by the City Attorney in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) Days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.

b. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

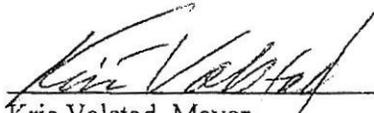
**THE FOREGOING ORDINANCE** was first read at a regular meeting of the Hercules City Council on the 23rd day of March, 2010, and was passed and adopted at a regular meeting of the Hercules City Council on the 13th day of April 2010, by the following vote of the Council:

AYES: Balico, Kuehne, McDonald, Ward, Valstad

NOES: None

ABSENT: None

ABSTAIN: None

  
Kris Valstad, Mayor

\_\_\_\_\_

ATTEST:

  
Doreen Mathews, City Clerk

