

**CITY OF OAKLAND**  
**AGENDA REPORT**

TO: JUN 16 Office of the City Administrator

ATTN: P. Lamont Ewell

FROM: Public Works Agency

DATE: June 28, 2011

RE: A Supplemental Report On The Ordinance Amending Oakland Municipal Code Title 13, Chapter 13.08 To Add New Regulations Requiring Oakland Property Owners To Inspect And Certify Lower Sewer Laterals In The Public Right-Of-Way At The Time Of Property Transfer, Major Remodeling And Change In Water Service

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**SUMMARY**

At the June 14<sup>th</sup> Public Works Committee staff presented the above referenced Ordinance. The East Bay Municipal Utility District (EBMUD) provided comments to the City's Ordinance that required revisions to the published Ordinance, and the Committee requested that the revisions to the Ordinance be presented in a supplemental report. This report summarizes those revisions.

**KEY ISSUES AND IMPACT**

On June 9, 2011, the Department of Engineering and Construction was provided comments on the Ordinance from EBMUD. These comments were received after the original report and Ordinance were written. The comments have been reviewed and incorporated into the revised Ordinance sections as shown below.

**Section 1.**

**Section 13.08.020 - Definitions.**

Revise the definition of "EBMUD Regional PSL Ordinance" and Add an additional definition to read:

"EBMUD Regional PSL Ordinance" means the East Bay Municipal Utility District Ordinance 311, Title VIII, Regulation of Private Upper Sewer Laterals, its implementation and any future amendments or modifications thereto.

"Exemption Certificate"- A certificate issued by EBMUD to property owners who can demonstrate that work on the lateral has been completed in accordance with local ordinance requirements within 10 years of the period of time set forth in the EBMUD Regional PSL Ordinance.

**Section 2.**

**13.08.600 - Building Sewer Inspection, Replacement, Compliance with EBMUD Regional PSL Ordinance, and Compliance Certificates.**

Item: \_\_\_\_\_  
Public Works Committee  
June 28, 2011

Add item (6) to the end of paragraph A to read:

(6) transfers from property owners to any financial institution as a result of a foreclosure or similar process.

Revise header of paragraph B to read:

B. Construction and or Remodeling.

Revise the last two sentences of paragraph E and add paragraph F to read:

Within the period of time specified in the EBMUD Regional PSL Ordinance, property owners or responsible parties shall complete all condition assessment testing, and submit a Final Corrective Action Work Plan for EBMUD approval. ~~Hereafter,~~ After the work is completed, recertification of the sewer lateral shall occur at twenty (20) year intervals.

P. Exception. A property owner with an un-expired sewer lateral Compliance Certificate or similar documentation from another agency, or with a dated approved building/sewer permit from a permitting authority indicating that the sewer lateral was replaced in total within 10 years of the period of time set forth in the EBMUD Regional PSL Ordinance may submit the information to EBMUD along with a request for an Exemption Certificate. Upon review and approval, an Exemption Certificate will be issued by EBMUD. A property owner of a structure with a building sewer that is less than 10 years old from the date of: (1) intended title transfer, (2) obtaining a permit for remodeling, or (3) obtaining an approval for the change in water service, and has appropriate evidence, such as a valid building permit showing that the sewer lateral was replaced in total and received a final inspection from the City, may request an Exemption Certificate from EBMUD and does not have to obtain a Compliance Certificate.

### Section 3.

#### 13.08.610 - Responsibility and Standards for Maintenance of Upper and Lower Building Sewer Laterals.

Revise paragraph E to read:

E. There shall be no non-sanitary sewer connections to the upper or lower sewer lateral or to any plumbing that connects to the upper or lower sewer lateral.

### Section 4.

#### 13.08.620 - Adoption of the EBMUD Regional PSL Ordinance by Reference.

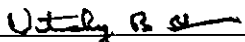
Revise the paragraph to read:

The East Bay Municipal Utility District Ordinance 311, Title VIII; Regulation of Private Upper Sewer Laterals is hereby adopted by reference. The City Council may adopt amendments or modifications to the ordinance thereto, as the ordinance may be amended or modified by EBMUD.

### RECOMMENDATION AND RATIONALE

The EBMUD revisions are minor, clarifying revisions. Staff recommends that Council accept this supplemental report and adopt the proposed Ordinance as revised. The resolution authorizing the Statement of Roles and Responsibilities with EBMUD should also be approved.

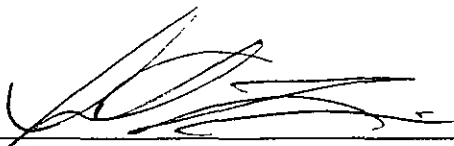
Respectfully submitted,

  
Vitaly B. Troyan, P.E., Director  
Public Works Agency

Reviewed by:  
Michael Neary, P.E., Assistant Director,  
PWA, Department of Engineering and Construction

Prepared by:  
Allen Law, P.E., Supervising Civil Engineer  
Engineering Design & R.O.W. Management Division

APPROVED AND FORWARDED TO  
THE PUBLIC WORKS COMMITTEE:

  
\_\_\_\_\_  
Office of the City Administrator

Item: \_\_\_\_\_  
Public Works Committee  
June 28, 2011

**REVISED**

APPROVED AS TO FORM AND LEGALITY

**DRAFT**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

City Attorney

Revised 6/14/2011

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2011 JUN 16 PM 6:54

# OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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## ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 13, CHAPTER 13.08 TO ADD NEW REGULATIONS REQUIRING OAKLAND PROPERTY OWNERS TO INSPECT AND CERTIFY LOWER SEWER LATERALS IN THE PUBLIC RIGHT-OF-WAY AT THE TIME OF PROPERTY TRANSFER, MAJOR REMODELING AND CHANGE IN WATER SERVICE

**WHEREAS**, the United States Environmental Protection Agency (EPA) requires the City of Oakland, other East Bay municipalities and the East Bay Municipal Utility District (EBMUD) to develop and implement a regional program to reduce infiltration and inflow (I/I) into the cities' sewer systems and EBMUD's collection and treatment system; and

**WHEREAS**, EPA is requiring Oakland's property owners to have private building sewers (both upper building sewer laterals on private property and lower building sewer laterals in the public right-of-way) inspected and certified at the time of property transfer, major remodeling, or changes in water service to address infiltration and inflow (I/I) into building sewers; and

**WHEREAS**, in February 2010 EBMUD adopted regional regulations (EBMUD Regional Private Sewer Lateral Ordinance No. 311) to inspect and certify upper building sewer laterals; and

**WHEREAS**, the City of Oakland passed an ordinance amending Oakland Municipal Code Chapter 13.08 to adopt EBMUD's upper building sewer lateral regulation in Oakland (Ordinance No. 13026 C.M.S., passed July 2010); and

**WHEREAS**, EPA is requiring the City of Oakland to further regulate lower building sewer laterals in the same manner as upper building sewer laterals; and

**WHEREAS**, the City of Oakland desires to have EBMUD inspect and certify lower building sewer laterals at the same time it inspects and certifies upper building sewer laterals; and

**WHEREAS**, EBMUD has agreed to inspect and certify lower building laterals at the same time it addresses upper building sewer laterals; now, therefore, **PUBLIC WORKS CMTE.**

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**JUN 28 2011**

3-1

Section 1.

Add the following definitions to Section 13.08.020 - Definitions.

"Compliance Certificate" means a certificate issued by EBMUD indicating that a building sewer (upper building sewer lateral and lower building sewer lateral) complies with the requirements as set forth in the EBMUD Regional PSL Ordinance, Title VIII and this Chapter.

"EBMUD" means the East Bay Municipal Utility District, Special District No.1.

"EBMUD Regional PSL Ordinance" means the East Bay Municipal Utility District Ordinance 311, Title VIII, Regulation of Private Upper Sewer Laterals, its implementation and any future amendments or modifications thereto.

"Exemption Certificate"- A certificate issued by EBMUD to property owners who can demonstrate that work on the lateral has been completed in accordance with local ordinance requirements within 10 years of the period of time set forth in the EBMUD Regional PSL Ordinance.

Section 2.

Section 13.08.600 of Chapter 13 of the Oakland Municipal Code is added now to read:

**13.08.600 - Building Sewer Inspection, Replacement, Compliance with EBMUD Regional PSL Ordinance, and Compliance Certificates.**

The property owner shall be responsible for inspecting building sewers, obtaining all required permits, performing all necessary building sewer repair or replacement, scheduling inspections with EBMUD, passing a verification test witnessed by EBMUD, obtaining and filing with the City a Compliance Certificate from EBMUD as set forth in the EBMUD Regional PSL Ordinance for the entire building sewer (upper building sewer lateral and lower building sewer lateral) when one or more of the following events occurs:

A. Title Transfer. Prior to transferring title associated with the sale of any real property that contains any structure with a building sewer. Title transfer means the sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of partial interest, including a leasehold. In addition, the following shall not be included: (1) transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust, (2) transfers from one co-owner to one or more other co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors, (3) transfers made by a trustor to fund an inter vivos trust. (4) transfers made to a spouse, to a registered domestic partner as defined in Section 297 of the Family Code, or to a person or persons in the lineal line of consanguinity of one or more of the transferors. (5) transfers between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or a decree of legal separation or from a property settlement agreement incidental to a decree. (6) transfers from property

owners to any financial institution as a result of a foreclosure or similar process.

B. Construction and- or Remodeling. Whenever a property owner applies for any permit or other approval needed for construction, remodeling, modification or alteration of any structure with a building sewer where the cost of the work is estimated to exceed \$100,000.

C. Change in Water Services. Whenever a property owner applies for any permit or other approval from the EBMUD for an increase or decrease in size of the owner's water meter.

D. An Individually-Owned Unit in a Multi-Unit Structure Served by a Common Private Sewer or Shared Laterals such as condominium or other common interest development. Within the period of time set forth in the EBMUD Regional Ordinance, the homeowners' association or a responsible party- for this type of multi-unit structure shall determine if the sewer lateral(s) is(are) in compliance with the EBMUD Regional PSL Ordinance and perform any necessary repair or replacement work to achieve compliance. Thereafter, re-certification of the sewer lateral shall occur at twenty (20) year intervals.

E. Property Developments Other Than Those Specified in (D) Above With Sanitary Sewers Totaling Greater Than 1000 Feet In Length. Within the period of time set forth in the EBMUD Regional PSL Ordinance, property owners or responsible parties for property developments with sanitary sewers totaling greater than 1000 feet in length, shall submit for EBMUD approval, a Condition Assessment Plan with a schedule to perform testing to assess the condition of all of the sewer laterals on the property to determine compliance with the EBMUD Regional PSL Ordinance. Within the period of time specified in the EBMUD Regional PSL Ordinance, property owners or responsible parties shall complete all condition assessment testing, and submit a Final Corrective Action Work Plan for EBMUD approval. ~~Thereafter,~~After the work is completed, re-certification of the sewer lateral shall occur at twenty (20) year intervals.

F. Exception. A property owner with an un-expired sewer lateral Compliance Certificate or similar documentation from another agency, or with a dated approved building/sewer permit from a permitting authority indicating that the sewer lateral was replaced in total within 10 years of the period of time set forth in the EBMUD Regional PSL Ordinance may submit the information to EBMUD along with a request for an Exemption Certificate. Upon review and approval, an Exemption Certificate will be issued by EBMUD. ~~A property-owner-of-a-structure-with-a-building-sewer-that-is-less-than-10-years-old-from-the-date-of-(1)-intended-title-transfer,-(2)-obtaining-a-permit-for-remodeling,-or-(3)-obtaining-an-approval-for-the-change-in-water-service,-and-has-appropriate-evidence,-such-as-a-valid-building-permit-showing-that-the-sewer-lateral-was-replaced-in-total-and-received-a-final-inspection-from-the-City,-may-request-an-Exemption-Certificate-from-EBMUD-and-docs-not-have-to-obtain-a-Compliance-Certificate-~~

G. Dangerous and Insanitary Sewer Condition. Whenever a dangerous or insanitary sewer condition is found as set forth by this Chapter and a notice to abate is provided according to the procedure established by the Director of Public Works.

Section 3.

Section 13.08.610 of Chapter 13 of the Oakland Municipal Code is added now to read:

**13.08.610 - Responsibility and Standards for Maintenance of Upper and Lower Building Sewer Laterals.**

It shall be the responsibility of the property owner to perform all required maintenance, repairs and replacement of the upper and lower building sewer lateral in accordance with EBMUD's and the City of Oakland's ordinance requirements. Standards for maintenance of the upper and lower building sewer lateral are set forth below:

- A. The upper and lower building sewer lateral shall be kept free from roots, grease deposits, and other solids, which may impede or obstruct the flow.
- B. All joints shall be watertight and all pipes shall be sound.
- C. The upper and lower building sewer lateral pipe shall be free of any structural defects such as fractures, cracks, breaks, openings, or missing portions.
- D. All cleanouts shall be securely sealed with a proper cap or approved overflow device at all times.
- E. There shall be no non-sanitary sewer connections to the upper or lower sewer lateral or to any plumbing that connects to the upper or lower sewer lateral.

Section 4.

Section 13.08.620 of Chapter 13 of the Oakland Municipal Code is added now to read:

**13.08.620 - Adoption of the EBMUD Regional PSL Ordinance by Reference.**

The East Bay Municipal Utility District Ordinance 311, Title VIII; Regulation of Private Upper Sewer Laterals is hereby adopted by reference. The City Council may adopt amendments or modifications to the ordinance thereto, as the ordinance may be amended or modified by EBMUD.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF,  
and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
 LaTonda Simmons  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_