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ORDINANCE NO. 738

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILLBRAE AMENDING MUNICIPAL CODE CHAPTER 8.20, ARTICLE IV, TO REQUIRE INSPECTION, REPAIR AND REPLACEMENT OF PRIVATE SEWER LATERAL LINES AND INSTALLATION OF TEMPORARY SEWER TRAPS DURING MAINTENANCE TO PRIVATE LATERALS

The City Council of the City of Millbrae does hereby ordain as follows:

SECTION 1. FINDINGS

1. The Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (also known as the Clean Water Act "CWA") is a federal statute regulating and prohibiting pollution of the nation's lakes, rivers and oceans.

2. Sanitary sewer overflows ("SSOs") occur when heavy rainfall exceeds the storage capacity of sewer pipes and/or waste water treatment plants, and, as a result, discharges untreated sewage and storm water into lakes, rivers and oceans. The CWA regulates the discharge of SSOs.

3. Heavy rain fall, insufficient capacity, roots, debris, grease, and infrastructure weaknesses are the primary causes of SSOs.

4. SSOs result in the exposure of the public to raw sewage, which contains disease-causing pathogens.

5. The City has expended significant resources over the past five years to ensure its sewer operations and facilities are in compliance with state law and the CWA, and to reduce SSOs. The City has approved and is committed to a $30,000,000 investment in an updated, modern wastewater treatment plant. The capital investment in the upgraded wastewater treatment plant includes a 1,200,000 gallon overflow tank that will help the City manage storm surges and SSOs. The City currently invests $1,000,000 per year in its sewer collection system for repairs and upgrades.

6. The City is also subject to a Consent Decree with San Francisco Baykeeper to further reduce SSOs in the City. The Consent Decree is filed in federal court.

7. The Consent Decree requires the City to reduce the number of SSOs throughout the City from sixty-five (65) SSOs per 100 miles of sewer line in 2010 to three (3) SSOs per 100 miles of sewer line in 2016.

8. The Consent Decree also requires the payment of $300,000 in fines and penalties, and the creation of a $225,000 fund for low impact development projects in the City, which would also assist with the reduction of SSOs in the City.

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9. In connection with the Consent Decree, the City Council has undertaken an aggressive preventative maintenance program for the sewer collection system, which includes a residential outreach program to educate City residents and business owners on proper disposal of fats, oils and greases into the sewer collection system, inspection of the sewer system with closed circuit television to ascertain blockages and necessary repairs, system-wide cleaning of the entire system including prioritized cleaning for areas of the sewer system that are prone to SSOs, flow and hydraulic monitoring and modeling of the sewer system, and a capacity assurance evaluation to identify all necessary capacity improvements to convey peak wet weather flows to the sewage treatment plant and avoid SSOs caused by insufficient capacity.

10. The City cannot reduce SSOs to the levels required by the Consent Decree without increased inspection of private sewer lateral lines, repair and/or replacement of those lines by property owners, requiring installation of temporary traps downstream of private laterals during maintenance of private laterals, and changing how property owners use the sewer collection system.

11. The Consent Decree requires that the City Council consider, prior to May 16, 2011, amendments to the City's Municipal Code to require inspection, repair and/or replacement of sewer laterals by property owners.

12. The Consent Decree also requires that the City Council consider, before a date of May 16, 2011, an ordinance to require property owners or their contractors to install a temporary trap downstream of private laterals during maintenance to remove blockages in the private lateral line, to ensure any rootball, debris or other item is not flushed into the City's collection system and does not cause an additional blockage.

13. The City Council of the City of Millbrae finds that amendments to the Millbrae Municipal Code to keep sewer lateral lines in good repair and the City's collection system free from debris in the private lateral lines is in the best interests of the health and welfare of the citizens of the City of Millbrae.

14. The City Council of the City of Millbrae also finds that the health, safety and welfare of the citizens of the City of Millbrae require the enactment of an ordinance to govern inspection, repair and replacement of lateral sewer lines by property owners and installation of a temporary trap to prevent discharges into main sewer lines from private lateral lines when maintenance activities to private laterals occur.

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THEREFORE, IT IS ORDAINED by the City Council of the City of Millbrae that

SECTION 2. Article IV, Chapter 8.20.430 to 8.20.480, of the Millbrae Municipal Code, entitled "Maintenance of Sanitary Sewers" is hereby amended to provide as follows:

Chapter 8.20.430-8.20.490
Article IV. Maintenance of Sanitary Sewers

Sections:

8.20.430 Sanitary sewer laterals.
8.20.440 Abatement of leaks, breaks and improper sanitary sewer connections.
8.20.450 Testing and replacement of sanitary sewer laterals.
8.20.460 Inspection of sanitary sewer laterals as precondition to obtaining a building permit.
8.20.470 Sidewalk cleanouts.
8.20.480 Backflow protection and relief devices.
8.20.490 Nuisance.

8.20.430 Sanitary sewer laterals.

As a general rule, the property owner at his/her expense shall maintain all sanitary sewer laterals, including, but not limited to, the building drain, sanitary sewer lateral to the cleanout wye connection or to the City sanitary sewer main as provided below, building cleanout, sidewalk cleanout frame and cover, backflow protection and backflow relief equipment. The property owner shall provide all maintenance of the sanitary sewer lateral, including the wye connection to a City sanitary sewer main, to ensure unobstructed flow of sewage from the property to the City sanitary sewer main. The property owner shall be responsible for clearing all obstructions in the sanitary sewer lateral immediately upon discovery or notification by the City. When clearing any obstructions in the sanitary sewer lateral or performing any maintenance to the sanitary sewer lateral, the property owner must install a temporary trap downstream of the sanitary sewer lateral to ensure any rootball, debris or other items dislodged from the sewer lateral do not flush into the City's sanitary sewer system.

The City may require property owners to remove roots from private laterals that are growing into lower lateral sewer lines in the sanitary sewer system owned by the City. Where this condition occurs, the City will promptly notify the private property owner. Within one hundred twenty days of receiving notification from the City, the private property owner shall remove the roots from the sanitary sewer lateral, and will make all necessary repairs to the sanitary sewer lateral to prevent a reoccurrence of root intrusion that reaches the City's lower lateral.

Any sanitary sewer lateral blockage that cannot be mitigated through implementation of reasonable measures by the property owner and/or a licensed professional sanitary sewer cleaning contractor shall be reported to the public works department immediately. The property owner shall reimburse the City for all reasonable costs, as determined by the director of public works, incurred by the City relative to any work or services rendered to remove a blockage or repair or otherwise work on a sewer line facility which is the responsibility of the property

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owner. The City shall only maintain the sanitary sewer lateral from the cleanout wye, inclusive of the cleanout wye, to the City sanitary sewer main under the following circumstances:

A. A cleanout is provided either in the sidewalk, or within two and one-half feet of the face of curb or edge of pavement where there is no sidewalk, or in a side or rear yard within two and one-half feet of the City main (see Illustration 1A at the end of this chapter); when the cleanout is located outside of these designated areas, the property owner is responsible for maintaining the sanitary sewer lateral all the way to the City sanitary sewer main, including the wye connection at the main. The above maintenance responsibilities shall be conducted in full compliance with all applicable requirements contained in this chapter.

B. Prior to the City's acceptance of maintenance responsibility for that portion of a sanitary sewer lateral from a newly installed cleanout to the main, including the wye connection to the main, the property owner shall be responsible for having this section of lateral inspected internally by a closed circuit television camera and providing these results to the City for review. If the City determines that this section of the lateral is defective and does not meet City's requirements, the property owner shall be required to perform all repairs necessary to bring the condition of the lateral up to City standards. Property owner must obtain an encroachment permit from the City prior to performing any required repairs on the City's right-of-way. The City will accept maintenance responsibility for the section of the lateral from the new cleanout to the main only after both of the following conditions have been met: (1) the City has issued an encroachment permit for the required repairs in the City's right-of-way, and (2) all repair work is completed to the City's satisfaction.

C. Where a property owner, or tenant in the absence of action by the property owner, refuses to mitigate a condition that causes sewage to leak from the sanitary sewer lateral after discovery or notification by the City, or if action is not effective, the City has the option to either make the repairs itself or hire a licensed contractor, all at the owner's expense, to mitigate the condition. If payment is not made by the owner, the City may impose a property tax lien to recover all of its costs associated with repairing the leakage.

8.20.440 Abatement of leaks, breaks and improper sanitary sewer connections.

A. All sanitary sewer laterals, cleanouts and sanitary sewer appurtenances which are found to contain leaks, breaks, uncapped cleanouts, down spouts or yard drains which discharge into the City's wastewater collection system, and any sources of accidental, negligent or intended introduction of storm water into the City's wastewater collection system are declared to be a violation of this chapter, and shall be abated by the property owner, who is required to remove or correct such improper sanitary sewer connections. The property owner shall have thirty days from the date of the City's notice of violation to obtain permits and make repairs unless public health and safety considerations require earlier action. If the work is not completed within this time frame, the City, at its option, may either make the repairs itself or hire a licensed contractor to mitigate the condition all at the owner's expense. If payment is not made by the owner, the City may impose a property tax lien to recover all costs associated with mitigating the improper sanitary sewer connection.

B. Where a sanitary sewer overflow has occurred in City's wastewater collection system as a result of a blockage, break or other issue in a sanitary sewer lateral, the property

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owner shall obtain permits and repair or replace the sanitary sewer lateral causing the sanitary sewer overflow within one-hundred eighty days, unless:

1. The property owned by the property owner is undergoing an extensive remodel, in which case the repair and/or replacement of the sanitary sewer lateral shall occur no later than the new occupancy date for the building, or

2. The property owner claims financial hardship, in which case the City may conduct the repair or replacement.

If the work is not completed within this time frame, the City, at its option, may either make the repairs itself or hire a licensed contractor to mitigate the condition all at the owner's expense. If payment is not made by the owner, the City may impose a property tax lien to recover all costs associated with mitigating the improper sanitary sewer connection.

C. This chapter authorizes the director of public works to perform smoke testing on City sanitary sewer mains and sanitary sewer laterals for the purpose of determining the location(s) of leaks, breaks and improper sanitary sewer connections.

8.20.450 Testing and replacement of sanitary sewer laterals.

A. A property's sanitary sewer lateral(s) shall be tested for inflow and infiltration and all necessary repairs or replacement work shall be completed by the owner and approved by the City prior to transfer of title whenever any property is to be transferred to or vested in any other person or entity and such property includes any buildings or structures constructed more than twenty years prior to the anticipated date of transfer of ownership. Normally such testing need not be considered in the following circumstances:

1. For a period of five years following a test which sanitary sewer lateral passed;

2. For a period of twenty years after acceptance, by the City, of work performed for replacement of the complete sanitary sewer lateral;

B. The director of public works shall establish or approve testing procedures. Testing will be the owner's responsibility.

C. At such time as the Consent Decree entered into between the City of Millbrae and San Francisco Baykeeper, approved November 15, 2010, is no longer in effect, which shall occur on November 14, 2016, unless the Consent Decree is extended, then the implementation of the testing and repair requirements by a property owner set forth in this section shall be at the discretion of the city, as long as such discretion is exercised in a manner to ensure compliance with all federal and state claims and requirements regarding the City's municipal sewer system.

8.20.460 Inspection of sanitary sewer laterals as precondition to obtaining a building permit.

A. For any project requiring a building permit where plumbing fixtures are added to the property, and/or more than twenty-five percent of the building area is being remodeled,

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altered or enlarged, the project applicant or property owner shall inspect all sanitary sewer laterals on the property for defects and satisfy the requirements in this section before a building permit is issued.

B Sanitary sewer laterals are to be inspected by property owners, and their condition evaluated by the City, according to the process set forth below.

1. The inspection must be conducted by a licensed plumber or sewer contractor using a closed circuit television camera, or CCTV, to adequately evaluate the internal condition of the sewer lateral.

2. Upon completion of the inspection, the person conducting the inspection shall provide a copy of the video of the inspection to the City for viewing and evaluation by the City.

3. The City shall evaluate the video for defects including blockages, structural defects, illicit connections, open joints, appropriate cleanouts, materials that do not have a remaining design life of twenty-five (25) years, missing sewer relief valves and sewer backwater valves.

4. A sewer lateral shall be considered in compliance with the provisions of this chapter, and a building permit will be issued, if the video of the inspection verifies all of the following conditions, to the satisfaction of the City:

a. The sewer lateral is free of roots, deposits of FOG, or other solids which may impede or obstruct the flow of sewage.

b. There are no illicit or illegal connections to the sewer lateral which would cause inflow, such as roof leaders or yard drains.

c. All joints in the sewer lateral are tight and sound to prevent the exfiltration of sewage or the infiltration of groundwater.

d. The sewer lateral is free of structural defects, cracks, breaks, or missing portions and the grade is reasonably uniform without major sags or offsets.

e. The sewer lateral is equipped with cleanouts.

f. The sewer lateral is constructed of materials with a remaining design life of at least twenty-five (25) years.

g. A sewer relief valve is installed.

h. A sewer backwater valve is installed.

5. Any defects in the sewer lateral that cause the sewer lateral to fail the inspection must me repaired or replaced within ninety days of the date the City determines that a defect exists. Proof of the repair or replacement as directed by the City must be provided to the City before a building permit will be issued.

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8.20.470 Sidewalk cleanouts.

A. Sidewalk cleanout construction details and material specifications shall conform to the current edition of the City specifications and standard plans for public works construction, a copy of which is available for viewing at the public works office or on City's website. Cleanouts, if not existing, shall be installed at the owner's expense under any of the conditions listed below:

1. All new construction;

2. On remodels where plumbing fixtures are added to the property, and/or more than twenty-five percent of the building area is being remodeled;

3. When any replacement or repair is performed on the sanitary sewer lateral;

4. Whenever backflow protection and/or relief device is installed;

5. When a property has been damaged by the blockage of the City sanitary sewer main;

6. On all structures where a pump is used to lift sewage to the sanitary sewer lateral and City sanitary sewer main or on structures where the elevation of any floor is at or below the invert of the City sanitary sewer main, or where a condition may exist where a plug in the City sanitary sewer main will cause the hydraulic grade line to rise above the lowest floor level.

B. Failure of the owner to install a sanitary sewer cleanout for or as a result of any of the above conditions shall relieve the City of any and all responsibilities for any and all subsequent damage caused by sanitary sewer overflows.

8.20.480 Backflow protection and relief devices.

A. Backflow protection and relief device installation details and material specifications shall conform to the current edition of the City specifications and standard plans for public works construction. Backflow protection and relief devices shall be installed and maintained at the property owner's expense under any of the conditions listed below:

1. All new construction;

2. On remodels where plumbing fixtures are added to the property, and/or more than twenty-five percent of the structure area is being remodeled;

3. When any replacement or repair is made to the sanitary sewer lateral;

4. When property has been damaged by the blockage of the City sanitary sewer main;

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5. On all structures where a pump is used to lift sewage to the sanitary sewer lateral and City sanitary sewer main. The backflow relief device shall be located to protect the structure from damage in the event the pump is pumping against a closed backflow prevention device;

6. Buildings where the elevation of any floor is at or below the invert of the City sanitary sewer main, or where a condition may exist where a plug in the City sanitary sewer main will cause the hydraulic grade line to rise above the lowest floor level.

B. Failure of the owner to install a backflow prevention device for or as a result of any of the above conditions shall relieve the City of any and all responsibilities for any and all subsequent damage caused by sanitary sewer overflows.

8.20.490 Nuisance.

No user shall discharge or cause to be discharged to a public sanitary sewer any waste that creates a stoppage, plugging, breakage, reduction in sanitary sewer capacity or any other damage to sanitary sewers or sewerage facilities of the City. Any such condition is deemed a nuisance and the City may invoke any of the remedies in Chapter 6.25 or any other chapter or provision of this Code.

SECTION 3. SEVERABILITY.

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

SECTION 4. EFFECTIVE DATE; PUBLICATION.

This ordinance shall be in full force and effect thirty (30) days from and after its passage. At least five (5) days prior to its adoption and within fifteen (15) days after its adoption, a summary of this ordinance, in a form approved by the City Attorney, shall be published once in a newspaper of general circulation printed and published in the County of San Mateo and circulated in the City of Millbrae.

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INTRODUCED at a regular meeting of the City Council of the City of Millbrae held on the 8 th day of MARCH, 2011.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Millbrae held on the 22ND day of MARCH, 2011 by the following roll call vote.

Mayor

ATTEST:

City Clerk

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Ordinance No. 738

I do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Millbrae this 22nd day of March 2011, by the following vote:

AYES:	COUNCILMEMBERS:	Quigg, Colapietro, Papan, Holober, and Seto
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
EXCUSED:	COUNCILMEMBERS:	None

Angela Morris
CITY CLERK

I hereby certify this to be a full, true and correct copy of the document it purports to be, the original of which is on file in my office.

Dated: 4/6/11

Angela Morris
City Clerk of the City of Millbrae