ORDINANCE NO. 2014-04

AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER XV, SEWERS AND SANITATION, OF THE ALBANY MUNICIPAL CODE TO EFFECTIVELY JOIN THE REGIONAL SEWER LATERAL PROGRAM, ADMINISTERED BY EAST BAY MUNICIPAL UTILITY DISTRICT

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

WHEREAS, stormwater that should enter the storm drainage system but instead enters the sewer system through defects in the sewer pipes (infiltration and inflow, “I/I”) causes excessive sanitary flows during wet weather events; and

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

WHEREAS, in the period since completion of the SSES, Albany has eliminated known cross-connections between the sanitary and storm drain systems, constructed relief sewer improvements to provide needed system capacity, rehabilitated over 50 percent of the sewers in the public system, and adopted Ordinance #94-01 that, among other provisions, established a program requiring the inspection and rehabilitation of privately-owned sewer laterals at sale or transfer of property or a major remodel; and

WHEREAS, in 2009 the Environmental Protection Agency filed a lawsuit against Albany and the six other dischargers to the East Bay Municipal Utility District (EBMUD) interceptor and regional wastewater treatment plant (Alameda, Berkeley, Emeryville, Oakland,
Piedmont and Stege Sanitary District, collectively “Satellites”) based on allegations of
“unpermitted” discharges or sanitary sewer overflows (SSOs); and

WHEREAS, negotiations have ensued, and the EPA, Department of Justice, Water
Boards and Baykeeper entered into a Stipulated Order with EBMUD and the Satellites separately
requiring detailed maintenance and sewer rehabilitation work to address the continued influx of
I/I into the collection systems; and

WHEREAS, the Stipulated Orders remain binding until a final remediation program is
codified in a multi-decade federal consent decree, expected mid-2014; and

WHEREAS, it is generally accepted that privately-owned sewer laterals can contribute
up to 50% of I/I in older collection systems like Albany’s; and

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

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

NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS
FOLLOWS:

SECTION 1: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION
15.1 TITLED “SEWERS” IS HEREBY AMENDED AS FOLLOWS:
a. One objective of this Ordinance is to reduce infiltration and inflow into the sanitary sewer system operated by the City of Albany by requiring testing, repair, replacement, and ongoing maintenance of privately owned sewer laterals within the City of Albany, in compliance with NPDES Permit No. CA0038471, USEPA Administrative Order in docket no. CWA 309(a)-10-006, and the Consent Decree in United States of America, et al. v. EBMUD (09-186). To this end, these Sections require that all Upper Sewer Laterals be maintained by their owners in accordance with the standards set forth in this Chapter. Such maintenance shall include, when necessary, the repair or replacement of the sewer laterals.

b. In 1986, the Regional Water Quality Control Board, San Francisco Bay Region (SFRWQCB), in its enforcement of the 1972 amendments to the Federal Water Pollution Control Act, and the requirement to control sewage overflows, issued a Cease and Desist Order to the East Bay Municipal Utility District (EBMUD), the City of Albany and other East Bay Communities (Order No. 86-17, reissued with Order No. 93-134).

c. In an effort to solve the problem of sewage overflows in compliance with the Cease and Desist Order, the affected jurisdictions jointly developed a compliance plan. The plan used a broad-based Sewer System Evaluation Study completed in 1985 by CDM Jordan/Montgomery. The CDM Jordan/Montgomery study found that a significant component of infiltration and inflow (I/I) is infiltration, consisting of groundwater or runoff from rainfall that passes through the soil into defects in the sewer pipes and associated structures.
d. In addition, there exist in the City numerous stormwater inflow connections into Upper Sewer Laterals, such as downspouts and storm drains (Non-Sanitary Sewer Connections) on private property.

e. Infiltration and Non-Sanitary Sewer Connections are major sources of the I/I that occur during the rainy season. Evidence supporting this conclusion includes leakage test data, internal inspection by television, smoke test results, conditions documented by excavations, and direct flow measurements.

f. The CDM Jordan/Montgomery study recommended that the affected jurisdictions update and enforce their sewer ordinances as required to implement the program’s recommendations, including an ordinance requiring testing and repair of Upper Sewer Laterals as a condition on the sale of property or significant remodeling, and requiring all property owners to eliminate Non-Sanitary Sewer Connections and correct defective sewers.

g. The City of Albany began implementation of a program requiring the testing and repair of Upper Sewer Laterals as a condition on the sale of property or significant remodeling in 1994. These provisions will continue to apply within the jurisdiction as provided in this Ordinance and the East Bay Municipal Utility District Regional Private Sewer Laterals Ordinance.

SECTION 2: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.1 TITLED “DEFINITIONS” IS HEREBY AMENDED AS FOLLOWS:
The following terms apply to this section and augment definitions found in the California Building Standards Code.

*Alameda County Department of Environmental Health* shall mean the designated authority within Alameda County Government empowered by the City Council to enforce various provisions of Chapter XV.

*Compliance Certificate* shall mean a certificate issued by the City prior to the effective date of this Ordinance or by EBMUD after the effective date of this Ordinance indicating that all Upper Sewer Laterals associated with a parcel comply with the requirements of this Chapter and the Regional Ordinance and have passed a Verification Test.

*Cleanout* shall mean a segment of pipe connected to a Sewer Lateral rising vertically to the surface. Provides access to the lateral for purposes of routine flushing and rodding to free plugs.

*Common Interest Development* A development managed or governed by a Homeowners' Association. Examples of Common Interest Developments may include condominium projects, planned unit developments, community apartment projects (in which the individual units are owned) and stock cooperatives.

*Director* shall mean the Director of Public Works for the City of Albany, or his or her designated representative.

*EBMUD* shall mean East Bay Municipal Utility District, Special District No. 1.

*EBMUD Director* shall mean the Director of the Wastewater Department of EBMUD, or his or her designated representative.

*Enforcing Officer* shall be the Public Works Director or his or her designated representative.
Exemption Certificate shall mean a certificate issued by the EBMUD as described in the Regional Ordinance. A Property Owner who holds an Exemption Certificate for a given parcel need not obtain a Compliance Certificate for that parcel during the period the Exemption Certificate remains valid.

Homeowners' Association shall mean a nonprofit corporation or unincorporated association created for the purpose of managing or governing a Common Interest Development and that operates in accordance with governing documents, whether or not the corporation or association is formally designated or commonly referred to as a Homeowners' Association.

Lineal Consanguinity Relationship shall mean a Relationship with another person where and only where, one person is a direct descendent of the other person. The following are examples of Lineal Consanguinity Relationships: parent and child, grandparent and grandchild, and great-grandparent and great-grandchild. Persons are not in a Lineal Consanguinity Relationship if neither person is directly descended from the other, even if both persons are descended from a common ancestor. The following are not Lineal Consanguinity Relationships: aunt and niece, uncle and nephew, siblings, and cousins of any degree.

Lower Sewer Lateral shall mean that portion of the Sewer Lateral extending from the Cleanout near the curb line to the Sewer Main, or from the curb line in the street to the Sewer Main if there is no Cleanout near the curb line. The Lower Sewer Lateral includes the connection to the Sewer Main.

Maintenance shall mean routine flushing or rodding of a sewer to maintain a free flowing condition.

Non-Sanitary Sewer Connection shall mean anything that directly or indirectly conveys storm water, surface water, roof runoff, intercepted groundwater or subsurface drainage into the
Sanitary Sewers, including, but not limited to, down spouts, yard drains, sump pumps, or other sources of storm water, run-off or groundwater.

*Parcel Group* shall mean two or more contiguous or directly adjacent parcels of real property under common ownership.

*Property Owner* shall mean a person that owns a parcel of real property, or that person’s authorized representative. As used in this paragraph, “person” means an individual, trust, corporation, nonprofit organization, Homeowners’ Association, partnership, firm, joint venture, limited liability company, association, or Public Entity.

*Public Entity* shall mean any city or county; any special district or agency of the state formed pursuant to general law or special act for the local or regional performance of governmental or proprietary functions within limited boundaries; any agency or entity created pursuant to the Joint Exercise of Powers Act (Cal. Gov. Code § 6500, et seq.); a school district or a community college district; the University of California; the California State University; an air pollution control district or an air quality maintenance district; a housing authority; and any other entity with the capacity to own real property created by any of the above.

*Regional Ordinance* shall mean the Regional Private Sewer Lateral Ordinance adopted by EBMUD and any future amendments or modifications thereto.

*Remodel* shall mean any significant improvement, addition, construction, reconstruction, modification or alteration of or to an existing or previously existing Structure.

*Repair* shall mean construction activities, performed by a licensed contractor to bring an Upper Sewer Lateral into compliance with this Chapter and the Regional Ordinance, consisting of the correction of less than the entire Upper Sewer Lateral.
Replacement shall mean construction activities, performed by a licensed contractor to bring an Upper Sewer Lateral into compliance with this Chapter and the Regional Ordinance, consisting of the replacement or lining of the complete length of the Upper Sewer Lateral.

Sanitary Sewer shall mean sewer pipes that convey wastewater from a Structure and to which storm water, groundwater, or surface water is not intentionally admitted.

Sewer Lateral shall mean a pipe or pipe and appurtenances that conveys wastewater from the plumbing of a Structure to a Sewer Main. Also referred to as "building sewer" in the California Standards Building Code.

Sewer Main shall mean a publicly owned Sanitary Sewer that receives flow from Sewer Laterals. The Sewer Main does not include any portion of the Sewer Lateral.

Storm Sewer or Storm Drain shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

Structure shall mean any building or facility that is required to be provided with public sewer service, or that is actually provided with public sewer service, or that is served by a Sewer Lateral.

Time Extension Certificate shall mean a certificate issued by EBMUD in connection with a Title Transfer transaction to a Property Owner, or to a transferee, that extends the deadline to obtain a Compliance Certificate for 180 days from the date the Time Extension Certificate is issued.

Title Transfer shall mean the sale or transfer of an entire real property estate or the fee interest in that real property estate, excluding the sale or transfer of partial interest such as a leasehold. The following are not Title Transfers for purposes of this Chapter and the Regional Ordinance:
1. a transfer to an heir by a trustee or other fiduciary in the course of the 
administration of a decedent’s estate, guardianship, conservatorship, or trust;
2. a transfer from one co-owner to one or more other co-owners, or from one or 
more co-owners into or from a revocable trust, if the trust is for the benefit of the 
grantor or grantors;
3. a transfer made by a trustor to fund an inter vivos trust;
4. a transfer made to a spouse, or to a registered domestic partner as defined in 
Section 297 of the Family Code, or to a person or persons in a Lineal Consanguinity 
Relationship with one or more of the transferors;
5. a transfer between spouses or registered domestic partners resulting from a 
decree of dissolution of marriage or domestic partnership, or resulting from a decree of 
legal separation or from a property settlement agreement incidental to a decree; and
6. a transfer from a Property Owner to a financial institution as a result of a 
foreclosure or similar process. A transfer from a financial institution to a new Property 
Owner is a Title Transfer for purposes of this Chapter or the Regional Ordinance.

*Upper Sewer Lateral* shall mean that portion of the Sewer Lateral connecting from a 
Structure to the Cleanout at the curb line. If there is no Cleanout at the curb line, the Upper 
Sewer Lateral shall be considered as the portion connecting from the Structure to the curb line in 
the street. When the Upper Sewer Lateral connects to a rear yard Sewer Main, the entire Sewer 
Lateral, including the wye connection, shall be considered the Upper Sewer Lateral. An Upper 
Sewer Lateral is associated with a parcel if it, or any portion of it, is located upon the parcel or 
conveys sewage and liquid waste from any Structure located on that parcel. More than one Upper 
Sewer Lateral may be associated with an individual parcel.
User shall mean and include any dwelling, unit, firm, association, organization, public corporation, political subdivision (including the City of Albany), County, district, State of California, or United States of America, or any department or agency thereof.

Verification Test shall mean a test witnessed by EBMUD's authorized representative(s) to verify that all Upper Sewer Laterals associated with a parcel comply with the requirements of this Chapter and the Regional Ordinance.

(Ord. #94-01, §1)

SECTION 3: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.3 TITLED "CONSTRUCTION OF LARGER SANITARY SEWER MAINS" IS HEREBY AMENDED AS FOLLOWS:

a. Contract for Reimbursement. Whenever a subdivider or other Property Owner requires the construction of Sewer Mains from his respective property to the nearest sewer main outside of his respective property, and where, in the opinion of the City Council it is necessary that a Sewer Main be constructed of a larger capacity than the minimum capacity needed to serve such subdivision or other property, and that such extended Sewer Main will be or can be used in the disposal of sewage from adjacent properties not in such subdivision or other properties, the City Council may contract with the subdivider or Property Owner so as to provide a means of reimbursement to the subdivider or Property Owner for the additional costs incurred for the increased size or design of such sewage main and for other facilities.
b. **Determination of Extra Cost.** The City Engineer shall determine the amount of money necessary to cover the cost of the construction provided by subsection 15-1.2 over and above the minimum cost of mains and other facilities that the subdivider or other Property Owner would expend if the construction of mains were of the size, design, and capacity sufficient to serve their respective properties only. Costs shall be based on materials only.

c. **Proration and Payment of Extra Cost.** The amount of money determined by the City Engineer under the provisions of paragraphs a. and b. shall be prorated by the City Engineer against all parcels of land outside the subdivision or outside the tract of land owned by the applicant, that may later be served by connections to the Sewer Main. In no event shall an owner of property to be served by such extended sewer line or other facilities be permitted to connect thereto without first paying to the City the prorated charge above mentioned and the connection costs of this section.

d. **Refund of Money Collected.** All money mentioned in this subsection shall be refunded to the subdivider or other Property Owners who constructed such enlarged main lines or facilities mentioned in this subsection. Such refunds shall be made as soon as payments are received by the City. If the entire amount of money due to the subdivider or other Property Owners under the contract with the City has not been refunded in full within the period of ten (10) years from the date of the contract, the same shall terminate and be of no further force or effect.

e. **Notice of Refund.** Any person entitled to any refund under the provisions of this subsection shall keep on file with the City Clerk his correct mailing address. In the event the City
Clerk is unable to locate any person entitled to receive a refund hereunder, he shall send a written notice to such person by registered mail to the last address filed by such person with him. Such written notice shall contain a statement of the amount of such refund and shall also advise such person that if the refund is not called for within one (1) year of the date of such notice, all rights of such person to that particular refund shall be forfeited.

f. Charges, Etc., Not to Bear Interest. None of the charges made in this section nor any of the payments collected pursuant to this section shall bear interest.

(Ord. #94-01, §1)

SECTION 4: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.4
TITLED "CLEANOUTS REQUIRED" IS HEREBY AMENDED AS FOLLOWS:

a. In addition to building Cleanouts required by the California Building Standards Code, there shall be a two (2) way cleanout installed in the building sewer behind the curb or near the property line in a location approved by the City. Such Cleanout shall be a double-wye meeting the material and installation standards developed by the City Engineer. (Ord. #94-01, §1)

b. An uncapped or improperly capped cleanout constitutes a violation of this provision.

SECTION 5: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.14
TITLED "PERMIT REQUIRED" IS HEREBY AMENDED AS FOLLOWS:
A written permit shall be obtained from the Director of Public Works or his duly authorized representative before construction, Repair, Replacement or abandonment of a building sewer. However, no building sewer permit shall be required for the clearance of sewer stoppages in a privately-owned building sewer. (Ord. #94-01, §1)

SECTION 6: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.15 TITLED “PERMIT APPLICATION" IS HEREBY AMENDED AS FOLLOWS:

No permit shall be issued until the following has been submitted by the applicant and approved by the Director of Public Works.

a. List of materials that shall be used to construct the building sewer.
b. Building sewer permit fee.
c. When required by the Director of Public Works, the applicant shall also provide a site plan showing the proposed location of the building sewer, including location of the connection to the public sewer and of all Cleanouts on the building sewer.
d. Other submittal requirements of the California Building Standards Code.

(Ord. #94-01, §1)

SECTION 7: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.19 TITLED “BUILDING SEWER MATERIALS FOR CONSTRUCTION AND REPAIR" IS HEREBY AMENDED AS FOLLOWS:
All materials used and all joints made in the construction or Repair or Replacement of building sewers shall be watertight and free from defects. No materials or construction procedures shall be used in the construction or Repair or Replacement of a building sewer without the approval of the Director of Public Works. All construction and materials shall comply with the latest edition of the City Standard Specifications and Drawings. (Ord. #94-01, §1)

SECTION 8: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.20 TITLED “SEWER LATERAL CONSTRUCTION AND REPAIR” IS HEREBY AMENDED AS FOLLOWS:

All Sewer Laterals shall be constructed, Repaired or Replaced in accordance with the requirements designated by the Director of Public Works. All work shall be tested by the Property Owner in the presence of the Director of Public Works or his designated representative in a manner approved by the Director of Public Works. (Ord. #94-01 §1)

SECTION 9: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.21 TITLED “ABANDONMENT OF EXISTING SEW LATERALS AND SEWAGE DISPOSAL FACILITIES” IS HEREBY AMENDED AS FOLLOWS:

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

SECTION 10: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.22 TITLED "PROPERTY OWNERS RESPONSIBILITY FOR UPPER SEWER LATERALS" IS HEREBY AMENDED AS FOLLOWS:

a. General. It shall be the responsibility of the Property Owner to perform all required maintenance, Repair and Replacement of the Upper Sewer Lateral in accordance with this Chapter and the Regional Ordinance. An Upper Sewer Lateral must meet the following minimum standards:

1. Upper Sewer Lateral shall be kept free from roots, grease deposits, and other solids which may impede the flow or obstruct the transmission of waste.

2. All joints shall be watertight and all pipe shall be sound to prevent exfiltration by waste or infiltration by ground water or storm water.
3. The Upper Sewer Lateral shall be free of any structural defects, cracks, breaks, openings, rat holes, or missing portions and the grade shall be uniform without sags or offsets.

4. The Upper Sewer Lateral shall have a two (2) way Cleanout located at the property line or at the Sewer Main easement. All Cleanouts shall be securely capped with a proper cap at all times.

5. There shall be no Non-Sanitary Sewer Connections to the Upper Sewer Lateral or to any plumbing that connects thereto.

b. Compliance. Property Owners must maintain all Upper Sewer Laterals associated with their parcels to the extent necessary to ensure the Upper Sewer Laterals meet the standards of this Chapter and comply with all other requirements of the Regional Ordinance. Property Owners must perform any Repair or Replacement and perform any inspections necessary to ensure the Upper Sewer Laterals meet those standards and requirements.

1. All Property Owners must obtain a Compliance Certificate from EBMUD at the time and in the manner required by the Regional Ordinance.

2. Title Transfer. Before completing a Title Transfer associated with a parcel containing any Structure, either the transferor or transferee, as negotiated between them, shall obtain a Compliance Certificate from EBMUD, unless a Time Extension Certificate is obtained. After the Title Transfer is complete, the transferee is solely responsible for obtaining a Compliance Certificate. The requirement to obtain a Compliance Certificate before Title Transfer in no way affects the legality of the transfer of title in the underlying property transaction.
3. Construction and Remodeling. Whenever a Property Owner submits an application for any permit or other approval needed for new construction upon a parcel, or for Remodeling of an existing or previously existing Structure, the Property Owner shall obtain a Compliance Certificate from EBMUD before obtaining a final permit. This paragraph applies to construction and Remodeling if the cost of the permitted work exceeds the dollar amount specified in the Regional Ordinance.

4. Change in Water Services. Whenever a Property Owner applies for any permit or other approval from EBMUD for an increase or decrease in size of the Property Owner’s water meter, the Property Owner shall obtain a Compliance Certificate from EBMUD before obtaining a final permit or approval. EBMUD may permit or approve an increase or decrease in water meter size without first requiring the Property Owner to obtain a Compliance Certificate if the Property Owner has submitted a pending application for a permit subject to paragraph 3 above.

5. A Property Owner may at any time voluntarily request a Compliance Certificate for a given parcel from EBMUD, and EBMUD shall issue the Compliance Certificate as provided by the Regional Ordinance if the Upper Sewer Lateral located upon the parcel passes a Verification Test.

c. Time Extension Certificates. If a Compliance Certificate cannot be obtained before the Title Transfer, the transferor, transferee, or other interested party or parties may obtain a Time Extension Certificate from EBMUD in accordance with the Regional Ordinance. Time Extension Certificates are issued in connection with Title Transfer transactions only.
d. **Exemption Certificates.** A Property Owner may request an Exemption Certificate from EBMUD in accordance with the Regional Ordinance.

e. **Common Interest Developments.** Property Owners within Common Interest Developments must obtain Compliance Certificates from EBMUD as described in the Regional Ordinance.

f. **Parcels or Parcels Groups with Upper Sewer Laterals Exceeding 1000 Feet.** The Property Owner of any parcel or any Parcel Group with Upper Sewer Laterals exceeding 1000 feet in total combined length within the parcel or Parcel Group must comply with the requirements for a Condition Assessment Plan, Corrective Action Work Plan and Compliance Certificate as specified in the Regional Ordinance.

g. **Fees.** The City may establish fees for administration of this Chapter. The Property Owner shall be responsible for paying any fees established by the City in addition to any fees established by EBMUD.

h. **Enforcement.** EBMUD shall enforce the Regional Ordinance and the City shall enforce the provisions of its Municipal Code. Any violation of any provision of this Chapter shall be deemed a public nuisance and a misdemeanor, but may be cited and prosecuted, in the discretion of the enforcing officer, as an infraction, and shall be punishable as set forth in Chapter 1.20 of this Code.
SECTION 11: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.25 TITLED “EMERGENCY WORK BY CITY” IS HEREBY AMENDED AS FOLLOWS:

Whenever, in the opinion of the Director of Public Works, the public health, safety, or welfare shall require that Repairs, Replacement or other protective measures to a building sewer be made or instituted immediately, he is hereby authorized to proceed with all necessary work to abate the condition and may enter upon private property for such purpose. He may erect and maintain all necessary barricades, warning lights, and other protective devices upon public or private property. He/she shall notify the owner of the premises as the circumstances shall permit.

The owner of the property upon which the condition exists and the person creating such condition shall be jointly and severally liable to the City for all costs incurred by it in abating the emergency condition and erecting and maintaining the protective devices. (Ord. #94-01, §1)

SECTION 12: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.26 TITLED “NOTICE OF VIOLATION, UPPER SEWER LATERAL” IS HEREBY AMENDED AS FOLLOWS:

The Director of Public Works shall investigate all dangerous and unsanitary conditions existing in or about Upper Sewer Laterals and may periodically require that sewers be tested at the Property Owner’s expense. The Property Owner is responsible for having the test conducted. If such a condition is a menace to life, health, safety or property, or is in violation of law, he
shall, in writing, order the owner of the premises to discontinue use of the sewer, or, to
discontinue all construction work with respect to the sewer, and to abate the condition in such
manner as shall comply with the law. Any stoppage in the Upper Sewer Lateral or break in the
watertight integrity of the Upper Sewer Lateral shall be conclusively presumed to be a menace to
life, health, safety, or property for purposes of requiring abatement of such condition.

Such notice shall be served personally to the owner or by mailing such notice to the
owner certified, postage prepaid and addressed to the address last shown on the Alameda County
secured assessment rolls, and by posting a copy of such notice on the property. Should the
property fail to comply with the order to Repair or Replace within the time limits set forth by the
notice, the Director of Public Works, or his/her designee, is hereby authorized to enter the
property to cause such Repairs or Replacement as necessary. The property owner shall be
responsible for all costs incurred by the City, and reimburse the City for such costs as specified
under subsection 15-1.27. (Ord. #94-01, §1)

SECTION 13: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-
1.27 TITLED “REPAIRS AND REPLACEMENT BY CITY; COSTS; LIABILITY” IS
HEREBY AMENDED AS FOLLOWS:

The Property Owners whose property is served by the Repaired or Replaced Upper Sewer
Lateral shall reimburse the City for the costs of Repairs or Replacement made by the City to such
sewers within thirty (30) days after billing therefor by the City. If the Repaired or Replaced
sewer serves more than one property owner, each shall be billed for his share of the Repair or
Replacement costs. In determining the share of the costs for each property owner, the Public Works Director shall consider the number of parcels of property served by the sewer, the nature of the malfunction, the cause of the malfunction, and the volume and nature of the sewage and liquid wastes flowing into the sewer from each parcel of property served by the sewer. (Ord. #94-01, §1)

SECTION 14: CHAPTER XV OF THE ALBANY MUNICIPAL CODE, SECTION 15-1.28 TITLED "FAILURE TO PAY; SPECIAL SERVICE WEE" IS HEREBY AMENDED AS FOLLOWS:

If any Property Owner who is responsible for the costs of Repairs or Replacement made by the City to an Upper Sewer Lateral does not reimburse the City within thirty (30) days after billing by the City, the owner shall be given ten (10) days' notice by certified mail by the City Clerk of a Council meeting at which the owner may contest such charges. If the Council determines that the Repair or Replacement work was the responsibility of the Property Owner and the amount charged, or other amount as may be determined, to be fair and equitable, a special service fee for such charges shall be imposed upon the real property of the owner, and such special service fee shall become due and payable with the next property tax bill. If there is more than one Property Owner served by the Upper Sewer Lateral, each Property Owner shall have a special service fee imposed upon their property for their share of the Repair or Replacement costs. (Ord. #94-01 §1)

SECTION 15: SEVERABILITY.
If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 16: PUBLICATION AND EFFECTIVE DATE.

This ordinance shall be posted at three public places within the City of Albany and shall become effective upon the later of the following events: (1) the Consent Decree in United States of America, et al. v. EBMUD (09-186) Effective Date, or (2) the effective date of the amendments to the Regional Private Sewer Lateral Ordinance required by such Consent Decree.

PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on the 5th day of May 2014, by the following vote:

AYES: Council members: Atkinson, Barnes, Maas, Vice Mayor Wile + Mayor Thomsen

NOES:

ABSENT:

ABSTAIN:

Peggy Thomsen, Mayor

PEGGY THOMSEN, MAYOR
ORDINANCE NO. 2014-04

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

this 5th day of May, 2014, by the following votes:

AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile and Mayor Thomsen

NOES: none

ABSTAINED: none

ABSENT: none


Eileen Harrington
DEPUTY CITY CLERK

The City of Albany is dedicated to maintaining its small town ambiance, responding to the needs of a diverse community, and providing a safe, healthy and sustainable community.
NOTICE OF POSTING

STATE OF CALIFORNIA
COUNTY OF ALAMEDA

I, Eileen A. Harrington, Deputy City Clerk of the City of Albany, County of Alameda, State Of California, say:

That on the 6th day of May, 2014, I posted notices in the following areas designated as the official posting areas for the City of Albany:

CITY HALL

SENIOR CENTER

LIBRARY/COMMUNITY CENTER

The notice was for: ORDINANCE 2014-04 – An Ordinance of the Albany City Council Amending Chapter XV, Sewers and Sanitation, of the Albany Municipal Code to Effectively join the Regional Sewer Lateral Program, administered by East Bay Municipal Utility District.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 5th Day of May, 2014, at Albany, California.

(Signed)
EILEEN A. HARRINGTON
DEPUTY CITY CLERK

Posted: 5/6/14
Effective the later date of:
1) Consent Decree in United States of America, et al. v. EBMUD (09-186) Effective Date, or
2) The effective date of the amendments to the Regional Private Sewer Lateral Ordinance required by such Consent Decree