



**CONSOLIDATED  
REGIONAL  
PRIVATE SEWER  
LATERAL ORDINANCE**

**Effective May 24, 2019**

**Adopted by Ordinance No. 359-13  
Amended by Ordinance No. 362-14  
Amended by Ordinance No. 369-19**

## **DISCLAIMER**

The District's Board of Directors has authorized the public distribution of this document. Its purpose is to restate for the convenience of the public, within a single document, the text of Ordinance No. 359-13 and all subsequent Ordinances which enacted amendments thereto. Although the document was believed to be accurate at the time it was prepared, it has no legal effect separate or apart from Ordinance No. 359-13 and the Board-adopted Ordinances which subsequently amended it. To the extent this document, or any portion of it, may be inconsistent with or conflict with the Ordinances adopted by the Board, the Board-adopted Ordinances will be given full legal effect and not the contrary or inconsistent provision in this document.

# **CONSOLIDATED REGIONAL PRIVATE SEWER LATERAL ORDINANCE**

**Effective May 24, 2019**

SECTION 1.	SHORT TITLE	2
SECTION 2.	PURPOSE	2
SECTION 3.	APPLICABILITY OF REGIONAL ORDINANCE	2
SECTION 4.	DEFINITIONS	3
SECTION 5.	RESPONSIBILITY AND STANDARDS FOR MAINTENANCE OF UPPER SEWER LATERALS	9
SECTION 6.	WHEN A COMPLIANCE CERTIFICATE IS REQUIRED	10
SECTION 7.	HOW TO OBTAIN A COMPLIANCE CERTIFICATE	12
SECTION 8.	COMPLIANCE CERTIFICATE TERM LIMITS	14
SECTION 9.	TIME EXTENSION CERTIFICATES	15
SECTION 10.	EXEMPTION CERTIFICATES	16
SECTION 11.	COMMON INTEREST DEVELOPMENTS	18
SECTION 12.	PARCELS OR PARCEL GROUPS WITH PRIVATE SEWER LATERALS EXCEEDING 1000 FEET	24
SECTION 13.	ENFORCEMENT	28
SECTION 14.	APPEALS	32
SECTION 15.	ADDITIONAL PROVISIONS	35
SECTION 16.	EMERGENCIES	36
SECTION 17.	SEVERABILITY	36
SECTION 18.	EFFECTIVE DATE	37



## **SECTION 1**

### **SHORT TITLE**

This ordinance shall be known as the “Regional Private Sewer Lateral Ordinance” and may be cited accordingly.

*(Ord. No. 359-13, 7-23-2013)*

## **SECTION 2**

### **PURPOSE**

This Regional Private Sewer Lateral Ordinance establishes regulations for the inspection, testing, repair, replacement, and ongoing maintenance of Private Sewer Laterals. The purpose of this Regional Ordinance is to provide for the operation and maintenance of the District’s wastewater conveyance and treatment facilities in a reliable and serviceable manner and to reduce infiltration and inflow into the regional sanitary sewer system.

*(Ord. No. 359-13, 7-23-2013)*

## **SECTION 3**

### **APPLICABILITY OF REGIONAL ORDINANCE**

This Regional Ordinance applies only within the sewer service areas of the City of Alameda, City of Albany, City of Emeryville, City of Oakland, City of Piedmont, and Stege Sanitary District.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*



## SECTION 4

### DEFINITIONS

“Cleanout” means a pipe fitting and associated piping connected to a Private Sewer Lateral that provides access to the Private Sewer Lateral for purposes of flushing, rodding, cleaning, and other maintenance and diagnostic purposes.

“Common Area” has the meaning defined in Article 2, Chapter 1, Part 5, Division 4 of the Civil Code.

“Common Interest Development” means a community apartment project, a condominium project, a planned development, or a stock cooperative, created in accordance with applicable provisions of the California Civil Code and managed by a Homeowners’ Association.

“Compliance Agreement” means an agreement which may be entered into by the District and a person or entity subject to this Regional Ordinance on a voluntary basis as described in Section 13, which may allow additional time to meet Regional Ordinance requirements, modify ordinance requirements as applied to the person or entity, and/or include other terms as described in that Section.

“Compliance Certificate” means a certificate issued by the District upon its determination that all Private Sewer Laterals associated with a parcel have demonstrated compliance with applicable standards by passing a Verification Test.

“Cotenant” means a person who owns a present interest in a parcel of real property concurrently with other persons in the form of a tenancy in common, a joint tenancy, a partnership, community property, or any other form of cotenancy, co-ownership, or concurrent ownership recognized by California law. As used in this definition, “person” means an individual, trust, corporation, nonprofit organization, Homeowners’ Association, partnership, firm, joint venture, limited liability company, or association.

“Director” means the Director of Wastewater of the East Bay Municipal Utility District. The Director may delegate any privilege or duty conferred by this Regional Ordinance upon him or her to a designated representative except for any privilege or duty which this Regional Ordinance expressly reserves for the Director personally.

“District” means Special District No. 1 of the East Bay Municipal Utility District.



“Exclusive Use Common Area” has the meaning defined in Article 2, Chapter 1, Part 5, Division 4 of the Civil Code.

“Exemption Certificate” means a certificate issued by the District as described in Section 10. 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.

“General Waiver” means a status that applies to a Property Owner that relieves the Property Owner from the requirement to perform work on and testing of the Lower Sewer Lateral, or a specified portion of it, where a Satellite presents the District with sufficient evidence that the entire Lower Sewer Lateral was Replaced by the Satellite at any time during the 20 year period preceding a Triggering Event.

“Homeowners’ Association” means 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.

“Limited Waiver” means a document with a definite expiration date issued by a Satellite to a Property Owner for any reason other than the Satellite’s prior Repair or Replacement of the Lower Sewer Lateral that relieves the Property Owner from the requirement to perform work and testing on the Lower Sewer Lateral, or a specified portion of it, until the Limited Waiver’s expiration date.

“Lineal Consanguinity Relationship”. A person is in a Lineal Consanguinity Relationship with another person if, and only if, 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.

“Local Ordinance Requirements” means all standards or requirements duly adopted by a Satellite or a department of a Satellite that relate to the maintenance or condition of Private Sewer Laterals, Lower Sewer Laterals, and/or Upper Sewer Laterals.



“Lower Sewer Lateral” means the portion of the Private 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. A Lower 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 Lower Sewer Lateral may be associated with an individual parcel.

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

“Parcel Group” means two or more contiguous or directly adjacent parcels of real property under common ownership.

“Permitting Authority” means a city, city department, county or special district, including a Satellite but excluding the District, that regulates buildings, construction, land use, and/or sewers within any portion of the District’s wastewater service area.

“Private Sewer Lateral” means a pipe or pipes and appurtenances that carries sewage and liquid waste from the Structure(s) served, whether the Structure(s) is or are publicly or privately owned, to the Sewer Main. The Private Sewer Lateral includes the Upper Sewer Lateral. The Private Sewer Lateral of a given parcel includes the Lower Sewer Lateral only if applicable Local Ordinance Requirements require the Property Owner to obtain a Compliance Certificate for the Lower Sewer Lateral. A Private 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 Private Sewer Lateral may be associated with an individual parcel.

“Property Owner” means a person that owns a present interest in a parcel of real property as a sole owner or as a Cotenant. As used in this definition, “person” means an individual, trust, corporation, nonprofit organization, Homeowners’ Association, partnership, firm, joint venture, limited liability company, or association. A Public Entity is not a Property Owner for purposes of this Regional Ordinance. Any person expressly required by applicable Local Ordinance Requirements to obtain a Compliance Certificate from the District or pursuant to this Regional Ordinance is a Property Owner for purposes of this Regional Ordinance.



“Public Entity” means any of the following: (1) a city or county, (2) a 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, (3) an agency or entity created pursuant to the Joint Exercise of Powers Act (Cal. Gov. Code, § 6500, et seq.), (4) a school district or community college district, (5) the University of California, (6) the California State University, (7) an air pollution control district or an air quality maintenance district, (8) a housing authority, or (9) any other entity with the capacity to own real property created by any of the above.

“Regional Ordinance” means this Regional Private Sewer Lateral Ordinance.

“Remodeling” means any significant improvement, addition, construction, reconstruction, remodeling, modification or alteration of or to an existing or previously existing Structure.

“Repair” means construction activities performed to bring a Private Sewer Lateral into compliance with this Regional Ordinance and/or applicable Local Ordinance Requirements consisting of the correction of less than the entire Private Sewer Lateral, except a Replacement of the entire Upper Sewer Lateral is a Replacement and not a Repair if the Property Owner holds General Waiver status.

“Replacement” means construction activities performed to bring a Private Sewer Lateral into compliance with this Regional Ordinance and/or applicable Local Ordinance Requirements consisting of the replacement or lining of the complete length of the Private Sewer Lateral, or the complete length of the Upper Sewer Lateral if the Property Owner holds General Waiver status. “Replaced” has the same meaning as “Replacement” where used in this Ordinance.

“Sanitary Sewer” means sewer pipes that convey wastewater from a Structure and to which storm water, groundwater or surface water is not intentionally admitted. The Sanitary Sewer includes Sewer Mains and Private Sewer Laterals.

“Satellite” means a city or special district that owns and operates a sanitary sewer collection system to which a Private Sewer Lateral is connected within the District’s wastewater service area. Satellites include the cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont, and the Stege Sanitary District.

“Section” means a section of this Regional Ordinance unless otherwise specified.



“Separate Interest” has the meaning defined in Article 2, Chapter 1, Part 5, Division 4 of the Civil Code.

“Sewer Main” means a publicly owned Sanitary Sewer that receives flows from Private Sewer Laterals. The Sewer Main does not include any portion of a Private Sewer Lateral.

“State of Emergency”. A State of Emergency exists while there is in effect a declaration of emergency within the District’s service area or any portion thereof, made by Board of Directors of the District under the Municipal Utility District Act (Pub. Util. Code, § 11501 et seq.), or by any person to whom the Board of Directors has expressly delegated that authority, or by any person authorized to declare an emergency of any degree under the California Emergency Services Act (Gov. Code, § 8550 et seq.) or under Federal law.

“Statement of Responsibility” means a written statement submitted to the District under penalty of perjury in circumstances required or permitted by this Regional Ordinance which contains all information required by this Regional Ordinance or by the Director and which serves as an evidentiary basis for certain determinations made under this Regional Ordinance in the manner provided herein.

“Structure” means 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 Private Sewer Lateral.

“Time Extension Certificate” means a certificate issued by the District 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” means the sale or transfer of an entire real property estate or the fee interest in that real property estate, whether held in sole ownership or concurrently with others in any form of cotenancy, co-ownership, or concurrent ownership recognized by California law. A sale or transfer of an entire interest in a condominium is a Title Transfer. The following are not Title Transfers for purposes of this Regional Ordinance:

- (1) the transfer of a partial interest such as a leasehold;
- (2) a transfer to a beneficiary by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust;
- (3) a transfer from one Cotenant to one or more other existing Cotenants;



(4) a transfer made by a trustor to fund or defund an inter vivos trust, or by an executor to fund a testamentary trust;

(5) 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;

(6) 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;

(7) a transfer from a Property Owner to a financial institution as a result of a foreclosure or similar process, provided that a transfer from a financial institution to a new Property Owner is a Title Transfer for purposes of this Regional Ordinance; and

(8) a transfer in either direction between a business entity and an individual or corporation who or which owns shares or equity securities possessing more than 50 percent of the voting power of the business entity.

“Triggering Event” means any event described in Section 6 that, upon the occurrence of the event and subject to the exceptions listed in that Section, imposes an obligation on a Property Owner to obtain a Compliance Certificate.

“Upper Sewer Lateral” means the portion of the Private Sewer Lateral extending from the Cleanout near the curb line to the Structure(s) served by that Private Sewer Lateral, or from the curb line in the street to the Structure(s) served by that Private Sewer Lateral if there is no Cleanout near the curb line. The Upper Sewer Lateral includes all portions of the Private Sewer Lateral upon the parcel containing the Structure(s) served. If the parcel contains a sewer pipe system or multiple Private Sewer Laterals, the entire sewer pipe system, including manholes and other appurtenances, and all Private Sewer Laterals are part of the Upper Sewer Lateral to the extent they are located on that parcel. If a Private Sewer Lateral connects to a rear or side yard Sewer Main located in an easement, or to a manhole, the entire Private Sewer Lateral, including the connection to the Sewer Main or manhole, is an 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.



“Verification Test” means a test witnessed by the District’s authorized representative(s) to verify that a Private Sewer Lateral has been maintained in accordance with this Regional Ordinance.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 5

### **RESPONSIBILITY AND STANDARDS FOR MAINTENANCE OF UPPER SEWER LATERALS**

- (a) All Upper Sewer Laterals must meet the following standards:
- (1) The Upper Sewer Lateral shall be kept free from roots, grease deposits, and other solids which may impede or obstruct the flow.
  - (2) All joints shall be watertight and all pipes shall be sound.
  - (3) The Upper Sewer Lateral shall be free of any structural defects such as fractures, cracks, breaks, openings, or missing portions.
  - (4) All Cleanouts shall be securely sealed with a proper cap or approved overflow device 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) 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 Section and comply with all other requirements of this Regional Ordinance and all applicable Local Ordinance Requirements. Property Owners must perform any Repair or Replacement necessary to ensure the Upper Sewer Laterals meet those standards and requirements.
- (c) Public Entities shall maintain Upper Sewer Laterals associated with their parcels in full compliance with the standards of this Section.



(d) The discharge of wastewater from any Upper Sewer Lateral not in compliance with the standards of this Section is prohibited.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 6

### WHEN A COMPLIANCE CERTIFICATE IS REQUIRED

(a) All Property Owners must obtain a Compliance Certificate at the time and in the manner required by this Section, except for the following:

- (1) Property Owners entitled to an Exemption Certificate under Section 10;
- (2) Property Owners within certain Common Interest Developments governed by Section 11; and
- (3) Property Owners subject to Section 12 pursuant to the provisions of subsection (a) of that Section.

(b) Title Transfer. Before completing a Title Transfer associated with a parcel containing any Structure, either the transferor or the transferee, as negotiated between them, shall obtain a Compliance Certificate under Section 7, unless a Time Extension Certificate is obtained as provided in Section 9. Failure to obtain a Compliance Certificate or a Time Extension Certificate before the Title Transfer is complete is a violation of this Regional Ordinance, and 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.

(c) Construction or Remodeling. Whenever a Property Owner submits an application to a Permitting Authority 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 under Section 7 before obtaining a final permit or approval from the Permitting Authority. This subsection applies to construction and Remodeling if the cost of the permitted work exceeds \$100,000.00.



(d) Change in Water Services. Whenever a Property Owner requests an increase or decrease in size of the Property Owner's water meter, the Property Owner shall obtain a Compliance Certificate under Section 7 before the East Bay Municipal Utility District will perform work on the water meter. The East Bay Municipal Utility District may increase or decrease a water meter's size without first requiring the Property Owner to obtain a Compliance Certificate if the Property Owner holds a permit for construction or Remodeling subject to subsection (c) of this Section.

(e) Local Ordinance Requirements. A Property Owner must obtain a Compliance Certificate under Section 7 when expressly required to do so by Local Ordinance Requirements.

(f) Cotenants.

(1) Responsibility of Cotenants. Each Cotenant of a parcel is jointly and severally liable for the obligations of each other Cotenant under this Regional Ordinance except where otherwise provided by law. Without limiting the foregoing, whenever an obligation arises for any Cotenant to obtain a Compliance Certificate with respect to a parcel, whether because a Triggering Event has occurred or for any other reason, each and every Cotenant of the parcel is liable to obtain the Compliance Certificate.

(2) Exception. The Director may determine that a Cotenant should be excused from any or all obligations under this Regional Ordinance if it is demonstrated that the Cotenant does not hold an ownership interest in a parcel's Private Sewer Lateral. A Cotenant may seek such a determination by submitting a Statement of Responsibility to the District under penalty of perjury which states the relevant facts, includes copies of relevant title documents with citation to specific supporting portions thereof, and represents that a copy has been provided to all other Cotenants. The Director shall consider the information presented in the Statement of Responsibility and other relevant evidence when making the determination.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*



## SECTION 7

### HOW TO OBTAIN A COMPLIANCE CERTIFICATE

(a) Whenever a Compliance Certificate is required under this Regional Ordinance, or at any time a Property Owner voluntarily requests a Compliance Certificate, a Property Owner who does not hold a valid Compliance Certificate shall do the following at the Property Owner's expense:

(1) Condition Assessment and Repair or Replacement. The Property Owner shall take steps to assess the condition of all Private Sewer Laterals associated with the parcel to determine whether the Private Sewer Laterals comply with the standards set forth in Section 5, all other requirements of this Regional Ordinance, and all applicable Local Ordinance Requirements. If the Private Sewer Laterals are not in compliance, the Property Owner shall obtain any required permits and perform all Repair or Replacement work needed to bring the Private Sewer Laterals into compliance.

(2) Verification Testing. After the Property Owner determines through any combination of inspection, Repair and/or Replacement that the Private Sewer Laterals associated with the parcel are in compliance with this Regional Ordinance and applicable Local Ordinance Requirements, and upon payment of the required Compliance Certificate fee and any other applicable fees, the Property Owner shall perform a Verification Test in accordance with the District's procedures in the presence of the District's authorized representative. The District will issue a Compliance Certificate if its authorized representative determines that the Verification Test confirms that all Private Sewer Laterals associated with the parcel are in compliance with this Regional Ordinance, except that Compliance Certificates issued within Common Interest Developments will be issued on the conditions set forth in Section 11.

(b) Procedures for Verification Testing of Private Sewer Laterals. The Director will maintain written procedures for Verification Testing. The procedures shall be made available upon request.

(c) Effect of General Waiver. A Property Owner who holds General Waiver status may obtain a Compliance Certificate without performing condition assessment, Repair or Replacement work, or Verification Testing on the Lower Sewer Lateral.



(d) Effect of Limited Waiver. If a Satellite has issued a Limited Waiver for the Lower Sewer Lateral or a portion of it, the Property Owner may obtain a Compliance Certificate without performing condition assessment, Repair or Replacement work or Verification Testing on the Lower Sewer Lateral, except such work and testing is required for any portion of the Lower Sewer Lateral not covered by the Limited Waiver.

(e) Voluntary Certification. The District shall provide a Compliance Certificate to any Property Owner or Public Entity who requests one and passes a Verification Test conducted pursuant to this Section, including but not limited to a Property Owner or Public Entity who receives notice from the District or a Satellite that the Private Sewer Lateral is damaged, deteriorating, defective, or in any other way fails to comply with Section 5 or with applicable Local Ordinance Requirements.

(f) Effect of Subsequent Verification Test. A Property Owner who already holds a valid unexpired Compliance Certificate may obtain a new Compliance Certificate from the District by requesting one and obtaining a passing Verification Test result in the presence of the District's authorized representative with respect to all Private Sewer Laterals associated with the parcel and complying with all other requirements of subsection (a) of this Section. A new Compliance Certificate issued by the District under this subsection shall be valid until the later of the following: (i) the expiration of the time period specified in Section 8 applicable to the newly issued Compliance Certificate, or (ii) the expiration date of the previously issued Compliance Certificate. If the Verification Test is performed with respect to less than all Private Sewer Laterals associated with the parcel, the District will provide written evidence of any passing Verification Test result upon request and payment of applicable fees but will not issue a new Compliance Certificate nor modify the expiration date of any existing Compliance Certificate.

(g) Exception to Verification Test Requirement. The Director may authorize a Compliance Certificate to be issued without the performance of a Verification Test, if a Property Owner submits evidence which, in the Director's judgment, establishes that (i) the Private Sewer Lateral meets the standards set forth in Section 5, and (ii) it is physically infeasible to perform a Verification Test upon the Private Sewer Lateral in accordance with standard District procedures due to its insufficient length or particular configuration (e.g., located entirely beneath a Structure). The Property Owner shall bear all costs associated with producing the required evidence. If the Director finds a portion of the Private Sewer Lateral can feasibly be tested, a Verification Test must be performed with respect to that portion as a precondition of receiving a Compliance Certificate. The validity period of a Compliance Certificate issued under this subsection shall be determined as provided in Section 8.



(h) Discharge Prohibition. The discharge of wastewater from any Private Sewer Lateral which has not passed a Verification Test when required by this Regional Ordinance is prohibited.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 8

### COMPLIANCE CERTIFICATE TERM LIMITS

(a) Term Limit. A Compliance Certificate obtained as a result of Replacement of all Private Sewer Laterals associated with the parcel shall be valid for 20 years from the date of issuance and other Compliance Certificates shall be valid for 7 years from the date of issuance, except as provided in subsections (b), (c) and (d) of this Section, subsection (g) of Section 11, and subsection (d)(3) of Section 12.

(b) Effect of General Waiver. A Compliance Certificate obtained by a Property Owner while the Property Owner holds General Waiver status shall be valid for a specified period as follows:

(1) A Compliance Certificate obtained as a result of Replacement of the entire Upper Sewer Lateral shall be valid for 20 years from the date the Compliance Certificate is issued; and

(2) All other Compliance Certificates shall be valid for 7 years from the date the Compliance Certificate is issued, except as provided in subsection (d) of this Section, subsection (g) of Section 11, and subsection (d)(3) of Section 12.

(c) Effect of Limited Waiver. If a Satellite has issued a Limited Waiver for the Lower Sewer Lateral, or a portion of it, the Compliance Certificate shall be valid for the same period as the Limited Waiver and shall expire on the Limited Waiver's expiration date, provided that the Compliance Certificate shall in no case be valid beyond 7 years from the date it is issued.

(d) Revocation and Modification of Compliance Certificate.

(1) Nothing in this Regional Ordinance creates a right or entitlement to a Compliance Certificate obtained by error, omission, fraud, or misrepresentation. If the Director determines a Compliance Certificate was obtained by the error,



omission, fraud, or misrepresentation of any person or entity, the Director may do any of the following:

- (i) require recertification or issue a compliance schedule;
- (ii) revoke a Compliance Certificate or modify the effective period of the Compliance Certificate if the District provides 30 days prior written notice of the intended revocation or modification; or
- (iii) immediately revoke the Compliance Certificate if the Director determines the Compliance Certificate was obtained by fraud, misrepresentation, or other intentionally wrongful or misleading means.

(2) The Director shall mail a written notice to the affected Property Owner notifying such party of the intent to revoke or modify the Compliance Certificate, or of any immediate revocation already made. Within 30 days after the date the revocation notice was mailed, the affected Property Owner may submit a written appeal in accordance with the procedures in this Regional Ordinance challenging the revocation decision and will bear the burden to prove by a preponderance of the evidence that the Compliance Certificate was properly issued. In all other respects, appeals under this subsection will proceed in accordance with the provisions of Section 14. Failure to appeal the revocation within 30 days will result in the revocation or modification described in the notice without further right of administrative appeal.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 9

### TIME EXTENSION CERTIFICATES

(a) Availability. If a Compliance Certificate cannot be obtained before Title Transfer, the transferor, transferee, or other interested party or parties may obtain a Time Extension Certificate from the District. Time Extension Certificates are issued in connection with Title Transfer transactions only.

(b) Deposit. The Time Extension Certificate shall be completed and submitted to the District along with a refundable \$4,500.00 deposit and any nonrefundable fee that the District may require. The deposit will be refunded after a Compliance Certificate is



issued. The District may refund a deposit in other circumstances specified by the Director.

(c) Validity Period. A Time Extension Certificate expires 180 days after it is issued.

(d) Obligation of Property Owner or Transferee. During the 180-day validity period of a Time Extension Certificate, the Property Owner or transferee must complete any necessary Repair or Replacement and obtain a Compliance Certificate. Property Owners are responsible for the full cost of compliance with this Regional Ordinance and applicable Local Ordinance Requirements and that cost may exceed the deposit.

(e) Forfeiture of Deposit. If a Compliance Certificate is not obtained before a Time Extension Certificate expires, the deposit may be forfeited and the current Property Owner is subject to enforcement action as provided by this Regional Ordinance. The Property Owner may apply to the District for release of forfeited funds, less the District's costs. The District will not release forfeited funds unless the Property Owner first demonstrates full compliance with this Regional Ordinance.

(f) No Renewal. Time Extension Certificates are not renewable.

(g) Transferability. The Director may authorize and regulate the transferability of Time Extension Certificates. Transfers, if authorized, shall not extend the Time Extension Certificate's expiration date.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 369-19, 4-23-2019)*

## **SECTION 10**

### **EXEMPTION CERTIFICATES**

(a) Generally. An Exemption Certificate issued in connection with a parcel excuses the Property Owner of that parcel, while the Exemption Certificate remains valid, from any requirement to obtain a Compliance Certificate upon the occurrence of a Triggering Event. An Exemption Certificate also documents to third parties that no Compliance Certificate is required. Grounds for Exemption Certificates are specified in this Section. The District may require a Property Owner to submit specified supporting documentation for review before an Exemption Certificate will be issued.



(b) Exemption for Documented Prior Work on Private Sewer Lateral.

(1) Alameda, Albany & Stege Sanitary District. The City of Alameda, the City of Albany and Stege Sanitary District issued documents similar to Compliance Certificates before this Regional Ordinance became effective in their jurisdictions. A Property Owner may request an Exemption Certificate from the District if one of these Satellites, before the Regional Ordinance became effective in its jurisdiction, issued a valid and un-expired document similar to a Compliance Certificate indicating that all Private Sewer Laterals associated with the Property Owner's parcel met applicable standards at the time the document was issued, and such Exemption Certificate will expire on the same date that the document issued by the Satellite expires.

(2) Emeryville, Oakland & Piedmont. The Cities of Emeryville, Oakland, and Piedmont did not issue documents similar to Compliance Certificates before this Regional Ordinance became effective in their jurisdictions but did issue final building and sewer permits that, in some cases, indicate the Private Sewer Laterals on the parcel were Replaced or newly constructed. A Property Owner may request an Exemption Certificate from the District if one of these Satellites issued a dated and approved final building or sewer permit indicating that all Private Sewer Laterals associated with the Property Owner's parcel were Replaced or newly constructed. The District will issue an Exemption Certificate upon receiving confirmation from the issuing Satellite of the final permit's validity. The Exemption Certificate expires ten years after the date the Satellite took final action with respect to the permit that provides the basis for the Exemption Certificate. An Exemption Certificate will not be issued unless the Satellite issued the final permit during the ten-year period preceding the Regional Ordinance's effective date within the Satellite sewer service area in which the parcel is located:

Satellite	First Day of Ten-Year Period	Last Day of Ten-Year Period	Regional Ordinance Effective Date
City of Emeryville	8/22/2001	8/21/2011	8/22/2011
City of Oakland	1/16/2002	1/15/2012	1/16/2012
City of Piedmont	8/22/2001	8/21/2011	8/22/2011



(c) Other Exemptions.

(1) Grounds. A Property Owner may request a short-term Exemption Certificate on any of the following grounds:

(i) an entire real property estate, or the fee interest in that real property estate, has been sold or transferred, and the District is provided documentation showing the sale or transfer is not a Title Transfer as defined by this Regional Ordinance;

(ii) no Private Sewer Lateral ever existed on the parcel;

(iii) no Private Sewer Lateral associated with the parcel is connected to the public sewer system; or

(iv) all Private Sewer Laterals associated with the parcel are pressurized.

(2) Expiration. An Exemption Certificate issued on any grounds provided by subsection (c)(1) will expire as follows:

(i) six months after issuance, if issued on the grounds provided in subsection (c)(1)(i) and before the sale or transfer is recorded; and

(ii) one month after issuance in all other cases.

(d) Common Interest Developments. A Property Owner of an individual unit within a Common Interest Development need not obtain and will not be issued an Exemption Certificate if the Homeowners' Association has assumed responsibility to maintain all Private Sewer Laterals within the Common Interest Development.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 11

### COMMON INTEREST DEVELOPMENTS

(a) Compliance Certificate Requirement. Compliance Certificates must be obtained with respect to Common Interest Developments at the times and in the manner described in this Section. A development not governed or managed by a Homeowners'



Association is not a Common Interest Development for purposes of this Regional Ordinance, and the provisions of this Section shall not apply thereto.

(b) Presumed Responsibility. In accordance with section 4775 of the California Civil Code, whenever a Compliance Certificate is required under this Section, parties within a Common Interest Development shall each be presumed responsible to demonstrate proper maintenance of the Private Sewer Lateral by passing a Verification Test and obtaining a Compliance Certificate in the following manner, unless such presumption is rebutted in the manner provided by this Section:

(1) Each Property Owner within a Common Interest Development is presumed to be responsible to pass a Verification Test and obtain a Compliance Certificate for the length of Private Sewer Lateral located within the Separate Interest owned by that Property Owner and within the Exclusive Use Common Area appurtenant to that Separate Interest.

(2) The Homeowners' Association which governs or manages a Common Interest Development is presumed to be responsible to pass a Verification Test and obtain a Compliance Certificate for the length of Private Sewer Lateral located within the Common Area.

(3) These presumptions may be rebutted by a sufficient written Statement of Responsibility provided to the District under penalty of perjury as described in this Section which demonstrates that maintenance responsibility has been allocated in a different manner within a Common Interest Development.

(c) Statement of Responsibility by Homeowners' Association.

(1) Each Homeowners' Association which governs or manages a Common Interest Development must, not later than 180 days after the effective date of the amended Regional Ordinance or 180 days after the Homeowners' Association first assumes governance or management responsibility for a Common Interest Development, provide a written Statement of Responsibility to the District under penalty of perjury, with a copy to each Property Owner within the Common Interest Development, which describes the manner in which maintenance responsibility is allocated within the Common Interest Development among Property Owners and the Homeowners' Association. The Statement of Responsibility shall include the following information:



(i) a list of all parcels within the Common Interest Development by Assessor's Parcel Number;

(ii) a description of the allocation and boundary of maintenance responsibility as between the Homeowners' Association and the Property Owners. If maintenance responsibility has been allocated with respect to Private Sewer Laterals specifically, the Statement of Responsibility shall describe the manner and boundary of such allocation; otherwise, the Statement of Responsibility shall describe the manner and boundary of allocation of maintenance responsibility with respect to Common Areas, Exclusive Use Common Areas, and Separate Interests or such other manner maintenance responsibility is actually allocated in the development;

(iii) a copy of the relevant portions of the declaration of common interest, condominium plan, or other governing documents which describe the Common Interest Development's date of formation and manner of allocating maintenance responsibility for the Private Sewer Lateral(s) or otherwise generally within the development, with citation to supporting provisions thereof;

(iv) a map or diagram depicting the parcel boundaries, location of sewer laterals, and extent of each party's responsibility for sewer lateral maintenance; and

(v) a statement that the information provided is current and complete and that the Homeowners' Association has provided a copy of the Statement of Responsibility to all Property Owners within the Common Interest Development.

(2) The Homeowners' Association may omit from its Statement of Responsibility any information it has previously provided to the District, so long as the Statement of Responsibility states that the previously provided information remains correct.

(3) The Homeowners' Association must provide an updated written Statement of Responsibility not later than 30 days after any action is taken which has the effect of modifying the allocation of maintenance responsibility between Property Owners and the Homeowners' Association, unless the modification does not affect Private Sewer Lateral maintenance.



(d) Compliance Certificate of a Homeowners' Association. A Homeowners' Association (except one responsible to maintain over 1,000 feet of Private Sewer Lateral within a single Common Interest Development, in which case the Homeowners' Association is subject to the requirements of Section 12 and not this Section) must pass a Verification Test and obtain a Compliance Certificate at the times and in the manner described below:

(1) Existing Homeowners' Association. A Homeowners' Association which first assumed responsibility to govern or manage a Common Interest Development on or before July 12, 2019 must, not later than July 12, 2021, obtain a Compliance Certificate by paying applicable fees and passing a Verification Test for the portion of the Private Sewer Lateral within the Homeowners' Association's maintenance responsibility as evidenced in the Statement of Responsibility submitted by the Homeowners Association, or if a sufficient Statement of Responsibility has not been provided then for the portion within the Common Area.

(2) New Homeowners' Association. A Homeowners' Association which first assumed responsibility to govern or manage a Common Interest Development after July 12, 2019 must, within twenty-four (24) months of the date of the date it first assumed such responsibility, obtain a Compliance Certificate by paying applicable fees and passing a Verification Test for the portion of the Private Sewer Lateral within the Homeowners' Association's maintenance responsibility as evidenced in the Statement of Responsibility submitted by the Homeowners Association, or if a sufficient Statement of Responsibility has not been provided then for the portion within the Common Area.

(3) Increase in Responsibility. A Homeowners' Association, regardless of the date it first assumed responsibility to govern or manage a Common Interest Development, which at any time after the deadline for providing a Statement of Responsibility to the District takes any action which has the effect of increasing the physical extent of the Homeowners' Association's Private Sewer Lateral maintenance responsibility must, within twenty-four (24) months of taking such action, pass a Verification Test for the portion of the Private Sewer Lateral within the physical area of increased responsibility, provided that the Homeowners' Association must meet any deadline set forth in subsections (d)(1) or (d)(2) with respect to any portion of the Private Sewer Lateral subject to those subsections, and further provided that, if by reason of taking such action the Homeowners' Association becomes subject to Section 12 pursuant to subsection



(a) of that Section, then the Homeowners' Association shall comply with the requirements of that Section and thereafter shall have no further obligations or privileges under this Section 11.

(4) Decrease in Responsibility. A Homeowners' Association, regardless of the date it first assumed responsibility to govern or manage a Common Interest Development, which at any time after the deadline for providing a Statement of Responsibility to the District takes any action which has the effect of decreasing the physical extent of the Homeowners' Association's Private Sewer Lateral maintenance responsibility must, prior to taking such action, pass a Verification Test for the portion of the Private Sewer Lateral within the physical area subject to such action unless both of the following are true: (i) the entire portion of the Private Sewer Lateral that is otherwise required to be tested has passed a prior Verification Test, and (ii) a Compliance Certificate was issued based on that passing Verification Test result and remains valid and unexpired.

(e) Statement of Responsibility by Property Owner. If a Triggering Event occurs with respect to a parcel within a Common Interest Development and the Homeowners' Association has not provided the Statement of Responsibility required of it by this Regional Ordinance or a Property Owner disputes the correctness of a Statement of Responsibility previously provided by the Homeowners' Association, the Property Owner must promptly submit a Statement of Responsibility to the District under penalty of perjury, with a copy to the Homeowners' Association, as follows.

(1) If the Property Owner is not responsible to maintain any portion of the Private Sewer Lateral pursuant to the governing documents of the Common Interest Development, the Property Owner's Statement of Responsibility shall so state, and such Statement shall be accompanied by a copy of the portions of the declaration of common interest or other governing documents relevant to the allocation of maintenance responsibility, with citation to supporting provisions thereof.

(2) In all other circumstances, the Statement of Responsibility must describe the specific portion of Private Sewer Lateral which is the Property Owner's responsibility to maintain. The Statement of Responsibility must identify the portion of the Private Sewer Lateral located within the Property Owner's Separate Interest and within any Exclusive Use Common Area appurtenant to the Separate Interest, or such other portion which is the Property Owner's responsibility to maintain pursuant to the governing documents of the Common



Interest Development. The Statement of Responsibility must be accompanied by all information required of a Statement of Responsibility submitted by a Homeowners' Association except the Property Owner need not depict or describe parcels other than the Property Owner's parcel nor lengths of Private Sewer Lateral which are not the Property's Owner's responsibility to maintain.

(f) Compliance Certificates of Property Owners in Common Interest Developments.

(1) A Property Owner within a Common Interest Development must obtain a Compliance Certificate when a Triggering Event occurs with respect to the Property Owner's parcel, unless a sufficient Statement of Responsibility is or has been submitted which evidences the Property Owner's non-responsibility to maintain any portion of the Private Sewer Lateral.

(2) A Property Owner may obtain a Compliance Certificate by paying applicable fees and passing a Verification Test for the following portion of the Private Sewer Lateral:

(a) the portion identified in a Statement of Responsibility as within the Property Owner's responsibility to maintain, if a sufficient Statement of Responsibility is or has been provided; or

(b) the portion located within the Separate Interest and any Exclusive Use Common Area appurtenant thereto, if no such Statement of Responsibility is or has been provided.

(g) Validity Period of Compliance Certificates in Common Interest Developments.

(1) A Compliance Certificate issued pursuant to subsection (d) of this Section is valid for twenty (20) years, unless revoked or modified sooner pursuant to subsection (d) of Section 8.

(a) Not later than twenty-four (24) months after the expiration of a Compliance Certificate issued pursuant to subsection (d) of this Section, the Homeowners' Association must pass a Verification Test for the portion of the Private Sewer Lateral which is designated as its responsibility to maintain in the Statement of Responsibility in effect at the time the Compliance Certificate expires.



(b) Upon expiration of a Compliance Certificate issued pursuant to subsection (d) of this Section, each Property Owner of a parcel previously covered by such expired Compliance Certificate shall become subject to subsection (f) of this Section and shall be required to comply with the requirements of that subsection thereafter.

(2) A Compliance Certificate issued pursuant to any provision of this Section other than subsection (d) is valid for either seven (7) or twenty (20) years depending on the nature of work performed as provided in Section 8, unless revoked or modified sooner pursuant to subsection (d) of Section 8. Upon expiration of such Compliance Certificate, each Property Owner of a parcel previously covered by such expired Compliance Certificate shall become subject to subsection (f) of this Section and shall be required to comply with the requirements of that subsection thereafter.

(h) If a Homeowners' Association or a Property Owner within a Common Interest Development does not provide a sufficient Statement of Responsibility when required by this Ordinance, or if any such party disputes any portion of responsibility allocated to it in a written Statement of Responsibility previously submitted by any party, the District may make an administrative determination based on the evidence and subject to the right of appeal by the Homeowners' Association or Property Owner in accordance with Section 14, and/or seek a court order declaring the extent of each party's responsibility to comply with this Regional Ordinance, ordering that such work be done by those responsible, and providing any other available legal or equitable remedy.

*(Ord. No. 369-19, 4-23-2019)*

## SECTION 12

### **PARCELS OR PARCEL GROUPS WITH PRIVATE SEWER LATERALS EXCEEDING 1000 FEET**

(a) Applicability of this Section. A Property Owner other than a Homeowners' Association becomes subject to the requirements of this Section at the earliest time that both of the following are true: (i) the Property Owner holds an ownership interest in a parcel or Parcel Group, and (ii) the Private Sewer Lateral(s) associated with that parcel or Parcel Group collectively exceed 1,000 feet in total combined length. A Homeowners' Association becomes subject to the requirements of this Section at the earliest time it is responsible for managing or governing over 1,000



feet of Private Sewer Laterals within a Common Interest Development. The term “Property Owner,” as used in the remainder of this Section, includes a Homeowners’ Association that is subject to this Section’s requirements.

(b) Condition Assessment Plan. A Property Owner subject to this Section shall submit a Condition Assessment Plan for District review. The Property Owner must submit a Condition Assessment Plan no later than July 12, 2016 if the Property Owner became subject to this Section before that date, or otherwise no later than the last-occurring of (i) November 20, 2019 or (ii) 180 days after the Property Owner first becomes subject to this Section’s requirements. The Condition Assessment Plan shall include (i) a list of all parcels by Assessor’s Parcel Number subject to this Section’s requirements, (ii) a map drawn to scale (with scale indicated) which shows the approximate location, length, and diameter of all Private Sewer Laterals and segments thereof associated with the parcel or Parcel Group (or of all Private Sewer Laterals and segments thereof managed or governed by the Homeowners’ Association, if the Condition Assessment Plan is submitted by a Homeowners’ Association), and (iii) a schedule for the performance of testing to assess the condition of such Private Sewer Laterals. The District will accept a Condition Assessment Plan if it contains all required information and indicates the total combined length of Private Sewer Laterals exceeds 1,000 feet.

(c) Corrective Action Work Plan.

(1) Requirement and Deadline. After submitting a Condition Assessment Plan to the District and completing the testing described therein, a Property Owner subject to this Section shall submit a Corrective Action Work Plan for District review no later than July 12, 2021, or twenty-four (24) months after the Property Owner first becomes subject to this Section, whichever is later.

(2) Contents. The Corrective Action Work Plan shall (i) summarize results of the condition assessment of all pipe required to be included in the Condition Assessment Plan (e.g., CCTV or smoke testing results), (ii) identify and describe the location, length, and material of all sewer lateral pipe which requires repair or replacement to meet the standards of this Regional Ordinance, (iii) describe the type of work to be performed to bring the pipe into compliance with the standards set forth in Section 5, all other requirements of this Regional Ordinance, and all applicable Local Ordinance Requirements including the method of pipe replacement (e.g. node-to-node) and method of addressing



manholes, (iv) include a schedule for completion of listed tasks, and (v) include a bid price or contractor's estimate for the required work.

(3) Review and Acceptance. The District shall accept the Corrective Action Work Plan if it contains all required information, appears to address all Private Sewer Laterals requiring work, and specifies a schedule which will result in full compliance within the time allowed by this Regional Ordinance. Upon accepting the Corrective Action Work Plan, the District will determine the Property Owner's deadline to comply with subsection (d) based on the information contained in the Corrective Action Work Plan and the standard set forth in subsection (d)(2)(i), and the Property Owner shall meet such deadline. The District may require a Property Owner to demonstrate adequate progress towards completion by conditioning Corrective Action Work Plan acceptance upon a requirement for the Property Owner to demonstrate completion of discrete tasks or milestones described in the Corrective Action Work Plan within the period of time specified therein.

(d) Compliance Certificate.

(1) Requirement. A Property Owner subject to this Section's requirements must do all of the following: (i) complete all work described in the Corrective Action Work Plan, (ii) pay the required Compliance Certificate fee and any other applicable fees, (iii) perform a Verification Test in accordance with the District's procedures in the presence of the District's authorized representative for all Private Sewer Laterals associated with the parcel or Parcel Group owned by the Property Owner, or in the case of a Homeowners' Association all Private Sewer Laterals managed or governed by the Homeowners' Association, and (iv) obtain a Compliance Certificate for each parcel involved. The District will issue a Compliance Certificate if its authorized representative determines that the Verification Test confirms that all Private Sewer Laterals required to be tested are in compliance with this Regional Ordinance.

(2) Deadlines.

(i) A Property Owner who first becomes subject to this Section's requirements on or before July 12, 2019 must comply with all requirements of subsection (d)(1) no later than July 12, 2026, except the Director shall allow until July 12, 2029 if the Director determines the accepted Corrected Action Work Plan demonstrates either of the following: (I) that more than 5,000 feet of Private Sewer Laterals are



associated with the parcel or Parcel Group or are managed or governed by a Homeowners' Association, or (II) that more than fifty percent (50%) of the Private Sewer Laterals will need to be replaced.

(ii) A Property Owner who first becomes subject to this Section's requirements after July 12, 2019 must comply with all requirements of subsection (d)(1) no later than eighty-four (84) months after the date the Property Owner first becomes subject to this Section's requirements, except the Director shall allow one hundred twenty (120) months if the Director makes the determination described in subsection (d)(2)(i) of this Section.

(iii) A Compliance Agreement may be entered into pursuant to subsection (k) of Section 13 for the purpose of increasing the time allowed for a Property Owner to meet the requirements of this Section, but only if the Director determines, in his or her sole discretion, that (I) additional time is appropriate due to the existence of compelling extenuating circumstances, and (II) a Compliance Agreement appears otherwise appropriate in light of the circumstances and the factors set forth in subsection (k) of Section 13. The Director may include a provision in a Compliance Agreement conditioning any extension that is granted on a requirement that the Property Owner pass a Verification Test for a specified percentage of Private Sewer Lateral by a specified date, and/or in any other respect provided for in subsection (k) of Section 13.

(3) Validity Period. The Compliance Certificate(s) shall be valid for 20 years from the date issued unless revoked or modified pursuant to subsection (d) of Section 8, and upon expiration the Property Owner must obtain new Compliance Certificate(s) under Section 7.

(4) Reductions Below 1,000 Feet. A Property Owner subject to this Section must pass a Verification Test for all Private Sewer Laterals associated with the Property Owner's parcel or Parcel Group (or, if the Property Owner is a Homeowners' Association, then for all Private Sewer Laterals managed or governed by the Homeowners' Association) prior to taking any action which would have the effect of reducing below 1,000 feet the total combined length of such Private Sewer Laterals.

(e) Templates; Additional Information. The Director may require information or plans to be submitted on standard forms or templates provided by the District. The



Director may require additional information to be submitted as deemed necessary for the purposes of this Regional Ordinance.

(f) Effect of Plan Acceptance. The District reviews Condition Assessment Plans and Corrective Action Work Plans for completeness only, and not for the substantive adequacy of the work proposed, nor for compliance with Local Ordinance Requirements applicable in the Property Owner's jurisdiction. The District's acceptance of a plan in no way warrants that the work described therein will achieve a particular result or meet Local Ordinance Requirements. The District shall not be liable for any costs, damages, or losses incurred to achieve compliance with this Regional Ordinance or with Local Ordinance Requirements.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 369-19, 4-23-2019)*

### **SECTION 13**

#### **ENFORCEMENT**

(a) Enforcement Authority. The Director shall enforce this Regional Ordinance. Enforcement of Local Ordinance Requirements is the responsibility of the Satellite that adopted the Local Ordinance Requirements.

(b) Violations. Each of the following acts or omissions is a violation of this Regional Ordinance:

- (1) Failure to obtain a Compliance Certificate when one is required;
- (2) Failure to obtain a Time Extension Certificate if a Compliance Certificate is not obtained, or failure to timely perform all required work after receiving a Time Extension Certificate;
- (3) Failure to comply with any of the District's requirements for Repair, Replacement and Verification Testing;
- (4) Obtaining or seeking an Exemption Certificate or a Compliance Certificate by means of fraud or misrepresentation;
- (5) Presenting a false Exemption Certificate or Compliance Certificate;



(6) Discharging wastewater from any Upper Sewer Lateral which does not meet the standards of Section 5, or from any Private Sewer Lateral which has not passed a Verification Test when required by this Regional Ordinance;

(7) Failure to submit a sufficient Statement of Responsibility when required by this Regional Ordinance;

(8) Failure to comply with an order of the Director made in connection with the enforcement of this Regional Ordinance;

(9) Failure to comply with any term or condition of a Compliance Agreement entered into pursuant to this Section; and/or

(10) Failure to comply with any other requirement of this Regional Ordinance.

(c) Nuisance. The Board of Directors of the District hereby finds and declares that each discharge of wastewater from a Private Sewer Lateral made by any person or entity not in compliance with this Regional Ordinance, or made from any parcel for which a Compliance Certificate is not obtained when required, is a nuisance.

(d) Enforcement Action. The Director may take enforcement action against a person or entity who violates the provisions of this Regional Ordinance or fails to perform any act required by this Regional Ordinance. The Director may pursue any and all administrative and judicial remedies available to the District at law or in equity or under this Regional Ordinance.

(e) Orders. When the Director finds that a person or entity violates or threatens to violate this Regional Ordinance, the Director may issue an order to cease and desist and direct that those persons or entities found to be in violation to (1) comply forthwith, (2) comply in accordance with a time schedule set by the Director, or (3) in the event of a threatened violation, take appropriate remedial or preventative action.

(f) Judicial Enforcement. Upon authorization by the District's Board of Directors, the Director may initiate a judicial action or proceeding to enforce this Regional Ordinance or any order the Director may issue hereunder. The Director may seek any available remedy in such action or proceeding, including any or all of the following:



(1) a declaration of the rights and obligations of any person or entity subject to the Regional Ordinance and/or a declaration that the person or entity is in violation of the Regional Ordinance;

(2) an injunction restraining the continuance of any discharge made in violation of this Regional Ordinance and/or requiring compliance with the provisions of this Regional Ordinance;

(3) civil penalties as authorized by law and by this Section.

(g) Civil Penalties. The superior court may impose, assess, and recover the following sums as civil penalties in any judicial action or proceeding which the District may initiate under the authority of this Section:

(1) Any person or entity who fails to comply with any order issued by the District shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which the discharge, violation, or refusal occurs.

(2) Any person or entity who intentionally or negligently violates any order issued by the District for violation of rules regulating or prohibiting discharge of wastewater which causes or threatens to cause a condition of contamination, pollution, or nuisance may be liable civilly in a sum not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(h) Costs and Fees. The District may recover from any person or entity in violation of this Regional Ordinance the costs it incurs in connection with enforcing this Regional Ordinance, including staff time, and may seek attorneys' fees in any court action or proceeding.

(i) Availability of Remedies. Remedies under this Section are in addition to and do not supersede or limit any and all other legal or equitable remedies.

(j) Continuing Violations. Each day that a violation of this Regional Ordinance continues shall constitute a separate violation, and each such violation shall be subject to a separate penalty and to any other remedy available hereunder.

(k) Compliance Agreements.

(1) Generally. The Director may, in the exercise of his or her sole discretion, offer and enter into an enforceable Compliance Agreement with a person or entity subject to this Regional Ordinance on a voluntary basis which



allows additional time to meet Regional Ordinance requirements, modifies ordinance requirements as applied to the person or entity, or includes other terms consistent with the provisions of this subsection (k).

(2) Availability. In deciding whether to offer or enter into a Compliance Agreement, the Director shall consider the totality of the circumstances and determine, in his or her sole discretion, whether entering into a Compliance Agreement would best further the Regional Ordinance's purposes and the public's interest in the fair, equitable, and consistent implementation of the Regional Ordinance. The District will generally offer a Compliance Agreement only when the Director determines that compliance within the time allowed by the Regional Ordinance is infeasible or impossible due to circumstances not arising from the Property Owner's negligence or that strict enforcement of a Regional Ordinance requirement would be unreasonable or contrary to the Regional Ordinance's stated purposes.

(3) Contents. A Compliance Agreement may include any terms or conditions deemed necessary or desirable by the District, which may include a requirement to perform specified work on a stated schedule, a required cash deposit in any amount necessary to ensure completion of required work, an obligation to indemnify the District, or other provisions. A Compliance Agreement may temporarily modify Regional Ordinance requirements as applied to a given party but must require the party to achieve full compliance with all Regional Ordinance requirements by a date specified in the agreement. While a party remains in strict compliance with all provisions of a Compliance Agreement, the party will not be subject to enforcement for violation of any Regional Ordinance requirement that is modified by such agreement. A Compliance Agreement does not waive the District's right to enforce the Regional Ordinance if the Compliance Agreement is breached, and the District may take immediate enforcement action in the event of a breach. Agreements must be approved as to form by the District's General Counsel or an attorney designee thereof. Compliance Agreements and related records are public records and are subject to public disclosure to the extent required by law.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 369-19, 4-23-2019)*



## SECTION 14

### APPEALS

(a) Grounds.

(1) A person or entity aggrieved by a decision, action, or determination made by the District in connection with this Regional Ordinance may seek reconsideration by filing an appeal in accordance with this Section no later than 30 days after the occurrence of such decision, action, or determination. For purposes of this Section 14, “occurrence” means either: (i) the date of notice of the decision, action, or determination was personally provided or mailed, whichever is earlier; or (ii) absent evidence of the date of personal or mailed notice, five days after the date the District actually undertook the decision, action, or determination.

(2) A person or entity aggrieved by the District’s failure to take an action required of it by this Regional Ordinance may make a written request for action. If the District responds to the written request by refusing to act, the aggrieved party may seek review by filing an appeal in accordance with this Section no later than 30 days after the refusal to act. If the District does not respond to the written request for action within 30 days, the aggrieved party may seek review by filing an appeal in accordance with this Section no later than 60 days after such party made the written request for action.

(3) A person or entity who believes compliance with any deadline or other requirement of this Regional Ordinance within the time allowed would be impossible, infeasible or unreasonably burdensome due to circumstances not arising from the negligence of the person or entity in light of the particular facts and circumstances applicable to the person or entity or to the relevant property and the Regional Ordinance’s stated purposes may at any time petition for an extension of time to comply or other temporary relief by filing an appeal in accordance with this Section. The deadline to obtain a Compliance Certificate will not be extended if the appellant was eligible to obtain a Time Extension Certificate before filing the appeal but failed to do so.

(4) Notwithstanding the provisions of this subsection (a), the reconsideration process set forth in subsection (d) is the exclusive means to seek further administrative review of the disposition of an appeal.



(b) Form and Contents. The appellant must submit a written statement signed under penalty of perjury containing (i) a description of the decision, action, determination, inaction, deadline, or other requirement that is the subject of the appeal, (ii) a description of the specific relief requested, (iii) a detailed statement of facts which the appellant believes entitles the appellant to the relief requested, and (iv) copies of all supporting documentation or other written evidence the appellant wishes the District to consider. The District may require an appeal to be submitted on a District form.

(c) Consideration and Disposition. The Director shall designate a District officer or employee with managerial authority who will consider the matter and decide whether to grant relief. The Director's designee may request additional information and the appellant shall provide such requested information within fifteen (15) business days or such other time period authorized in writing by the Director's designee. The evidence before the Director's designee shall consist of the written statement and documentation provided by the appellant in support of the appeal, relevant information in the District's files pertaining to the matter, and any other relevant evidence which, in the judgment of the Director's designee, should be considered. The Director's designee shall consider the available evidence in light of the Regional Ordinance's stated purposes and the public's interest in the fair, equitable, and consistent implementation of the Regional Ordinance. The Director's designee, upon considering the available evidence, may find that the appealed decision, action, determination, or inaction was appropriate and proper, or that it is appropriate to enforce the appealed deadline or other requirement without an extension or other relief, and deny the appeal on that basis. Alternatively, the Director's designee may find the appeal meritorious and grant the appeal unconditionally or upon any conditions which the Director's designee determines are reasonable or necessary to accomplish the Regional Ordinance's stated purposes. The Director's designee may decide the matter within fifteen (15) business days from the receipt of the complete appeal, except if the Director's designee requests additional information the matter may be decided within fifteen (15) business days from the deadline to provide such additional information. If the Director's designee does not decide the matter within the above-stated time period, the appeal shall be deemed denied on the first day following that time period. Notice of any decision will be mailed to the person or entity requesting relief. The Director's designee shall consider appeals without a hearing except as follows: (i) an appellant challenging a revocation or intended revocation of a Compliance Certificate shall receive an in-person hearing unless the appellant waives the right to a hearing at any time before the hearing is held, and (ii) an appellant challenging any other District enforcement order or a notification of intent to modify a previously issued Compliance Certificate may obtain an in-person hearing by requesting one when the appeal is filed.



(d) Reconsideration of Appeal Decision.

(1) Within 30 days after the date of mailing of written notice of any District decision granting or denying relief under subsection (c) of this Section, or within 30 days after the date the appeal is deemed denied, any person or entity affected by the decision, action, determination, inaction, deadline, or requirement that was the subject of the appeal may submit to the Director a written request for reconsideration. The Director shall personally consider all requests for reconsideration. The request for reconsideration must set forth in detail the facts and rationale supporting the request under penalty of perjury.

(2) The Director may act on the request for reconsideration with or without a hearing in any manner the Director deems reasonable and shall thereafter issue a final written determination concerning the request for reconsideration. The Director may consider the written appeal submitted pursuant to subsections (a) and (b), the decision rendered by his or her designee pursuant to subsection (c), the request for reconsideration submitted pursuant to subsection (d)(1), relevant information in the District's files pertaining to the matter, and any other relevant evidence which, in the judgment of the Director, should be considered, including any additional information requested by the Director. If the Director fails to act upon the request for reconsideration within fifteen (15) business days after receipt of the request for reconsideration, the request shall be deemed denied.

(3) The Director's decision shall become final and binding at the time the Director acts on the request or fails to act within the time specified by this subsection. If the Director acts on the request for reconsideration, notice of the Director's action will be mailed to the person or entity requesting reconsideration within five (5) business days after the action.

(e) Hearings. Whenever a hearing is to be held pursuant to this Section, the District shall notify the appropriate party by mailed or personal notice that a hearing shall be conducted at a date, time, and location specified in the notice. If a party fails to appear at a scheduled hearing, or if a party who is granted the right to a hearing by this Regional Ordinance waives that right before the hearing is held, the District may render a final determination on the appeal without a hearing. Hearings may be held by the Director personally or by any person designated by the Director.



(f) Effect of Pending Appeal. Any appealed decision, action, determination, deadline, or requirement shall remain in effect and binding upon the appellant while the appeal, including any reconsideration thereof, remains pending.

(g) Exhaustion. Any person or entity aggrieved by a decision, action, determination, or inaction related to this Regional Ordinance who wishes to appeal or challenge the decision, action, determination, or inaction, or who desires to extend a deadline of this Regional Ordinance or receive other temporary relief from a requirement thereof, must seek review by utilizing all procedures available under this Section, and the failure to do so shall be deemed a failure of the person or entity subject to the decision, action, determination, inaction, deadline, or requirement to exhaust administrative remedies.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

## SECTION 15

### ADDITIONAL PROVISIONS

(a) Fees. The District may establish fees in the Water and Wastewater System Schedule of Rates and Charges and Fees for administration of this Regional Ordinance and may modify those fees from time to time. The District may refund fees or deposits for any reason deemed warranted by the Director, including those paid in error.

(b) Regulations. The Director may develop and maintain written regulations, procedures and guidance materials for administration of this Regional Ordinance and shall make them available on the District's website and upon request.

(c) Entry Upon Private Property. To the extent authorized by law, the District may enter upon private property of any person or entity to perform its inspection responsibilities under this Regional Ordinance or to ascertain whether the District's Private Sewer Lateral regulations are being complied with.

(d) Communication with Representatives. The District may communicate with a person or entity other than the Property Owner, such as a rental tenant or a contractor, on the Property Owner's behalf with regard to any transaction arising under this Regional Ordinance, if such person or entity represents to the District that he or she is authorized by the Property Owner to conduct the transaction on the Property Owner's behalf.



(e) Ownership of Certificates. Compliance Certificates and Exemption Certificates are issued to a person or entity only with respect to a specific parcel of property and may not be removed to any other parcel, nor conveyed to any other person or entity except if title is subsequently transferred to another person or entity the transferee shall be deemed to acquire any valid unexpired Compliance Certificate or Exemption Certificate from the transferor upon completion of the transfer of title.

(f) The District may reject any plan, statement or other submittal made under this Regional Ordinance if the District, in its sole discretion, determines the plan, statement or other submittal is inconsistent, invalid, or insufficient for any reason.

(g) The District may direct a party who makes a submittal under this Regional Ordinance to provide additional information, and if such information is not submitted within a reasonable time as determined by the District, the District may deem the plan, statement or other document insufficient in which case it shall be of no effect.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 369-19, 4-23-2019)*

## **SECTION 16**

### **EMERGENCIES**

During a State of Emergency, the Director may temporarily suspend any or all provisions of this Regional Ordinance until the next regular or special meeting of the District's Board of Directors. At the regular or special meeting a report shall be made and the Board may consider whether to authorize continued suspension of this Regional Ordinance for the full duration of the State of Emergency, or for any shorter time period the Board finds appropriate.

*(Ord. No. 359-13, 7-23-2013)*

## **SECTION 17**

### **SEVERABILITY**

If any provision of this Regional Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Regional Ordinance, or the



application of such provision to other persons or circumstances, shall not be affected thereby.

*(Ord. No. 359-13, 7-23-2013)*

## **SECTION 18**

### **EFFECTIVE DATE**

This Regional Ordinance, as amended, shall become effective and in full force at 12:01 a.m. on May 24, 2019.

*(Ord. No. 359-13, 7-23-2013; Ord. No. 362-14, 10-28-2014; Ord. No. 369-19, 4-23-2019)*

