

**ORDINANCE NO. 827- C.S.**

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**A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA AMENDING  
CHAPTER 9 OF TITLE 6 OF THE PACIFICA MUNICIPAL CODE BY DELETING  
SECTION 6-9.02 REGARDING SANITARY SIDE SEWER MAINTENANCE**

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**WHEREAS**, on May 12, 2011, the California Regional Water Quality Control Board, San Francisco Bay Region issued the City of Pacifica a Cease and Desist Order (Order no. R2 2011 0031, hereinafter the "Order"). The Order required the City to develop an Illicit Discharge Elimination Program.

**WHEREAS**, the Order required that pursuant to the Illicit Discharges Elimination Program, the City must develop and implement a program to detect and eliminate illicit discharges. By December 31, 2011, the City was further required to complete and document results of smoke testing of the portions of its collection system identified in the System Evaluation and Capacity Assurance Plan as having the most significant inflow and infiltration and as being most appropriate for smoke testing. The City was also required to impose requirements on private property owners to eliminate illegal drainage connections or defective laterals and shall eliminate any inappropriate cross-connections in Discharger-owned facilities identified during smoke testing.

**WHEREAS**, the Order further required that by November 15, 2011, the City shall adopt an ordinance, or amend existing ordinances, to provide the City with the requisite authority to eliminate illicit discharges and shall take reasonable enforcement efforts under said ordinance(s) to eliminate identified illicit discharges. The City is required to take reasonable enforcement actions against any violators and maintain records to document any such enforcement actions.

**WHEREAS**, in order to comply with the Order, the City Council adopted PMC section 6-13.602.

**WHEREAS**, amendments are necessary to eliminate confusion and contradiction between PMC section 6-9.02 which provides that the City is responsible for maintenance and repairs of side sewers connected to main sewers of the City and PMC section 6-13.602 which provides that property owners are responsible for maintenance and repairs of side sewers connected to main sewers of the City.

**WHEREAS**, industry standards typically require property owners to be responsible for maintenance and repairs of side sewers connected to main sewers of the City because lateral sewers are not considered public sewers and only serve individual private properties.

**NOW, THEREFORE**, The City Council of the City of Pacifica does ordain as follows:

**Section 1.** The above recitals are true and correct and material to this resolution.

**Section 2.** In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff report, and other related materials.

**Section 3. Environmental Review.** The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) of the CEQA Guidelines, as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c)(3) of the CEQA Guidelines as it is not a project as defined by CEQA, pursuant to Section 15378.

**Section 4. Amendment of Chapter 9 of Title 6.** Section 6-9.02 of the Pacifica Municipal Code is hereby deleted in its entirety.

~~**Sec. 6-9.02 Side-sewer maintenance.**~~

~~(a) The owner or person in possession of property connected to a main sewer of the City shall be responsible for the side sewer, from the structure to the main line if no clean-out exists, up to grade, within two (2') feet of the property line and visible at all times. The clean-out and riser shall be constructed in accordance with the provisions of the Plumbing Code of the City.~~

~~The owner or person in possession of property shall be responsible for determining the location of such stoppage or damage prior to notifying the City. If the stoppage or damage is not in fact between the clean-out and the main line, the owner or person in possession shall be liable for the expenses incurred by the City.~~

~~(b) The City, subject to compliance with the provisions of subsection (a) of this section by the property owner or the person in possession of the property, shall be responsible for the proper maintenance and repair of the side sewer connecting such premises beginning at the property line.~~

**Section 4. 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 this Ordinance. The City Council hereby declares that it should have adopted 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 unconstitutional.

**Section 5. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

**Section 6. Effective Date.** This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City's local coastal program pursuant to Section 30514 of the Public Resources Code.

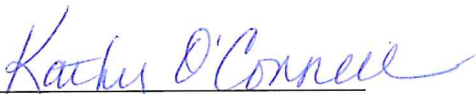
**PASSED AND ADOPTED** this 27th day of November, 2017, by the following vote:

AYES: Martin, Vaterlaus, Digre, Keener, O'Neill  
NOES: None  
ABSTAIN: None  
ABSENT: None

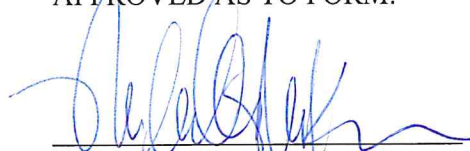
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Mike O'Neill, Mayor

ATTEST:

  
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Kathy O'Connell, City Clerk

APPROVED AS TO FORM:

  
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Michelle Kenyon, City Attorney