

## **Utilities – Sewer Back-ups**

### **I. PURPOSE**

The purpose of this policy is to provide guidance and direction to deal with the issue of sanitary and storm sewer back-ups. This policy is designed to guide staff and inform property owners when a back-up occurs while protecting the financial integrity of the City's sewer funds.

This policy is intended to compliment, not supersede, Public Act 222 of 2001 and current case law that clarifies the conditions under which a municipality is liable for a sanitary or storm sewer back-up.

### **II. SCOPE**

This policy is under the general direction of the City Manager with coordination with the Directors of Public Utilities and Public Works Departments. Coordination is also necessary with the City's insurance carrier. The primary point of contact is the Assistant Finance Director whose office is located at City Hall.

### **III. OWNERSHIP OF INFRASTRUCTURE**

As established by the City's various utilities systems related ordinances, the City owns and is responsible for the maintenance and replacement of sanitary and storm sewer mains. The property owner served by these two utilities is responsible for the maintenance and replacement of the laterals that service a building. A service lateral consists of the pipe from the point of connection with the sanitary or storm sewer mains into the building serviced.

The City recommends that property owners, at their expense, have their sewer laterals cleaned once each year by an insured professional cleaner.

### **IV. PUBLIC ACT 222 OF 2001**

Public Act 222 of 2001 clarifies the conditions under which a municipality is liable for a sewer back-up. The Act sets standards to determine the extent to which a municipality is liable for backups and establishes a process that affected property owners must follow to see if they are eligible for compensation when a back-up occurs.

The Act requires any party making a claim for property damage or physical injury to prove that the public utility had a defect that caused the back-up. Further, the Act requires the party making the claim to prove that the municipality knew, or should have known when

exercising due diligence, that the utility had a defect. If a defect is found, the defect must be 50% or more of the cause of the event and the property damage or physical injury.

#### **V. IF A BACK-UP IS EXPERIENCED**

Property owners who are experiencing a back-up of sanitary or storm sewer between the hours of 8:00 am and 5:00 PM – Monday thru Friday should call City Hall at (616) 527-4170. During all other hours, the call should be made to Ionia Central Dispatch by calling (616) 527-0400.

1. When a call is made staff from the City's Public Works Department will respond to the location and immediately check the sanitary or storm sewer line servicing the property.
2. If flows are normal in the sewer line, a record of the time and date of such inspection shall be made and the property owner contacted.
3. If the back-up is being caused by a plug in the line from the main to the home (the lateral), it is the homeowner's responsibility to contract with a private firm to clean from the home to the main.
4. Contractors cleaning the line from the home to the main are to contact the City at the number(s) listed above prior to performing such work.
5. Contractors who perform such work and cause a plug in the City line shall be responsible for the time of City workers to clear the plug from the City line, equipment costs, and any damage to private property.
6. If the back-up is found to be caused by the City line, the date and time of this finding is to be made and City staff is to immediately clear the plug. In addition, the City camera shall be placed in the City sewer line to determine the cause of the blockage. City staff shall also provide the property owner with a copy of the "City of Ionia Utilities Back-Up Packet" so that the property owner is familiar with his or her rights under PA222 of 2001.

If an apparent back-up occurs and City staff is not contacted to respond, City Hall staff shall be responsible for providing the "City of Ionia Utilities Back-Up Packet" upon being contacted by the affected property owner and being informed of the situation. City Hall staff shall complete the "Utilities Back-Up Complaint Intake Form" to document the inquiry and the mailing of the packet.

#### **VI. MAKING A CLAIM**

PA222 of 2001 requires that a property owner who believes he or she has experienced a loss due to a back-up caused by the City sanitary or storm sewer system to file a written notice of claim within 45 days after the back-up is discovered. A claim form is included in the "City of Ionia Utilities Back-Up Packet". Failure to provide the required written claim within the allotted time will prevent recovery of damages.

**VII. PROCESSING A CLAIM**

Upon receiving a written notice of claim, the Assistant Finance Director shall start a file regarding the claim and transmit to the City's insurer, a copy of the written notice of claim along with any related documentation provided by City Public Works staff or by the property owner. Upon receiving the "Damage Inventory Report" from the property owner and associated information, this information shall also be transmitted to the City's insurer.

**VIII. DETERMINATION OF CITY LIABILITY**

City staff does not determine if the City is liable for a loss experienced by a property owner and shall not provide any opinion on the matter to the property owner. This responsibility is handled by the City's insurer after taking into consideration the provisions of PA222 of 2001 and case law.

If the City's insurer determines the City does have liability, it further determines the level of financial exposure. When determining payment levels to the property owner, the insurer takes into consideration the depreciated value of the lost property. Often times, the insurer will send an adjustor to inspect the damage.

Policy History:

Version 1 – July 2, 2002

Revision 1 – April 1, 2008 (after MML review – February 13, 2008)



**SEWER BACK-UP COMPLAINT INTAKE FORM  
First Notice of Claim**

Date call was received: \_\_\_\_\_ Time: \_\_\_\_\_

Caller's Name: \_\_\_\_\_

Caller's Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Full Name of Property Owner: \_\_\_\_\_

Address of Property Owner: \_\_\_\_\_

Reason for complaint/description of event: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of discovery of event: \_\_\_\_\_ Time: \_\_\_\_\_

**Office Use Only**

Yes  No Notice of Claim Packet Sent to Caller? Date mailed: \_\_\_\_\_

Yes  No Caller was informed of the requirement of written notice to be sent to the Assistant Finance Director within 45 days of discovery of event.

Call was taken by: \_\_\_\_\_ Date Received: \_\_\_\_\_

Time Received: \_\_\_\_\_



**SEWER BACK-UP NOTICE OF CLAIM**

In order to make a claim for damages or physical injury arising from a sanitary or storm sewer, all claimants **MUST** provide the following information:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Address of affected property: \_\_\_\_\_

Briefly describe claim: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of discovery of property damage or physical injury: \_\_\_\_\_

**An individual that has been injured or has suffered property damage as a result of a sewer or water back-up **MUST** provide written notice of the event within 45 days after the date the damage or injury was, or in exercise of reasonable diligence should have been discovered.**

Please return to:  
City of Ionia  
Assistant Finance Director  
114 North Kidd Street  
P.O. Box 496  
Ionia, Michigan 48846

Office Use Only  
Date Received: \_\_\_\_\_  
Forwarded to: \_\_\_\_\_  
Date: \_\_\_\_\_



DATE

Claimant's Name  
Claimant's Address

RE: Utilities Back-Up

Dear Mr./Mrs./Ms.:

On \_\_\_\_\_ you contacted the City of Ionia to claim that on \_\_\_\_\_ you discovered that you had suffered property damage or personal injury as a result of a sanitary or storm sewer back-up. Enclosed, please find the Notice of Claim form and instructions for your use.

You are required to comply with the notice requirements contained in Public Act 222 of 2001. Any claim you make must be made in writing within 45 days after the date the damage or physical injury was discovered or in the exercise of reasonable diligence, should have been discovered. The written notice must contain your name, address, telephone number, the address of the affect property, the date of discovery of any property damage or physical injury, and a brief description of the claim. The enclosed forms should assist you in reporting your claim.

Should you have any questions, please feel free to contact me.

Sincerely Yours,

Assistant Finance Director  
Enclosure

