

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 which 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 the Community Development, 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 which 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, 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 what 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 fax to the City’s current contact at the Michigan Municipal League Liability and Property Pool (MML), 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 faxed to the MML.

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 MML as the City’s insurer after taking into consideration the provisions of PA222 of 2001 and case law.

If the MML determines that the City does have liability, the MML determines the level of financial exposure to the City. When determining payment levels to the property owner, the MML takes into consideration the depreciated value of the lost property. Often times MML will send an adjustor to the building 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: _____



CITY OF IONIA

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: _____ Telephone: _____

_____ E:Mail: _____

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
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



CITY OF IONIA

SEWER BACK-UP DAMAGE INVENTORY REPORT

CLAIMANT: _____

Attach copies of support documents which include: Date of purchases, store of purchases, brand name, copies of receipts.

Item No.	Description	Cost New	Age	City Use Only
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____

TOTAL: _____
TOTAL CLAIM: _____

Prepared by: _____
Address: _____
Telephone Number: _____
E-Mail Address: _____