

RESOLUTION #2011-017**A RESOLUTION AMENDING THE POLICY OF THE CITY OF RAPID CITY TO REIMBURSE OWNERS FOR THE COST OF COMMERCIAL CLEANING OF PROPERTY DAMAGED BY SEWER BACKUPS**

WHEREAS, from time to time a blockage of a portion of the City's sewer system causes sewage to backflow into private buildings without fault on the part of the City; and

WHEREAS, the City has no legal liability for such events not occasioned by negligence on the part of the City; and

WHEREAS, homeowner's insurance typically does not cover the damage for such events; and

WHEREAS, the City finds that the public health, safety, and interest would be served by having property damaged by sewer backup flows cleaned by commercial cleaners; and

WHEREAS, the Common Council of the City of Rapid City has previously adopted a policy concerning the reimbursement of property owners for damage caused by sewer backups; and

WHEREAS, the Common Council desires to amend said policy.

NOW THEREFORE, BE IT RESOLVED by the City of Rapid City that the City hereby declares the following policy:

1. The City shall reimburse the owner or occupant of a private building which is damaged by the backflow of sewage from the City sewer system into such building for the cost of commercial cleaning and disposal or the cost of rental of commercial cleaning equipment made reasonably necessary by such event. Such reimbursement shall be according to the terms of this Resolution.
2. The amount of such reimbursement shall not exceed three dollars (\$3.00) per affected square foot per event and shall be limited to the cost of commercial cleaning and disposal only, with no payment for loss, damage to, or replacement of real or personal property. "Affected square foot" shall mean each square foot of floor space that came into contact with sewage that flowed from the City sewer system. Any reimbursement above Five Thousand Dollars (\$5,000) requires Council ~~approval~~ notification. Alternatively, the City shall reimburse such owner or occupant for the cost of rental of cleaning equipment, not to exceed Two Hundred Dollars (\$200).
3. No reimbursement shall be made if the Public Works Director shall determine that the obstruction occurred in the service line of the building or was otherwise not caused by the action of the ~~owner, occupant, or guest,~~ City. No reimbursement shall be made by the City or if the claimant has been previously reimbursed by insurance.

4. Once a claim has been paid, the matter shall be considered settled, and no additional claims may be made or payments processed.
5. Before any reimbursement shall be made, ~~As a pre-condition for such reimbursement,~~ the owner or occupant shall execute a full release and hold harmless agreement releasing and indemnifying the City from any liability arising from the event, and warranting against any future claims against the City arising from that specific event.
6. If the owner or occupant shall file any claim, other than for reimbursement under this policy, the amount to be reimbursed shall be reduced by the amount of the expense incurred by the City, including insurance adjuster's charges.
7. No agent of the City is authorized to make any representation regarding the City's policy, except to provide copies of this resolution.
8. The City and its agents shall not recommend any particular commercial cleaner; however, the Public Works Department may provide a list of commercial cleaners who have expressed willingness to do such clean-up work.
9. Any reimbursement under this policy shall be made only to the owner or occupant and shall, in no event, be made directly to a commercial cleaner.
10. The City Council of the City of Rapid City shall, in any event, be the authority in determining any interpretation, exception, appeal, or other issues relating to this policy or the operation of the sewer system.
11. For more information on filing a claim, please contact Utility Maintenance at 394-4163.

Dated this _____ day of _____, 2011.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)