

No. PW021203-12

A RESOLUTION ESTABLISHING A POLICY WHEREBY THE CITY OF RAPID CITY SHALL REIMBURSE OWNERS OF THE COST OF COMMERCIAL CLEANING OF PROPERTY DAMAGED BY SEWER BACKUPS AND ESTABLISHING LIMITS THEREON.

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

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 or the cost of rental of commercial cleaning equipment made reasonably necessary by such event.
2. The amount of such reimbursement shall not exceed ~~One Dollar and Fifty Cents (\$1.50)~~ **Three Dollars (\$3.00)** per "affected" square foot per event and shall be limited to the cost of commercial cleaning only, with no payment for loss damage, or replacement of real or personal property. Any reimbursement above Five Thousand Dollars (\$5,000) requires Council approval. 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 caused by the action of the owner, occupant, or guest.
4. 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.
5. 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.
6. No agent of the City is authorized to make any representation regarding the City's policy, except to provide copies of this resolution.

7. 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 cleanup work.
8. 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.
9. The City Council of the City of Rapid City shall, in any event, be the authority in determine any interpretation, exception, appeal, or other issues relating to this policy or the operation of the sewer system.
10. For more information on filing a claim, please contact Utility Maintenance at (605) 394-4163.

Dated this _____ day of _____, 2003.

CITY OF RAPID CITY

ATTEST:

Jerry Munson, Mayor

James F. Preston
Finance Officer

(SEAL)

(Retroactive to December 1, 2002)