

CITY OF FREMONT

POLICY FOR THE PROCESSING OF SEWER BACKUP CLAIMS

Purpose: State of Michigan Public Act 222 of 2001, as amended, requires that the City establish a policy for the processing of claims made by property owners for injury or property damage from the backup or overflow of sewers into or onto their properties. This Policy is in compliance with the requirements as set forth in PA 222 of 2001, which is incorporated herein and attached hereto.

Valid Claims: Payment of a claim is not automatic. To have a valid claim, for which payment could be made, four conditions must be met:

1. There must be a defect in the design, construction, maintenance, operation or repair of the City's sewage collection or disposal system; and
2. The defect must have been the "substantial proximate cause" (50% or more) of the injury or damages; and
3. The City must have known, or should have reasonably known, about the defect; and
4. The City failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect.

Invalid Claims: The following are examples of a sewer system event that will likely result in the denial of any claims:

- Damages due to a routine, one-time only plug in the City system (repeated damages due to a recurring plug might be eligible for payment.)
- Obstruction in a sewer lateral or lead that connects the property to the City's sewer main that was not caused by the City. Maintenance of private sewer laterals is the responsibility of the property owner.
- A connection to the City's sewer system on the affected property, including, but not limited to, a sump system, building or foundation drain, surface drain, gutter or downspout.

Notifications: Property owners that experience a sewer backup or overflow and believe that the "substantial proximate cause" and liability rests with the City must meet the above four conditions for valid claims. They must also meet the following notification requirements to be eligible to receive any reimbursement for damages and other resulting expenses:

1. The claimant must immediately notify the City of a backup event and request a "Notice of Claim" form.
 - a. If between 8:00 AM and 4:30 PM, Monday through Friday, contact City Hall at 924-2101.
 - b. If after the above regular business hours, or on holidays or weekends, call the Fremont Police Department at 924-2100. If no answer, the voicemail system will direct the claimant on how to connect with the Newaygo County Central Dispatch Center, which will contact the appropriate persons for the claimant.

2. The City shall then provide the claimant, in writing, the necessary formal notification requirements.
3. The claimant must provide the City with a written notice of the claim within forty-five (45) days after the overflow or backup was discovered or when in the exercise of reasonable diligence, the backup or overflow should have been discovered.
4. Written notice by claimants must contain the information required by Section 19 (2)(c) of Act 222 of 2001 or recovery of damages may be barred.
5. A claim form stating the required information and a copy of Act 222 of 2001 may be obtained at City Hall or by using the links on the City's website at www.fremontmi.gov
6. Claims should be mailed or delivered to:

Vicci L. TerVeer
City Clerk
101 E. Main Street
Fremont, MI 49412

**Required
Claims**

Documentation: In order to facilitate faster reviews of claims, the claimant should:

- Document by photograph or video all damage that is alleged.
- Retain all records and receipts of any clean-up costs.
- If any of the damaged property is personal property, the claimant must locate all records of damaged items that can document the item description, reasonable proof of ownership, age, original purchase price and today's replacement cost.

Claims

Processing:

Upon receipt of the claimant's written notice of claim by the City:

1. The City will notify its liability insurance carrier of the claim.
2. The City and/or its insurance carrier's representatives will inspect the damage to property or investigate any physical injury.
3. The City's insurance carrier will make its determination of liability and its analysis of value and report them to the City.
4. The insurance carrier will contact the claimant and either pay the claim, negotiate a settlement of the claim, or deny the claim.
5. If the claim is denied, or no agreement can be reached on a negotiated settlement, the claimant may commence litigation after 45 days from the date of providing the original written notice to the City.

Questions: Any questions about the process should be directed to City Clerk Vicci TerVeer at 231-924-2101 or cityclerk@fremontmi.gov.

Attachment: State of Michigan Public Act 222 of 2001

Originally adopted by the Fremont City Council at its regular meeting on March 3, 2003.

Data/Common/Sewer Backup Claims/Backup Claim Processing Policy.doc