



## OFFICIAL MEMORANDUM

**To:** Scott Ullery, City Manager  
Debra Yerg Daniel, City Attorney

**From:** Sheldon Altschuler, Safety and Risk Manager

**Subject:** Liability Claims Arising from Sewer, Water or Storm Drain Discharge

**Date:** May 23, 2011

### Recommended Policy Change

Consistent with the proposed attachments, it is recommended that the City change its protocols and claims process in the event of a sewer, water or storm drain discharge that adversely impacts City of Rockville residents/businesses and leads to verified property damage or insurance deductible expenses.

The significant changes include:

- Allowing a good-will payment of up to \$2,500 for sewer backup events, storm drain or water discharges that arise from the City maintained portions of the utility. These payments will be made in the absence of liability.
- With proof of charges or payment for cleaning/sanitizing services of interior of residence or business in connection with an event and/or with proof of payment of deductible amounts paid out of pocket by the homeowner/business, the City will consider applying a portion of the total of the good-will payment towards reimbursement for these expenses.

Claims made prior to the expected enactment of this Policy will not be reviewed or considered for payment, with the exception of those claims that were made consistent with Notice requirements and for which no other recourse existed for compensation due to damages outlined under this Policy.

It is believed that this policy change is consistent with other local utilities and their responses and procedures.

**Exhibit A. Historical Data FY06 – FY10****Sewer Back-up Claims**

Total Claims:	157 sewer back-up claims
Accepted/Denied Claims:	93 Accepted / 64 Denied
Average Claims filed yearly:	31 claims filed annually (average of 18 accepted)
Total Expected Payments:	\$638,849
Claimed Amount:	\$946,000
Average per Accepted Claim:	\$6,869

**Water Main Break Claims**

Total Claims:	7 water main break claims
Accepted/Denied Claims:	0 Accepted / 7 Denied
Average Claims filed yearly:	1 claim filed annually
Total Expected Payments:	\$0
Claimed Amount:	\$120,000
Average per Accepted Claim:	\$0

**Stormwater Discharge Claims**

Total Claims:	2 stormwater discharge claims
Accepted/Denied Claims:	0 Accepted / 2 Denied
Average Claims filed yearly:	less than 1 claim filed annually
Total Expected Payments:	\$0
Claimed Amount:	\$1,250
Average per Accepted Claim:	\$0

**Exhibit B. Projected Cost****Additional Projected Costs**

Sewer back-up:	\$17,500
Water Main Break:	\$2,500
Stormwater Discharge:	\$1,250
<b>Projected City Cost:</b>	<b>\$21,250</b> (amount does not include insurance and current deductible payments)

**Exhibit C. Current Exposures**

1. **Homeowner Exposures:**
  - (a) Potential for illness for homeowner (wastewater and mold exposures)
  - (b) Electrocutation/shock exposure
  - (c) Slip, trip, fall and material handling exposures
  - (d) Chemical exposures (usage of cleaning agents in poorly ventilated areas)
  - (e) Damage and property loss
2. **City of Rockville Public Works Exposures:**
  - (a) Strain/sprain injuries arising from the removal of damaged carpets/furniture/belongings
  - (b) Slips, trips, and fall exposure due to slippery conditions and hidden/covered obstacles
  - (c) Potential for illness for cleanup staff and other negative health
3. **City of Rockville Financial Exposures:**
  - (a) Inadvertent damage to resident property

- (b) Public Relation issues arising from negative citizen attitudes
- (c) Cost of allocating labor to remediation activities
- (d) Potential accusations of theft, property damage, or other interpersonal charges of misconduct by Public Works Personnel
- (e) Improper remediation that leads to alleged damage or mold/environmental concerns
- (f) Litigated claims and losses arising from “at-fault” claims
- (g) Increased insurance costs based on frequency of events