

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-87
Series of 2011

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A RESOLUTION ADOPTING A CITY POLICY REGARDING REIMBURSEMENTS FOR CERTAIN EXPENSES RESULTING FROM SEWER BACKUPS AND OTHER CIRCUMSTANCES IN WHICH THE CITY DOES NOT NECESSARILY HAVE LEGAL LIABILITY

WHEREAS, the City of Northglenn is responsible for providing certain governmental functions to the residents of the City, including water, sewer and storm drainage services;

WHEREAS, the City is responsible for the repair and maintenance of main trunk sanitary sewer lines, certain water facilities, and certain storm water drainage facilities;

WHEREAS, there are occasionally circumstances such as a sewer backup in which the City does not typically have legal liability, but in which significant damages to Northglenn residents and their property may occur;

WHEREAS, citizens sometimes do not carry insurance coverage for damages caused by events that may occur, cause damage, and for which the City does not have legal liability;

WHEREAS, the City Council believes citizen relations would be enhanced by a limited policy providing for reimbursement of at least some of the expense that may be incurred by residents who experience damage from City provided services even in the absence of legal liability by the City;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The City hereby adopts the following policy for reimbursement under limited circumstances:

POLICY REGARDING CITY PAYMENTS FOR CLEANUP EXPENSES
RESULTING FROM SEWER BACKUPS AND OTHER CIRCUMSTANCES FOR
WHICH THE CITY HAS NO LEGAL LIABILITY

1. Introduction. Periodically, and in spite of the City's ongoing maintenance and repair activities, an obstruction or blockage may occur in a City sewer main, or some other unforeseen circumstance may occur in a City owned facility providing governmental services to a City residence, which may cause damage to a privately owned citizen residence. Although the City may have no legal liability for damages in such situations, the cost to the resident can be

substantial. In an effort to maintain positive customer relations, the City may pay for the cleanup and for damages to personal and/or real property from any sewage backup or other condition originating from a governmental service such as storm water drainage. The total cost to the City for the cleanup services may not exceed Five Thousand Dollars (\$5,000.00) per occurrence.

2. Guidelines. The following guidelines shall be used in determining the circumstances under which such payment shall be made:

a. Reimbursement under this policy is intended for those situations where the City has no legal liability to pay for the damages caused by a backup in the main sewer line or in another City provided service such as storm water drainage that results in damage.

b. Such payments for reimbursement will be made only to owners of residential property and only in those circumstances where the backup occurs in the main sewer line and not when the backup is caused by an obstruction in the individual property owner's service line. Similarly, in other circumstances, payments shall only be considered if the City determines the incident was through no fault, negligence or misconduct of the owner or resident of the affected property. Regardless of whether the incident is a sewer backup or another type of incident related to the providing by the City of government services, no payments shall be made if the City determines the backup was the result of fault, negligence or intentional conduct on the part of any private contractor or the owner or resident of the affected property.

c. For sewer backups, the City crew responding to the incident will make the determination of whether the backup occurred in the City sewer main or whether the backup occurred as a result of a blockage in the property owner's service line.

d. For all other incidents, a City representative shall make the initial determination of whether the incident could be subject to reimbursement under the provisions of this policy based on the criteria set forth herein.

e. The amount of payment made to residential property owners shall be recommended by the City Manager subject to approval of the City Council, but shall not exceed Five Thousand Dollars (\$5,000.00) for any one occurrence. The residential property owner and other individuals as appropriate will be required to release the City from any further obligations arising out of the sewer backup or other incident prior to receiving these funds.

f. Any payments made by an insurance company or any other third party will reduce, on a dollar for dollar basis, any compensation paid under this policy.

g. The City accepts no legal or factual liability for damages to any property by virtue of its payments under this policy.

h. The costs associated with the cleanup of the impacted properties and payments made to residential property owners under this program shall be charged to the City's appropriate fund from which the services originated.

3. Administration. The City Manager or the City Manager's designee shall be the main contact for request for payment under this program. Questions on payments for damages and process for filing claims should be directed to the City Manager's Office.

Section 2. The City Manager is authorized to promulgate such additional forms, claims, procedures, policies, rules and regulations as are necessary to implement the foregoing policy regarding City payments for expenses resulting from sewer backups or other circumstances addressed by this policy.

Section 3. Nothing in this Resolution or the Policy adopted herein shall be construed to create any liability, or to waive any of the limitations, rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*, as from time to time amended, or otherwise available to the City, its officers, employees or agents.

Section 4. The effective date of this policy shall be September 8, 2011, and any documented claims received after that date shall be paid pursuant to this policy. The City shall also have the ability to utilize the provisions of this policy to address any outstanding claims that have been filed with the City and not been resolved as of the date of this Resolution.

DATED at Northglenn, Colorado, this ____ day of _____, 2011.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney