

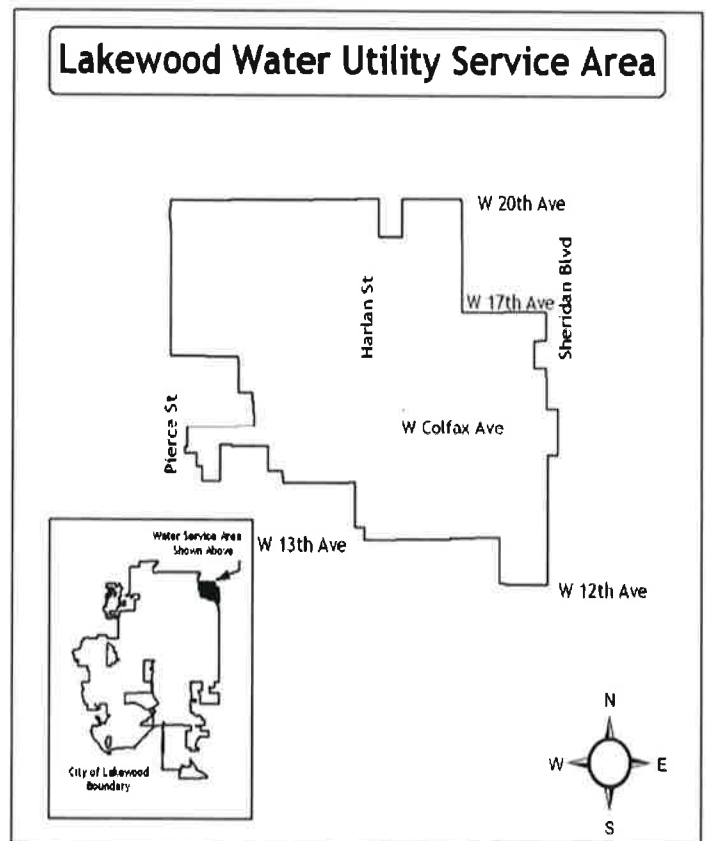
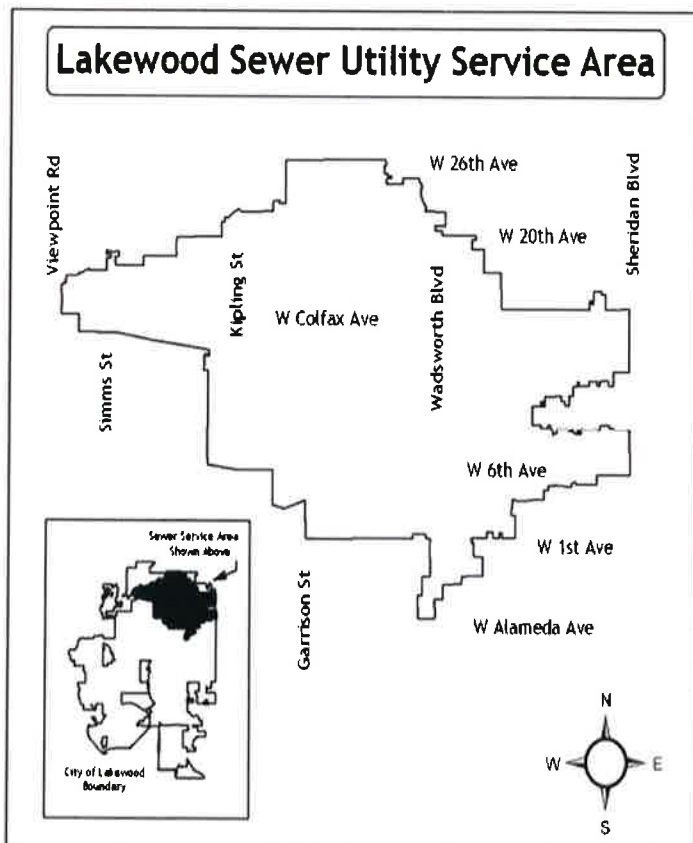
CITY OF LAKEWOOD, COLORADO

SUBJECT: CLAIMS RELATED TO WATER MAIN BREAKS AND SEWER BACKUPS

EFFECTIVE DATE: September 7, 2021

PURPOSE:

The intent of this document is to provide uniformity in policies and procedures for claims related to water main breaks and sewer backups. This Policy provides specific standards for Lakewood's water and sanitary sewer utilities responses to water main breaks and sewer backups associated with City-owned water and sewer infrastructure. The goals of the Policy include fairness, efficient handling of claims, reduction of potential court costs, and good public relations.



Policy:

1. Application. The policy applies to, but is not limited to, property damage claims resulting from the following: blockage in a City of Lakewood Utility Enterprise (City)-owned sanitary sewer mainline system, City-owned water system main, and ancillary system asset break/leak within Lakewood's Water and Sanitary Sewer utilities' (Lakewood's Utilities') service areas. Each instance will be handled separately and on its own merits. An immediate and prompt investigation will be conducted to determine the facts of the claim. This Policy does not cover alleged damages for personal injury.

2. Determining the Facts of a Loss. To request reimbursement for damaged property or other loss related to a sewer backup or water main break, a claimant must complete a Notice of Claim form and file it with the City Clerk. Once the claim is filed, City staff and/or agents will review and investigate the claim and determine compensation, if any. The investigation will include consideration of the following:
 - A. Whether the loss arose out of, or resulted from, any unforeseen, non-negligent actions or conditions of the City-owned mainline by which it can be concluded that the homeowner/tenant was an innocent party?
 - B. Whether the loss arose out of, or resulted from, any actions or conditions of the City-owned mainline by which it can be concluded that the City was negligent and where the claimant was an innocent party?
 - C. Whether the loss arose out of, or resulted from, actions or conditions caused by an identifiable third party? For example, a contractor is performing work in an area damaged the mainline or property service line directly. In such case, the claim would be denied regardless of the damage locations, and the claimant would be encouraged to pursue their damages against the responsible third party, in this case the contractor. The City would pursue damages against the responsible third party for any mainline damage, including City assets in the right-of-way.
 - D. Whether the loss arose out of, or resulted from, the actions of the claimant or the claimant's third-party contractor? If it is determined that the claimant caused or contributed to the loss, the claim will be denied. The claimant would be advised of the City's intent to pursue any damages to City property resulting from the claimant's negligent acts. Claimants will be responsible for pursuing the third party, if applicable.

3. Cleanup of Real and Personal Property.
 - A. Upon discovering a break, leak, backup or other failure of City facilities, or any damage resulting from the same, a claimant shall immediately notify the Lakewood Water or Sanitary Sewer Utility of such event.
 - B. Upon notification of the occurrence of the event, the City's Public Works department will respond as determined appropriate based on the facts of the loss and as resources allow.
 - C. To request reimbursement for damaged property or other loss related to a sewer backup or water main break, the claimant must complete a Notice of Claim form and file it with the City Clerk. Once the claim is filed, City staff and/or the City's agents will review and investigate the claim and determine compensation, if any.
 - D. In the event the claimant engages the services of a cleanup/ mitigation contractor, the City may reimburse the claimant for actual expenses incurred, but only up to the

amount the City or its agents determine is reasonable and appropriate. All documentation of loss, damage, and mitigation expenses must be provided to the City or its agents in a medium and format requested by the City or its agents.

4. Reimbursement.

- A. Reimbursement applies to a building and the claimant(s) at the time of the event.
- B. Reimbursement is primarily intended to reimburse claimants for a reasonable approximation of an insurance deductible and is not intended to cover costs that might normally be insured losses, regardless of whether a claimant has chosen to insure against such losses. In no event shall the reimbursement total exceed \$5,000 per account for cleanup, other mitigation services, repair, and damaged real or personal property.

5. Signing of a Release

- A. In the event that any payment of any kind is contemplated, prior to making said payment, a claimant must sign a release or contract form approved by risk management.

6. Assistance Provided for 2.A. If it is determined that the claimant's loss meets the criteria set forth in 2.A. above, the following assistance will be provided:

- A. Emergency Cleanup - Performed by the City's third-party contractor and paid for by the City. Emergency Cleanup is separate from property damage and restoration and does not count against available funds.
- B. Personal Property Damage and Property Restoration - Claimant will be responsible for contacting their personal insurance for personal property damage and property restoration. Lakewood's Water and Sanitation Utilities have extended (No-Fault) coverage for water and sewer intrusion damage for all Lakewood service accounts. This means that the City could have available up to (not to exceed) \$5,000 to help claimants clean up, perform property restoration, and/or replace/repair mechanical equipment.

1) Reimbursement is subject to the following conditions:

- a) The backup or water main break must have resulted from a condition in the City's sanitary sewer system or water main lines and not from a condition in a private line.
- b) The backup or water main break must not have been caused by an act of nature.
- c) The City will not reimburse any costs which have been or are eligible to be covered under the property owner's or tenant's homeowners, renters or other property insurance.
- d) The maximum amount the City will reimburse each service account is \$5,000 for each claim. In this regard, a structure or group of structures served by a single service to the City's sewer or water system is considered a single service.
- e) Coverage under this Policy may be extended only to customers of the City of Lakewood's water and sanitary sewer utilities.

- f) All claims for reimbursement under this Policy must be submitted to the City within 90 days after the incident occurs.
 - g) The City's Risk Management division may refer claims, on an as needed basis, to an independent insurance adjuster for investigation, recommendation, and compensation determination.
- 2) The determination whether to make payment for a claimed loss under this Policy shall be based on the following criteria:
- a) Whether an eligible claimant suffered an otherwise uninsured property loss, under circumstances where the claimant acted responsibly to avoid the loss, caused by mainline backup of a City-owned sanitary sewer line, or water main break; and
 - b) If so, whether the extent of the loss has been adequately substantiated.
- 3) The following shall result in the denial of a claim:
- a) Claim is not timely submitted;
 - b) Loss is fully covered by private insurance;
 - c) Claimant is ineligible under the terms of this Policy;
 - d) Loss was caused by an irresponsible act of the claimant, claimant's employee or agent, or member of the claimant's household;
 - e) Loss eligibility is unsubstantiated;
 - f) Any other conditions or criteria determined as appropriate by the City.
- 4) The following shall result in reduction of payment:
- a) Loss is partially covered by private insurance;
 - b) Loss exceeds funding limits of this Policy;
 - c) Verification of loss is inadequate or incomplete;
 - d) The claimant did not cause the problem but failed to act responsibly to minimize the loss;
 - e) Payment of City water and/or sewer bills associated with the property is not current (any payment by the City will be reduced by outstanding amounts owed);
 - f) Outstanding amounts are owed to the City associated with the property or property owner (any payment by the City will be reduced by outstanding amounts owed);
 - g) Loss for an occurrence exceeds established limits;
 - h) Any other conditions or criteria determined as appropriate by the City.
- 5) A claimant receiving reimbursement under this Policy may be encouraged to install a sewer backflow prevention device. The cost and installation of the device are eligible for reimbursement under this Policy. However, installation of a backflow prevention device is merely a suggestion.
- 6) Tenant and Property Owner Claims: Claims from both a tenant and the property owner resulting from the same incident will be received separately but will jointly be restricted to the \$5,000 limit, including no more than \$1,000 for personal property and possessions. The City will determine a fair and equitable way of allocating the funds per incident.

- 7) Plumbing Bills: Claimants will be responsible for personal plumbing services used for related incident. Bills for such services can be included in a claim for consideration.
7. Assistance Provided for 2.B. If it is determined that the claim meets the criteria set forth in 2.B. above, the following assistance will be provided, as applicable:
 - A. Emergency Cleanup - Performed by the City's third-party contractor.
 - B. Personal Property Damage Adjustment - Compensation will be provided for personal property items directly affected. Depreciation will be taken into consideration in negotiating any settlement.
 - C. Additional Living Expense - Will be authorized should the City's adjuster determine that the residence is unfit for use. The City will not reimburse unauthorized expenses.
 - D. Real Property Restoration - Includes restoration of items permanently affixed to the structure or to the property surrounding the structure. Depreciation will be taken into consideration.
 - E. Plumbing Bills - Reimbursement may be made for reasonable plumbing expenses directly and causally related to the claimant's attempt to identify the problem. Such costs will be reimbursed only after confirmation of responsibility.
 8. No Assistance Provided for 2.C. and 2.D. The City will not aid with any of the following:
 - A. Sewer Lateral Stoppages. The responsibility for the maintenance of the property lateral, extending all the way to the main, lies with the property owner. This includes periodic cleaning/jetting to keep the laterals free from foreign matter, including roots from any source. Property owners, at their expense, must have a licensed plumber clear their lateral. If the lateral downstream of the property line is damaged to the point of needing repair or renewal, a permit is required, and the property owner's plumber must contact the City's Public Works department.
 - B. Loss of business, income, rent and/or good will.
 - C. Personal Labor. Unless authorized by the City's adjuster, there will be no reimbursement for personal labor.
 - D. Bodily Injury.
 - E. General Damages. There will be no reimbursement for emotional trauma, pain and suffering, or any other personal damages.