

SEWER BACKUP POLICY

Effective Date. January 1, 2022.

Purpose. The City of Charlotte (“City”), via the Charlotte City Council, adopted this policy to permit the payments of claims for property directly damaged by sewage, where such claims arise from sewer backups originating in the sewer system within the jurisdiction of Charlotte Water, a department of the City (“Charlotte Water System”).

Amount. Up to \$45,000 per incident/occurrence.

Covered Policy. The City may pay the Amount if all of the following has occurred:

1. The cause of the backup occurred in the Charlotte Water System and not in a service line or in the private plumbing system;
2. The backup must not have resulted from the negligent or improper use or operation of the private plumbing system at the premises where the backup occurred;
3. No claimant or property owner may seek payment for any damage covered by insurance;
4. The backup must occur on premises. If the backup occurs on the premises of any other person or business, no payment for any damages will be made.
5. A claimant or property owner has a sewer account with the City that is:
 - a. active with no more than one hundred twenty (120) days delinquent at the time of the backup with any delinquent charges paid in full prior to the payment of any claim under this policy; or
 - b. inactive due to the customer’s request to terminate sewer service at such premises and such account has no unpaid charges which are delinquent by more than one hundred twenty (120) days at the time of the backup, with any delinquent charges paid in full prior to the payment of any claim under this policy;
6. The owner of the premises at which the backup occurred must agree to the installation of a backwater valve in the owner’s plumbing system by a licensed plumber at the City’s expense; and,
7. All claimants and owners of the premises at which the backup occurred must execute a release (i) authorizing the installation of a backwater valve, (ii) accepting full responsibility for maintaining the backwater valve, (iii) relieving the City of any further liability for the sewer backup, and (iv) and addressing any other items between the City and the claimants and owners of the premises.

City Negligence. If the City was negligent in causing the backup or in not discovering the obstruction and preventing the backup, the City will pay for all property damage without limitation but will not pay for Other Types of Losses.

Other Types of Losses. Any consequential damages, incidental damages, personal injury, illness, emotional distress, loss of income, temporary lodging, attorney’s fees, etc. This list is not exhaustive and is only presented for illustrative purposes.

History of Sewer Claims Prior To Adoption of Policy. Before the adoption of this policy in 1992, the City only paid for damages arising from sewer backups when the City's negligence caused the backup or when the backup could have been avoided by reasonable inspection and maintenance by the City. People can and do put many things in the Charlotte Water System which can lead to backups, such as sticks, rocks, rags, and grease. The City's ability to detect and prevent such activity is extremely limited and it is impossible to inspect every foot of the Charlotte Water System often enough to prevent every possible backup.

Courts recognize this enormous problem and do not require operators of sewer systems to be responsible for backups which are caused by others and which could not have been avoided by reasonable operation, inspection and maintenance of a sewer system. Legally, the City, like any operator of a sewer system, is not required to guarantee that sewer backups will never occur. If a backup occurred which reasonable inspection and maintenance would not have prevented, the affected person or business had to bear the full impact of having a house or business flooded with sewage. Consequently, the City was not legally responsible and therefore could not use public funds to pay any portion of the damages for the affected person or business.

The City Council decided that this result, while legally justifiable, is too harsh. While the large majority of sewer backups are not the City's fault, such backups are also not usually the fault of the affected person or business who find sewage in a home or business. The adoption of this policy in 1992 was an effort – the first in North Carolina – to lessen the burden that fell on any person who experienced a sewer backup.

It is against this legal backdrop that the City has decided to offer a higher level of service to its sewer customers than the law requires. If an affected person or business finds sewage in the affected person's home or affected business as a result of a blockage in the Charlotte Water System and the affected person or business or others using the affected person or business's plumbing system have not caused or contributed to that blockage, the City will pay for some, but not all, of the potential loss that may result – even if the City was not responsible for that blockage and could not have prevented the backup by reasonable efforts. The decision to pay for some, but not all, of such damages is a direct consequence of the fact that the City would not otherwise be liable for any of those damages.