

## RESOLUTION 07 - 2018

### AN RESOLUTION OF NORTH OGDEN CITY ADOPTING A HUMANITARIAN POLICY FOR DAMAGE TO HOMES CAUSED BY WATER LINE BREAKS, SANITARY SEWER OR STORM WATER LINES

**WHEREAS;** North Ogden City owns, builds, and maintains an extensive network of utility lines; and

**WHEREAS;** North Ogden City periodically experiences unexpected failures in the utility lines which occasionally cause damage to neighboring property owners; and

**WHEREAS;** North Ogden City wishes to assist in the cleanup and repair of damage caused by breaks or other failures in the City utility lines on a humanitarian basis without agreeing to any legal liability under the Utah Government Immunity Act; and

**NOW THEREFORE, BE IT RESOLVED** by the North Ogden City Council that the following policy be adopted by North Ogden City.

#### HUMANITARIAN ASSISTANCE POLICY

##### Purpose

The purpose of this policy is to establish procedures under which the City may provide basic humanitarian assistance to persons whose homes are flooded as a result of a backup in a city owned and maintained sanitary or storm water line, or break of a water main regardless of fault. These provisions are not intended to and do not imply fault. Neither do the provisions of this policy create any contractual obligation between the parties. Assistance provided by the City shall not be construed as an admission of liability nor does it imply a duty nor any negligence or responsibility on the part of the City for such damage. Any payment or assistance provided herein is strictly voluntary on the part of the City.

This policy shall not, in any way supersede, change or abrogate the State Governmental Immunity Act, Utah Code Annotated, Section 63-30-1, et seq., as amended, and its application to the City, or establish in any person a right to sue the City under this policy, nor does it create a cause of action against the City.

##### Guidelines for Granting Assistance

Assistance is intended for extreme situations that pose an undue hardship on citizens. Circumstances that qualify for humanitarian assistance are as follows:

1. Sanitary sewer backup from a City line into a private residence, provided the cause of the backup cannot be directly linked to something introduced into the City line from the lateral of the home which experienced the backup;
2. Storm water damage to a private residence only when it has occurred multiple times, and the City determines that flooding resulted because North Ogden City's storm water collection system doesn't meet City design standards in place at the time the line was installed. Damages from large storms exceeding the design capacity of North Ogden's storm water system, or from storm water originating from neighboring entities do not qualify.
3. Water damage to a private residence from a broken City owned water main.
4. Damage from other abnormal or unusual circumstances as determined by the City excluding occurrences resulting from catastrophic and natural occurrences, such as earthquakes, avalanches, slides, and those that are weather related.
5. Other circumstances as determined by the Mayor.

#### Criteria for Assistance

The determination for providing humanitarian assistance shall be based on whether the occupants and/or homeowner suffered an otherwise uninsured property loss under circumstances where the occupant and/or homeowner acted responsibly to avoid the loss.

Humanitarian assistance shall not be provided where the loss is fully covered by private insurance or when the loss is caused by an intentional or negligent act of the homeowner or occupant, their agents, or a member of their family or household.

Humanitarian assistance may be reduced if the loss is partially covered by private insurance or in an instance where the occupants and/or homeowner did not cause the problem, but failed to act responsibly to minimize the loss.

Assistance is at the sole discretion of the City in both the determination of eligibility and amount and shall be considered on a case-by-case basis.

All requests for assistance shall be approved in a regularly scheduled council meeting and the individuals requesting assistance are not required to be present to receive assistance.

#### Extent of Assistance Provided

Payments for assistance shall not exceed \$4,000 for any single occurrence, and must be made in accordance with the approved budget for the fiscal year in which the loss occurred. These policy amounts may only be modified by approval of the Council, no employee, officer, or other individual is able to authorize the expenditure of any funds until the Council has approved the Request for Assistance.

## Procedure

1. The Mayor/Mayor Pro Temp should be notified by the Public Works Department as soon as possible following a flooding event into a private residence.
2. The Mayor/Mayor Pro Temp will confirm with Public Works that the flooding originated from a City owned and maintained line and determine if the event qualifies for humanitarian assistance under this policy.
3. If the event qualifies for assistance, the Public Works Director will ask the occupants or homeowner if the flooding is covered by insurance. If so, they will be directed to handle the problem through their insurance company.
  - a. If the occurrence does not appear to be covered by the homeowners insurance, the Public Work Director, after speaking with the Mayor may arrange with a local cleaning service to provide the services as described in this policy as soon as possible.

When the Mayor/Mayor Pro Temp is unavailable, the Public Works Director or Utility Supervisor will contact the City Administrator/Manager who may complete steps 1 through 3 above and expedite the process. The Mayor should follow up any questions regarding available insurance coverage.

The City Recorder shall be notified within 24 hours of any damage to a private residence which is suspected of being caused by a City owned utility.

Periodically, the Public Works Director should ask local cleaning services to submit price quotes for their services to ensure the City is getting fair pricing.

In the event the occupants and/or homeowner initiate a call to a cleaning service than themselves. The City may still provide assistance in accordance with this policy, but the City shall not pay for cleaning costs above those considered reasonable by the City.

Humanitarian assistance costs as outlined herein shall be approved by the Mayor/Mayor Pro Temp and Public Works Director, or if the Mayor/Mayor Pro Temp is unavailable the City Administrator/Manager and Public Works Director in accordance with the approved budget.

## Budgeting

The City Council shall determine on an annual basis whether to provide funding for this Humanitarian Assistance Policy, and the specific amount authorized for funding. If an unusual number of claims occur in a fiscal year the Council may adopt a revised budget number, or may reduce the payment per claim to provide assistance as they see fit.

SECTION 3: This policy shall take effect upon adoption.

**PASSED and ADOPTED this 21<sup>st</sup> day of August, 2018**

North Ogden City:

  
Brent Chugg  
North Ogden City Mayor

**CITY COUNCIL VOTE AS RECORDED:**

	Aye	Nay
Council Member Barker:	<u>X</u>	___
Council Member Cevering:	<u>X</u>	___
Council Member Stoker:	<u>X</u>	___
Council Member Swanson:	<u>X</u>	___
Council Member Turner:	<u>X</u>	___

(In event of a tie vote of the Council):

Mayor Chugg	___	___
-------------	-----	-----

**ATTEST:**

  
S. Annette Spendlove, MMC  
City Recorder