

CITY OF BALTIMORE
COUNCIL BILL 21-0016R
(First Reader)

Introduced by: Councilmembers Burnett, Cohen, Dorsey, Porter, Middleton, Ramos, Bullock
Introduced and read first time: February 8, 2021
Assigned to: Health, Environment, and Technology Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Public Works,
Department of Health, Mayor's Office of Emergency Management, 311 Services, Finance
Department, Department of Housing and Community Development, Mayor's Office of
Performance and Initiative

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Investigative Hearing – Building Backups of Untreated Sewage**

3 FOR the purpose of inviting representatives from the Department of Public Works, the Law
4 Department, the Health Department, and the Mayor's Office of Emergency Management to
5 appear before the City Council to discuss the effectiveness and sufficiency of measures being
6 taken to address basement backups of raw sewage in the City.

7 **Recitals**

8 Exposure to raw sewage poses a serious risk to human health. Raw sewage contains a variety
9 of microorganisms, viruses, bacteria, and parasites that can cause serious illnesses including
10 cholera, hepatitis, cryptosporidiosis, and giardiasis. In addition, moisture in homes, including
11 moisture from sewage backups, can cause the growth of toxic fungi and mold. Among other
12 health risks, mold can trigger asthma attacks.

13 Cleaning up and disinfecting interior spaces after a sewage backup, or securing a licensed
14 contractor to perform that work, is a costly and traumatic endeavor that poses economic
15 hardships to many Baltimore City residents.

16 In 2002, Baltimore City entered into a Consent Decree with the Environmental Protection
17 Agency ("EPA") and the Maryland Department of the Environment ("MDE") to address
18 violations of the federal Clean Water Act from discharges of untreated sewage from Baltimore's
19 collection system into the Back River, Patapsco River, the Chesapeake Bay, and other waters of
20 the United States.

21 Under the 2002 Consent Decree, Baltimore's Department of Public Works ("DPW") was
22 required to conduct a thorough investigation of its wastewater collection system and undertake
23 certain systematic and operational improvements to eliminate sanitary sewer overflows ("SSOs")
24 and otherwise achieve compliance with the Clean Water Act and analogous State law.
25 The corrective measures required under the 2002 Consent Decree were to be completed by
26 2016, but the City failed to meet the deadline.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 21-0016R

1 In 2017, the City entered into a Modified Consent Decree with the EPA and MDE that set
2 forth new requirements and deadlines for the City to achieve compliance into two phases. The
3 deadline for completion of Phase I was January 2, 2021, and Phase II is to be completed by
4 December 31, 2030.

5 Pursuant to the Modified Consent Decree, DPW is required to establish a “Building Backup
6 Expedited Reimbursement Program” (the “Program”) to reimburse City homeowners, renters,
7 non-commercial occupants, and residents for the costs of cleaning up and disinfecting after
8 certain building sewage backups that are the result of surcharging in the collection system caused
9 by wet weather events. The Program has been in a three-year pilot stage between April 2018 and
10 April 2021. This year, the City, MDE, and EPA must agree on a permanent version of the
11 program that will remain in effect for the rest of the term of the Modified Consent Decree.

12 Under the Modified Consent Decree, the City is required to track certain information related
13 to the Program and report it to the EPA, MDE, and the public on an annual basis. These reports
14 are found in Modified Consent Decree Quarterly Report #7 for the first year of the Program
15 (April 2018-April 2019), and Modified Consent Decree Quarterly Report #11 for the second year
16 of the Program (April 2019-April 2020).

17 According to the City’s own data, only 95 applications were made to the Program during its
18 first 2 years, despite the fact that there were over 11,000 reported sewage backups to the City’s
19 311 non-emergency service system. 81 of these applications were denied (85%) and only
20 \$14,775 has been paid out to residents over 2 years despite the fact that \$2 million is set aside
21 annually for these expenses.

22 Advocates have submitted a comprehensive list of recommendations to Baltimore City, EPA,
23 and MDE for improving the Program. During an investigative hearing before the City Council
24 on July 28, 2020 a DPW representative committed to implementing several of those
25 recommendations, including removing the 24-hour reporting restriction; raising the
26 reimbursement cap to \$5,000; acquiring contracts with entities who can perform direct assistance
27 for residents who experience sewage backups in wet-weather conditions; considering broadening
28 the scope of that direct assistance to include dry-weather sewage backups.

29 The residents of Baltimore City have a significant and ongoing interest in knowing exactly
30 what terms will be agreed upon in the finalized version of the Expedited Reimbursement
31 Program required under the Modified Consent Decree, but this process is not open to public
32 comment or scrutiny.

33 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the
34 Council invites representatives from the Department of Public Works, the Law Department, the
35 Health Department, and the Mayor’s Office of Emergency Management to appear before the City
36 Council to discuss the effectiveness and sufficiency of measures being taken to address basement
37 backups of raw sewage in the City.

38 **AND BE IT FURTHER RESOLVED,** That the Council intends that this investigative hearing
39 serve as an opportunity for public comment on the City’s progress in handling capacity-related
40 building sewage backups.

Council Bill 21-0016R

1 **AND BE IT FURTHER RESOLVED**, That a copy of this Resolution be sent to the Mayor, the
2 Director of the Department of Public Works, the City Solicitor, the Director of 311 Services, the
3 Commissioner of the Baltimore City Department of Health, the Director of the Mayor’s Office of
4 Emergency Management, and the Mayor’s Legislative Liaison to the City Council.