

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 21-0075

Introduced by: Councilmembers Burnett, Cohen, Dorsey, Ramos, Bullock

Introduced and read first time: May 3, 2021

Assigned to: Health, Environment, and Technology Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: June 21, 2021

AN ORDINANCE CONCERNING

**Study and Report – Sewage Backup Expedited Reimbursement and
Direct Assistance Program**

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3 FOR the purpose of requiring that the Baltimore City Department of Public Works submit a report
4 to the Mayor and City Council studying the feasibility of implementing an expedited
5 reimbursement and direct assistance program for any sewage backup, not limited to wet-
6 weather, capacity-related causes; requiring certain agency assistance; and providing for a
7 special effective date.

Recitals

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9 In 2002, Baltimore City entered into a Consent Decree with the Environmental Protection
10 Agency (“EPA”) and the Maryland Department of the Environment (“MDE”) to address
11 violations of the federal Clean Water Act from discharges of untreated sewage from Baltimore’s
12 collection system into the Back River, Patapsco River, the Chesapeake Bay, and other waters of
13 the United States.

14 Under the 2002 Consent Decree, Baltimore’s Department of Public Works (“DPW”) was
15 required to conduct a thorough investigation of its wastewater collection system and undertake
16 certain systematic and operational improvements to eliminate sanitary sewer overflows and
17 otherwise achieve compliance with the Clean Water Act and analogous State law.

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

22 Pursuant to the Modified Consent Decree, DPW is required to establish a “Building Backup
23 Expedited Reimbursement Program” (the “Program”) to reimburse City homeowners, renters,
24 non-commercial occupants, and residents for the costs of cleaning up and disinfecting after
25 certain building sewage backups that are the result of surcharging in the collection system caused
26 by *wet* weather events.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 The Program has been in a three-year pilot stage between April 2018 and April 2021. This
2 year, the City, MDE, and EPA must agree on a permanent version of the program that will
3 remain in effect for the rest of the term of the Modified Consent Decree.

4 On March 23, 2021, DPW launched a new pilot program, entitled the “Sewage Onsite
5 Support (SOS) Cleanup Program. This program aims to provide “professional cleaning,
6 disinfection, and disposal services from a third-party vendor at no cost to Baltimore City
7 residents impacted by capacity-related sewage backup damage caused by a heavy wet weather
8 (rain/snowmelt) event.”

9 To date, no provision has been made for reimbursement or cleaning services for sewage
10 backups during dry weather events or attributable to non-capacity related events.

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That:**

12 (a) No later than 60 days from the enactment of this Ordinance, the Baltimore City
13 Department of Public Works shall submit a report to the Mayor and City Council
14 setting forth a comprehensive feasibility study, as fully described in this Ordinance,
15 regarding sewage backups.

16 (b) The report required by subsection (a) of this section shall set forth a study into the
17 feasibility of implementing a program to reimburse City homeowners, renters,
18 non-commercial occupants, and residents for the costs of cleaning and disinfecting
19 after building sewage backups that are the result both wet and dry weather events,
20 including:

21 (1) an evaluation of the cost per backup of such a modified Expedited
22 Reimbursement Program (“ERP”) based on the current ERP and any materials
23 reviewed relating to cost prior to the current ERP went into effect; and

24 (2) a detailed analysis of any obstacles that the Department of Public Works
25 believes would impede the expansion of the ERP and an explanation of any
26 inquiries or efforts that the Department has made to overcome these obstacles.

27 (c) The report required by subsection (a) of this section shall set forth a study into the
28 feasibility of implementing a modified SOS Cleanup Program that would provide
29 professional cleaning, disinfection, and disposal services from a third-party vendor at
30 no cost to Baltimore City residents impacted by ~~capacity-related~~ sewage backup
31 damage caused by both wet and dry weather events, including:

32 (1) an evaluation of the cost per backup of such a modified SOS Cleanup Program
33 based on the current SOS Cleanup Program and any materials reviewed to cost
34 before the current SOS Cleanup Program went into effect; and

35 (2) a detailed analysis of any obstacles that the Department of Public Works
36 believes would impede the expansion of the SOS Cleanup Program and an
37 explanation of any inquiries or efforts that the Department has made to
38 overcome these obstacles.

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1 (d) (1) The report required by subsection (a) of this section shall include a cost analysis
2 utilizing empirical data and generally accepted principles in cost projections.

3 (2) The cost analysis required by this subsection shall be disaggregated by:

4 (i) wet weather backups caused by conditions within the public system;

5 (ii) dry weather backups caused by conditions within the public system;

6 (iii) wet weather backups caused by conditions within the private system; and

7 (iv) dry weather backups caused by conditions within the private system.

8 (e) The report required by subsection (a) of this section shall include an evaluation of the
9 funds that the City has expended over the past 10 years in litigation costs related to
10 sewage backups, including, as the case may be, settlement amounts, damages
11 awarded, and attorney time.

12 (f) The Law Department, Baltimore City Information Technology, the Baltimore City
13 Health Department, and the Mayor's Office of Emergency Management shall assist
14 the Department of Public Works in the preparation of the report required by
15 subsection (a) of this section.

16 **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
17 enacted.

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Certified as duly passed this 19 day of July, 2021



President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 19 day of July, 2021



Chief Clerk

Approved this 4 day of October, 2021



Mayor, Baltimore City

Approved for Form and Legal Sufficiency
This 21st Day of July, 2021.

Elena R DiPietro