

POLICY OF THE CITY OF VAN BUREN MUNICIPAL UTILITIES FOR THE HEARING
AND SETTLING OF SPECIFICALLY IDENTIFIED TORT CLAIMS

ADOPTED BY THE VAN BUREN MUNICIPAL UTILITIES COMMISSION, that:

Section 1: The attached Policy of the Van Buren Municipal Utilities for the Hearing and Settling of Specifically Identified Tort Claims (“Policy”) is hereby adopted.

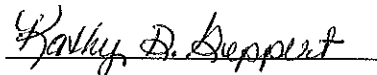
Section 2: The “Policy of the Van Buren Municipal Utilities for the Hearing and Settling of Specifically Identified Tort Claims” incorporated herein and made a part hereof, is hereby adopted. The Policy is on file and available for inspection in the office of the Van Buren Municipal Utilities. The Director of Utilities is hereby authorized to approve for payment claims resolved under the policy. The maximum reimbursement shall not exceed one thousand, five hundred dollars (\$1,500.00) per structure for city sanitary sewer backup claims. The maximum reimbursement shall not exceed five thousand dollars (\$5,000.00) per occurrence for city water line break claims. The maximum reimbursement shall not exceed one thousand dollars (\$1,000.00) per claim for vehicle damage caused by displaced manhole lid. The maximum reimbursement shall not exceed ten thousand dollars (\$10,000) per single property for building foundation damage and/or settlement claims.

Adopted on the 20 day of January, 2015.



C.E. Dougan,
Van Buren Municipal Utilities Commission Chairman

ATTEST:



Kathy Geppert, SECRETARY

POLICY OF THE VAN BUREN MUNICIPAL UTILITIES FOR THE HEARING AND SETTLING OF SPECIFICALLY IDENTIFIED TORT CLAIMS

The Van Buren Municipal Utilities acknowledges its immunity from liability, except to the extent that the Van Buren Municipal Utilities may be covered by liability insurance, and further acknowledges that no tort action is permitted to lie against the Van Buren Municipal Utilities because of acts of its agents and employees. A. C. A. Section 21-9-301 (Repl. 1995). The Van Buren Municipal Utilities determines, by this policy, to hear and settle only those specifically identified tort claims described in the policy and no other, and the Van Buren Municipal Utilities agrees to hear and settle the specifically identified claims only pursuant to the expressed procedures and limitations of liability set forth in this policy. The Van Buren Municipal Utilities reserves the right to amend or repeal in its entirety the policy at any time irrespective of any prior occurrence which could result in a claim(s) or the pendency of a claim(s).

I. TORT CLAIMS AS TO WHICH POLICY APPLIES.

Unless limited by the third sentence of this paragraph I, and according to the limitations and procedures set forth in this policy, the Van Buren Municipal Utilities shall receive for hearing and settling, tort claims involving allegations of property damages from sanitary sewer back-ups, city water line breaks, vehicle damage caused by displaced manhole lid, or building foundation damage and/or settlement. No other tort claims shall be received for processing pursuant to this policy.

Specifically, this policy shall not authorize the processing of claims of personal injury, claims arising from acts of Van Buren Municipal Utilities agents and employees, claims of strict liability, claims not directly related to the performance of the job duties of the involved Van Buren Municipal Utilities employees (even though they may have been “at work” at the time of the occurrence), or claims covered by any liability insurance policy obtained by the Van Buren Municipal Utilities, obtained by others for the Van Buren Municipal Utilities, or obtained by others for their own benefit.

“Sanitary sewer back-up” shall refer solely to property damage claims arising from sanitary sewer flows discharging from city sanitary sewer lines into a structure utilized for residential, commercial or industrial purpose.

“Water line break” shall refer solely to property damage claims arising from water flowing from breaks in city water lines which cause damage to property or structures.

“Vehicle damage caused by displaced manhole lid” shall refer solely to damage to a vehicle arising from the vehicle striking a city sanitary sewer manhole where the manhole lid has been displaced.

“Building foundation damage and/or settlement” shall refer solely to damage to the foundation of a structure arising from or associated with the installation, maintenance, repair of, or break in a Van Buren Municipal Utilities owned underground utility line or facility.

II. PROCEDURE FOR PROCESSING CLAIMS.

The following procedures shall govern the processing of claims submitted pursuant to this policy.

- a. The term “Director of Utilities” shall refer to the Van Buren Municipal Utilities Director of Utilities or his designated agent.
- b. Any person making a sanitary sewer back-up claim, a city water line break claim, or a vehicle damage claim caused by displaced manhole lid must submit claim in writing to the Director of Utilities within sixty (60) days of the occurrence. A building foundation damage and/or settlement claim must be submitted in writing to the Director of Utilities within three hundred sixty- five (365) days of the activity proximately resulting in the building foundation damage and/or settlement.

- c. All claims shall be submitted in writing, attached to a completed Van Buren Municipal Utilities DAMAGE CLAIM FORM (Page 6), and delivered to the Director of Utilities within the time periods provided in (b.) The claimant may request an extension of time for filing a claim which may be considered at the discretion of the Director of Utilities.
- d. All claims of a single Claimant from a sanitary sewer back-up arising from a single occurrence shall be consolidated and handled as one claim subject to the \$1,500.00 limitation. All claims of a single Claimant from a city water line break arising from a single occurrence shall be consolidated and handled as one claim (excluding building foundation damage and/or settlement claims) subject to the \$5,000.00 limitation. All claims of a single Claimant for vehicle damage caused by displaced manhole lid arising from a single occurrence shall be subject to the \$1,000.00 limitation. All claims of a single Claimant of building foundation damage and/or settlement arising from a single occurrence shall be consolidated and handled as one claim subject to the \$10,000.00 limitation.
- e. Claims denied, in whole or part, by the Director of Utilities may be appealed to the Van Buren Municipal Utilities Commission. A claimant shall have a period of thirty (30) days, from the date of notification by the Director of Utilities, to appeal the decision. A claimant's appeal shall be filed in writing with the Director of Utilities, the Director of Utilities shall present the appeal to the Van Buren Municipal Utilities Commission.
- f. Compensation paid for damages shall be limited to the lesser of, the limitations set forth in this policy or to the estimated cost of repair of the damages. No compensation shall be granted for inconvenience, loss of use, loss of profits, dislocation expenses, or personal injury including, without limitation, emotional distress.
- g. Unless the requirement is waived or modified by the Director of Utilities, the claimant shall submit three qualified estimates for the cost of repair.

- h. For vehicle damage caused by a displaced manhole lid claims, the claimant must also submit a police report documenting the incident.
- i. The provision of this policy regarding types of claims subject to the policy, limitation periods, limitations on coverage, and the other provisions of the policy shall be applicable to all claims, including those appealed to the Van Buren Municipal Utilities Commission.

III. ADDITIONAL LIMITATIONS ON CLAIMS

In addition to limitations set forth at other places in this policy, all claims shall be subject to the following limitations.

- a. No compensation shall be paid on the basis of any claim accruing to the benefit, directly or indirectly, of an insurance carrier. In particular, no compensation shall be based on any claim for property damage if the item of expense is covered by any insurance provision. Any claim may be rejected by the Director of Utilities or the Van Buren Municipal Utilities Commission from further handling in the event that the claimant fails to comply with any reasonable requirements of the Director of Utilities or the Van Buren Municipal Utilities Commission regarding determinations of insurance coverage.
- b. Acceptance of the sum paid by the Van Buren Municipal Utilities on a city water line break claim, vehicle damage caused by displaced manhole lid claim, or building foundation damage and/or settlement claim will constitute a release and discharge of the Van Buren Municipal Utilities from any and all liability arising from the occurrence which gave rise to the claim. In order to receive payment a signed LIABILITY RELEASE FORM (Page 7) must be submitted.
- c. Acceptance of the sum paid by the Van Buren Municipal Utilities on a sanitary sewer back-up claim will constitute a release and discharge of the Van Buren Municipal Utilities from any and all liability for existing or future claims arising from the occurrence which gave rise to the claim. After the Van Buren Municipal Utilities has

paid a sanitary sewer back-up claim at a location, (either under this policy or prior to the adoption of this policy) the Van Buren Municipal Utilities shall not thereafter consider or pay a claim arising from a sanitary sewer back-up at the same location. At the expense of the claimant, the building sewer service line should be fitted with a backwater/check valve assembly and a two way clean out fitting, or other equipment designed and installed for the purpose of preventing future back-ups into the building. In order to receive payment a signed LIABILITY RELEASE FORM (Page 7) must be submitted.

- d. This policy shall not apply where there is a written agreement absolving or releasing Van Buren Municipal Utilities of liability from damages.
- e. This policy shall not permit the processing or paying of a building foundation damage and/or settlement claim where a building encroaches into a dedicated easement, prescriptive easement area, right-of-way, or setback area, which exists for the purpose of replacement, operation, or maintenance of a Van Burn Municipal Utilities owned underground utility line or facility.

DAMAGE CLAIM FORM

Attach estimates, statements, receipts, insurance provider information, and other information, attach additional sheets as necessary. Please mail or hand-deliver documents to:

Van Buren Municipal Utilities - 2806 Bryan Road, Van Buren, Arkansas 72956

CLAIMANT INFORMATION

(Please print neatly)

Name: _____

Street Address: _____ **City, State, Zip code:** _____

Phone Number(s): _____ **VBMU Account No.:** _____

INCIDENT INFORMATION

Address/Location of Occurrence: _____

Date and Time of Occurrence: _____ **Claimed Amount: \$** _____

Nature of Occurrence: (check) **Sanitary Sewer Back-up** _____

Vehicle Damage Caused by Displaced Manhole Lid _____

City Water Line Break _____ **Foundation Damage/Settlement** _____

Description of Occurrence: _____

Does your insurance cover damages in this incident? _____ **Deductible \$** _____

The undersigned hereby files a claim against the Van Buren Municipal Utilities. By signing, I acknowledge that all information provided is true and correct to the best of my knowledge and belief.

Claimant's Signature

Date

Received by (VBMU Staff)

Date

Director of Utilities

Date

Accepted: _____ **Denied:** _____

Amount \$ _____

LIABILITY RELEASE FORM

Name: _____

Street Address: _____

City, State, Zip code: _____

VBMU Account No.: _____ **Date and Time of Occurrence:** _____

Nature of Occurrence: (check) Sanitary Sewer Back-up _____

Vehicle Damage Caused by Displaced Manhole Lid _____

City Water Line Break _____ **Foundation Damage/Settlement** _____

Description of Occurrence: _____

By signing this release form I agree that this is a one-time settlement associated with damages arising from this occurrence.

Regarding sanitary sewer back-up claims, I acknowledge that; at the expense of the claimant, the building sewer service line should be fitted with a backwater/check valve assembly and a two way clean out fitting, or other equipment designed and installed for the purpose of preventing future sanitary sewer back-ups into the building.

Claimant's Signature

Date

Director of Utilities

Date

Amount paid \$ _____

(Attach copy of check)