

SEWER BACK-UPS

WHAT EVERY HOME OWNER SHOULD KNOW

Sewer back-ups are a problem facing every city's residents. Claims for damages to people's homes caused by sewer back-ups probably lead to more misunderstanding and hard feelings than any other single kind of claim. It might be possible to avoid some of these problems if homeowners are made aware of three basic points regarding sewer back-ups and the resulting damage:

1. The city is not automatically liable for resulting damages whenever a sewer backs up. The city is only liable for those damages if the back-up was caused by the city's negligence.
2. Many homeowners insurance policies exclude damage resulting from sewer back-ups. Thus, homeowners often end up looking to the city to pay their damages when their own homeowner's insurer denies their claim.
3. Some homeowners insurance companies do provide sewer backup coverage. Therefore, it is possible for homeowners to protect themselves against this risk.

Minnesota courts have made it clear that the city doesn't and can't guarantee that its sewers will never back up. A sewer system is not a closed system. Any resident or business that is hooked up to the sewer, dumps waste in it. Some of the things dumped into the sewer system can clog the system. Large amounts of grease from restaurants and disposable diapers are two common problems. We have rules prohibiting dumping of these things into the sewers and have tried to educate the public (particularly restaurants) about the problems they cause. There is no way the city can absolutely prevent these things from happening.

Other factors can cause back-ups as well. Tree roots can grow into and obstruct the sewer lines; or extraordinary amounts of rainfall can infiltrate the system and overload it.

The courts have made it clear that the city is liable for sewer back-up damages if, and only if, the city's negligence causes damages. There are four basic questions the courts look at in deciding this issue. The city is liable if, and only if, the answer to all four is yes.

1. Was there a defect in the city's sewer line? This might be a tree root, a foreign substance such as grease or a diaper that has found its way into the line, a sag or break in the line, bad design of the line, etc.
2. Did the city know, or should the city have known about the defect? For example, were there previous complaints or reports of problems, should the problems have been discovered during routine inspection or maintenance of lines, etc.
3. Did the city fail to correct the defect within a reasonable time after learning of it?
4. Did that failure by the city cause damages?

Thus, if the city exercises reasonable care in inspecting and maintaining its sewer lines, and if the city responds to the problem in a reasonable amount of time, the city is not liable when sewer back-ups occur. This is why it is very important for the city to perform regular maintenance and inspection of its sewers and to keep good records of when that maintenance and inspection was done.

SO WHAT CAN THE HOMEOWNER DO?

If the city is not liable, that may mean that the homeowner may have to bear the loss if their own insurance company won't cover it. It's a good idea for homeowners to check their policies or ask their agents about this coverage. Some insurance companies that do offer coverage for this type of damage are:

American Family
State Farm

Travelers
All State

(This isn't an endorsement of these companies; nor is it a complete list of every company that offers such coverage. These are merely the companies the City of Wayzata has contacted and found to offer such coverage.)

IF YOU ENCOUNTER A SEWER BACK-UP, PLEASE:

Call the city immediately. (Unless you are certain the problem is in your own sewer service.) If the problem is with the city sewer line, the city will take care of it. If the city sewer line is not the problem, the Utility person(s) responding to the call will inform you that the problem is in your sewer service.

The city cannot reimburse you for service rendered confirming that the problem was not in your own sewer service but in the city's sewer line.

Our Utility Department is on 24 hour call, every day of the year. If you encounter a sewer back-up, please call city hall during normal working hours at 952-404-5300. Call the police department during non working hours by dialing 763-525-6210.

For more information, please call Wayzata Public Works at 952-404-5360, Option #2.