

Sewer Backups and Municipalities – Who is Responsible?



There may be more to the situation than what you first see. It's important to never admit liability or offer to settle damages.

All municipalities at some point receive a call from a ratepayer about water or sewer in their basement. This could be as a result of a water or sewer main break or it could be from a large amount of rainfall in a very short time period. Typically public works staff respond immediately, determine the cause of the problem and they may even assist in fixing the problem, but who is ultimately responsible for the damage?

Municipalities pay property insurance premiums to protect their facilities but do not insure everyone in the municipality. While it is unfortunate that such devastating damage has occurred, that does not mean that the municipality is responsible or legally liable for the damage. Did you know that Saskatchewan's urban municipalities have protection under the Cities Act or the Municipalities Act?

Simply put, unless a municipality is negligent (has either done something wrong or failed to do something that they should have), then the municipality is not liable for the sewer backup damage.



The Saskatchewan Cities Act and Municipalities Act

Section 303 of the Cities Act and 340 of the Municipalities Act states:

- (1) A municipality is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, for any loss or damage arising, directly or indirectly, from any public works, including streets, or from the operation or non-operation of a public utility.
- (2) A municipality is not liable for damages resulting from:
 - (a) any interference with the supply of a public utility service if:
 - (i) the interference is necessary for the repair and proper maintenance of the public utility service; and
 - (ii) a reasonable attempt is made to notify the owners or occupants of land or buildings affected by the intended interference; or
 - (b) the breaking or severing of a service pipe, service line or attachment.

This is a stressful time for everyone involved and the ratepayer is going to be looking to their municipal office for an answer. Below is a guideline on what to do in the event that you become aware of damage to a residence or business.

1. **Never admit liability. Never offer to settle or pay for the damages.**
2. Conduct an investigation to determine the cause of the loss.
3. Complete an incident report immediately (while the facts are still clear). This incident report should contain:
 - Claimant's name, address, home and business telephone numbers, and employment information
 - Date and time of incident and weather conditions
 - Photographs
 - Description of the incident
 - When, what, where, and why did the incident occur
 - Describe any conditions of claimant which may have contributed to the accident i.e. damaged foundation, poor drainage, downspouts in disrepair (or non existent)
4. Report the incident to your SUMAssure Account Executive.
5. Advise the homeowner or business owner to advise their insurer of the loss and make a claim. If there is no insurance, advise them that all requests for damages must be in writing with a description of damages including any estimates on repair or replacement. Any demand letter from ratepayers' insurers should be forwarded to your SUMAssure Account Executive.

**If you have any questions regarding this subject,
please contact your SUMAssure representatives:**

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