

FACTS REGARDING BACKUP INCIDENTS
-Information for Municipalities-

Backups can occur for a variety of reasons, and regardless of cause, property owners are understandably upset after an event. Their home, business, or personal property have been damaged, and their lives temporarily disrupted. **It is important that employees who interact with property owners do not make statements about fault, responsibility, or payment for damages, as liability and coverage have not yet been determined.**

Additionally, some municipalities maintain an additional coverage endorsement - the *Public Sewer Back-Up and Water Main Break Coverage Endorsement* - through the North Dakota Insurance Reserve Fund (“NDIRF”), which may allow limited payment for certain damages even when the municipality is not legally liable. However, this determination can only be made after a claim is reported and investigated.

Municipal Responsibilities Following a Backup Report

- Do NOT admit fault on behalf of the municipality or suggest that damages will be covered by the NDIRF.
 - Cause and coverage must be confirmed through investigation.
- Document the call using the NDIRF Water/Sewer Backup Incident Report (see attached):
 - Record facts only – avoid opinions or assumptions.
 - Complete the form thoroughly to help streamline the claim process.
 - Submit the form and any supporting documentation to your local agent promptly so a claim can be submitted, coverage rights preserved, and an investigation initiated.
 - Maintain relevant maintenance and inspection records for NDIRF review.

Guidance for Property Owners

- Advise the property owner to take immediate action to prevent further damage:
 - Clean and dry the affected area.
 - Remove and clean any affected personal property.
 - Remove any personal property adjacent to the area to mitigate further damage.
 - Take photos of affected areas and personal property.
 - Determine the location of the backup and clear the lines or contact a licensed plumber.
- Advise the property owner to contact their property insurance company to report the backup and discuss possible coverage.
- Municipal staff may assist with immediate response and system review but should not offer opinions regarding cause, liability, or coverage.

Claims Process Overview

- A claim will be submitted to the NDIRF for review (**Reminder: Submission of a claim does not mean the municipality is legally liable for the backup, or that the NDIRF will issue payment.**)
 - Each incident is investigated individually to determine the root cause, assess whether municipal liability is present, and confirm whether coverage applies under the terms, conditions, exclusions, and limits of the applicable coverage document.
 - A NDIRF representative will follow up directly with the property owner.

Important Notes for Municipal Staff

- Prompt reporting to the NDIRF is required for coverage consideration and to allow timely investigation.
- If purchased by the municipality, the Public Sewer Back-Up and Water Main Break Coverage Endorsement applies only when municipal negligence is not established.
- Coverage is subject to all terms, conditions, exclusions, and limits of the applicable NDIRF policy, such as certain weather events, service lines not owned or maintained by the municipality, and other causes.
- Staff with questions regarding reporting or appropriate communications should contact NDIRF Member Services or their claims representative.