



The Metropolitan District
water supply · environmental services · geographic information

THE METROPOLITAN DISTRICT PRIVATE PROPERTY DAMAGE POLICY

The Metropolitan District's (MDC) policy for paying for damage to private property differs between the water and sewer side. While the MDC provides both services, the legal liability for damage suffered by a private property owner as the result of a water main break vs. a sewer backup/surcharge are controlled by different legal principles. Any reference in this policy to "property" includes a business establishment, and any reference to "owner" includes the operator of a business establishment.

Main Sewer Blockage

The MDC is a specially chartered municipal corporation; the same as a town or the City of Hartford. The provision of sewer services is a governmental function and as such, the MDC is protected by governmental immunity the same as a town, city or state. Because of governmental immunity, the MDC is immune from legal responsibility for property damage that a private property owner may suffer as a result of the MDC's sewer system. However, even though MDC has no legal responsibility to pay for any damage as a result of a sewer incident, it is the MDC's policy to pay for the cost of remediation (pump out water, remove flooring or drywall affected by water, dry out basements, remove damaged personal property) for a property affected by a main sewer blockage that cause sewer water to back up into the private property. As part of remediation, the MDC makes the home or business habitable, which may involve replacement of appliances such as hot water heaters, boilers, gas furnaces or electrical service that are damaged and considered necessary for the house to be habitable or the business to operate. While the MDC has no legal liability in such an instance, it is MDC policy to pay for such remediation services as a courtesy to its customers to assist its residential and business customers in the restoration process. The MDC does not pay for the replacement of any other personal property that may have been damaged in the house or commercial property.

Surcharge of Sewer

Another scenario where a property may incur damage is when the sewer surcharges due to a large rain event. In a surcharge, the amount of rain water or groundwater that enters the sewer system during periods of intense or heavy rainfall exceeds the capacity of the sewer system. In that instance, the sewer is continuing to flow but the sewer surcharges to a low point in the system to relieve built up hydraulic pressure. In this type of scenario, the MDC again has no legal liability due to governmental immunity; but because the event is out of the MDC's control it is legally deemed an "act of god." For a sewer surcharge, the MDC does not provide remediation services to affected properties because it is not a blockage in the MDC's main sewer that resulted in private property damage but rather the "act of god" that resulted in water entering a private basement within a residence or place of business. The MDC has no control over when or where such a surcharge will occur and therefore is not legally liable for such an occurrence.

Plumbing Code

A property that is damaged by a sewer surcharge or blockage is the result of water flowing backwards through a property's private lateral connection and discharging into a basement through a plumbing fixture such as a toilet, sink, shower, etc. It is important to point out that it is a violation of plumbing code (Building Officials and Code Administrators National Plumbing Code and International Plumbing Code) to install basement plumbing fixtures without proper protection such as a backwater valve or check valve. For properties or businesses that have fixtures in a basement built in compliance with plumbing code, it is not possible for water from the sewer main to enter into the basement.

Sewer Lateral Blockage/Damage

Another scenario where a property owner may experience flooding in the basement is when a property's sewer lateral connection to the sewer main is blocked or damaged and the property's waste is unable to exit the property and enter the MDC's sewer main. The sewer lateral connection is owned by the property owner and it is their responsibility to maintain and repair. In this instance, the MDC does not pay for any damage that may be incurred or any costs of repair.

Water Main Break

On the water side of the MDC, the legal liability is different. The MDC is not entitled to governmental immunity for the operation of a public water utility and therefore governmental immunity does not apply. Instead, liability is controlled by principles of general negligence law. In order for the MDC to be liable, it must have acted in such a way that it was reasonably foreseeable that it would cause a water main break and cause damage to an individual or property. Similar to the "act of god" of a rain event causing a sewer surcharge, a water main breaking is not in any way predictable. Water mains can last for 30 years, 60 years, or 150 years or more without a break. As a result, the MDC is not liable unless it performed, or failed to perform, some act which caused damage. Nonetheless, despite having no legal liability in an instance when a water main break occurs without any warning, it is the MDC policy to pay for the cost of remediation (pump out water, remove flooring or drywall affected by water, dry out basements, remove damaged personal property) for a property damaged by a water main break. As part of remediation, the MDC makes the home or business habitable, which may involve replacement of appliances such as hot water heaters, boilers, gas furnaces or electrical service that are required for the home to be habitable or the business to operate. While the MDC has no legal liability in such an instance, it is MDC policy to pay for such remediation services as a courtesy to its customers to assist its customers in the restoration process. The MDC does not pay for the replacement of any other personal property that may have been damaged in the house.