



Western
FINANCIAL GROUP

Group Insurance Solutions

AMM MOS

Operational Liability Risks

for Manitoba Municipalities

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Ken Fingler
Director Risk Management

Liability Insurance - General

- **\$35,000,000 Limit**
- **Bodily Injury and Property Damage Claims**
 - Arenas, curling rinks, halls
 - Playgrounds
 - Sporting events
 - Sidewalks/parking lots
- **Additional Insureds:**

Boards, committees and commissions, and members thereof, and volunteers, which own or operate halls, rinks or other public facilities
- Legal defense costs

Managing Liability Risk

- Councils, employees and volunteers are concerned about being held liable for injuries or damages
- All would be covered by liability insurance as long as incident occurred in the course of your duties
- Reducing / preventing incidents will save Municipality money and save everyone from a lot of grief
- Accidents and injuries create a lot of negative publicity
- Exercise caution with your actions and your comments.

How could you be affected?

- **Personal Liability** - Deals with the issue of fault for your personal actions that result in injury or damage to others
- Employees or volunteers could be held liable for something that they did or failed to do that resulted in injury or damages.(Negligence)
- Municipality is responsible for the actions of employees or volunteers while acting in course of duties (Vicarious Liability)
- Liability insurance limit (\$35,000,000 limit including defence costs)

Negligence

- Doing something other than what a “reasonable” person would do which results in injury or damages
- Being found negligent leads to being legally obligated to pay for the damages
- Organizations are liable for the actions of their employees and volunteers (**Vicarious Liability**)
- Organizations could be held liable for the actions of parties using their facilities ***
(**Joint and Several Liability**)

How to deal with public reporting incidents

- Listen and document conversation
- Offer empathy but not monetary restitution
- Do Not admit fault
- Let claimant know that you will report incident to appropriate party who will investigate
- If appropriate, instruct claimant to report incident to their insurer
- Refrain from commenting on the incident to avoid prejudicing the insurer and / or breaching any privacy laws

Maintenance and Repairs

- Set up a system to report problems observed by staff while on their work travels
- Set up a recording and work order system for problems reported by public and staff
- Prioritize work based on potential hazard
- If repairs cannot be completed promptly – set up warning signs and barriers to prevent accidents and injuries – document and set follow ups.
- Liability greatly reduced by showing Due Diligence



AED Requirements

- New Legislation – Effective January 2014
- AEDs required in Public Places
- Including: Arenas, Curling Rinks, Swimming Pools, Community Centers, Fitness Clubs, Golf course club houses, museums & Schools
- Liability exposure if AED is not provided or maintained in good working order.

AEDs

Liability is low as long as units are maintained in good working order.

- Provide signage with clear instructions
- Securely anchor unit to wall to prevent removal
- Securely lock case with a breakable lock
- Alarm unit to prevent tampering
- Conduct daily visual checks (power light on / no tamper)
- Conduct monthly checks (operational / battery charging)
- Record all checks and service work

Mobile Equipment Operation

- Ensure operators are properly trained for each piece of equipment used.
- Use a written safety program for each piece of equipment and document training sessions.
- Do not allow unqualified persons to use equipment
- Ensure new staff are fully trained before operating equipment
- 78 Claims for damage to mobile equipment in last 5 years for \$1,843,000

Personal Use of Municipal Equipment and Shop

- Have a clear written personal use policy
- Restrict usage of equipment to qualified staff
- Limit times for after hours shop use
- Prohibit using facilities alone
- Limit shop use to employees own use – no outside users or work done on others vehicles
- All staff must sign waiver before using shop or borrowing equipment.
- Equipment must be signed out by shop foreman.

Liquor Liability – Hall Rentals

- Ask renter for confirmation of liability insurance
- If renter has no insurance, hall and RM could be held responsible for any liability claims
- Liability Insurance available through Outside User Program
- Hall should provide trained bartenders
- Bartenders should have taken “Serving it Safe” course
- Provide security for event (1 for every 75 to 100 guests)
(Security guards must have “Security Guard License”)
- Failure to control liquor service could result in fines for renter and hall operator.

Drinking in Arena Dressing Rooms

Often late night hockey teams drink in the dressing rooms after their games. Could the RM be found liable if accident happens on way home?

What should be done?

- Post signs “Liquor in dressing rooms strictly forbidden”
- Put clause in rental agreement with penalties if teams found drinking or evidence of drinking – i.e. lose privileges / ice time. Have teams sign agreement.

Make the user take responsibility for their actions!

Helmets and Protective Gear

- Should helmets and protective gear be made mandatory at skateboard parks, BMX parks, rinks etc?
- Signage should not make protective gear mandatory unless the activity is fully supervised such as skating lessons, hockey games etc.
- Signage should say “Helmets and Protective Gear is Strongly Recommended”
- Liability is low as long as park equipment is maintained in good condition and inspected regularly.

Deep Fryers in Kitchens

- Fire code requires all grease producing equipment to be located under stainless steel hoods vented to outside and protected by a wet chemical fire suppression system
- System must meet UL300 / ULC 1254.6 Standards
- Also applies to use of residential deep fryer units
- OFC may approve a portable fryer for a single event but will not for an entire season.
- Fire system must be checked every 6 months
- Exhaust ducts must be steam cleaned annually

Propane and Diesel Fuel Storage

- Diesel fuel, gasoline or propane should not be stored or dispensed inside a building
- Fuel tanks should be located at least 25 ft away from building
- Fuel tanks should be ULC listed double walled or located in a walled leak proof containment unit
- Fuel and propane tanks should be protected from vehicle impact with concrete barriers or steel crash guards
- Portable propane tanks should be stored outside in a locked steel mesh cage.

Public storage Building

Can unused warehouse buildings be used to store boats, trailers, RVs for residents during the winter?

- Yes, but a Hold Harmless agreement needs to be sign by the equipment owner – they assume all responsibility
- Confirm that they carry their own insurance on equipment including liability insurance
- Conduct safety check when units brought in for storage - check for any oil or fuel leaks
- Clearly define what type of security provided

Outside Contractors

1. How can RMs reduce liability for actions of contractors?

- Hire only reputable contractors / operators
- Check references and qualifications
- Obtain certificate of insurance (minimum \$2 million CGL with Town / RM added as additional insured)
- Keep records of insurance and policy numbers
- Ensure contractors carry workers comp coverage

2. Can individual contractor be added to RM's insurance?

- Only if RM hires contractor as a temp employee
- Coverage would only apply to work done for RM

Recreation – Play Structures

- Public Play structures must meet the CSA-Z614-07 Standard “Children’s Playspaces & Equipment”
- A condensed version “Public Playground Safety” available on Western’s website link on AMM site
- Play structures sold in building supply stores are for residential use only and do not meet CSA Standards for Public Play grounds
- Residential use play structures are not covered by CSA Standard.



Playground Maintenance

- Check recreation equipment regularly – make repairs promptly and properly
- Ensure Playgrounds meet CSA Standards (See Guide)
- Check for head / neck entrapments, pinch points, fall hazards
- Check protective surfacing – adequate depth
- Documented weekly, monthly, annual inspections as well as maintenance work done.

Natural Playgrounds

- Being favored by many community groups as they are less expensive and offer other types of play activities than Manufactured Play structures
- Note: Natural Playgrounds still must comply with the safety requirements of CSA – Z614-7
- Important that adequate protective surfacing is provided around any raised elements (rocks, trees)
- Use caution spacing elements to prevent injury should a child fall off a raised element
- Avoid water – drowning hazard

Used Playground Equipment

Are there liability concerns with buying used play equipment / structures?

- Most equipment replaced because it does not meet CSA Standards or needs extensive work
- Older wooden structures usually do not stand up to moves and reinstallation – must meet CSA Standard
- Check what has to be done to update the old equipment before taking it.

Sports Field Fencing / Goal Posts

- Fences should be inspected monthly to ensure all breaks or cuts are repaired
- Check chain link fences and replace any missing wire fasteners
- Wire ends must be bent over so they do not poke kids
- Check fence posts and goal posts regularly (spring and after every heavy rain) to ensure still secure and not in danger of falling over

Bleacher Safety

- Guardrails at back of top row to prevent falls off the back
- Side handrails and guardrails to prevent falls from sides
- Steps along the stair sections no more than 8" high with non-slip surfaces / treads
- Spaces between vertical spindles no more than 4"
- Gaps between seats and floorboards no more than 4"
- Bleacher seats and rails properly secured (no bent nails)
- Thoroughly inspect bleachers and supports annually

Outside Facility Checks

Should a toboggan hills be checked in the summer?

- Yes, especially if used i.e. bicycle hill
- Should be checked weekly the same as a BMX trail park
- Check for large holes or cracks due ground settling from drought or heavy rains
- Check for hills, holes built by other users to create jumps
- Remove debris, obstacles or equipment brought onto hills
- Regularly document inspections and maintenance
- Liability is greatly reduced by ensuring that the facility and equipment are in good condition.

Festivals – Rides / events

RM plans to have several events at the fair (i.e. Bouncy castle, rock climbing wall, amusement rides, pony rides, petting zoo, mechanical bull rides, etc).

What rules or procedures should be taken:

- These rides / equipment should be operated by the contractor
 - Contractor should provide certificate of insurance with minimum \$2 million CGL
 - RM added as additional insured on contractor's insurance
- NO** – contractor cannot be added to Municipal Insurance!!

Waivers / Informed Consent

- Properly worded waiver forms can reduce your exposure to liability for injury to participants
- Describe activity and risks clearly
- Waivers have held up for adults who understood the risks!
- Not for minors – parents cannot sign away the rights of child
- Informed consent can reduce liability by clearly describing to inform parents what the activity involves and what potential injuries could occur.
- Does not remove liability for negligent acts

Informed Consent / Permission Form

- Get completed informed consent forms from all participating in recreation programs / field trips
- Get completed Volunteer Driver – Authorization to Transport Children Form from all drivers moving children for programs.
- Get copy of drivers license and vehicle registration
- Do not allow any driver to transport children by themselves – always have another adult along to supervise (For the protection of children and drivers)



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Questions?

THANK YOU