

By David R. Leng, Chief Risk Officer, Duncan Financial Group

Managing Risk

Best Practices for Use of Municipal Facilities

Significant risks come in all shapes and forms. For first responders, it's a live wire. For public works, it's a temperamental chainsaw. And for municipalities in general, a significant risk occurs when renting or allowing the use of their facilities and properties. Because of this, there is a need for proper risk management strategies, which can include comprehensive rental agreements, appropriate signage, and insurance requirements. This is the shield municipalities must wield to help protect themselves from potential liability. Let's look at the key risks municipalities face to provide guidance on ways to mitigate these risks through effective policies and procedures.

Risks Associated with Municipal Facility Use

Municipalities that rent or allow the use of their facilities face several potential risks:

- **Liability for Injuries:** The municipality might be liable for injuries on their property, even if the municipality's actions or facilities do not directly cause the injury.
- **Property Damage:** In some cases, renters or users may cause damage to municipal property and, by doing so, incur repair costs and potential disputes.
- **Alcohol-Related Incidents:** It's not rocket science to deduce that if alcohol is consumed on municipal property, there is an increased risk of accidents, injuries, and potential liability, especially if someone drives away under the influence.

- **Inadequate Supervision:** Lack of proper supervision during events can lead to safety issues and increased liability exposure.
- **Regulatory Compliance:** Failure to comply with local, state, or federal regulations regarding facility use and events can result in fines and legal issues.

Importance of Rental Agreements

It's imperative to have a well-drafted rental or use agreement in place that protects the municipality's interests. Make sure it includes:

- **Hold Harmless and Indemnification Clause:** This clause transfers the risk from the municipality to the renter. For instance, a sample clause might read:
 "As part of the consideration for the Municipality renting the above-noted facilities to [Renter], I, on behalf of myself, the renting organization, and its members agree to release and discharge, and to indemnify and save harmless the Municipality from and against all claims and proceedings, by whomsoever made or brought, in respect of any cost, expenses, losses, damage or injury arising by reason of my/our use of the rented facilities."
- **Insurance Requirements:** Specify the type and amount of insurance coverage required from the renter. For example:
 "The Municipality requires the applicant to carry Commercial General Liability Insurance in an amount not less than [X] million dollars. This insurance will be

carried for the rental period and will have the Municipality shown as an Additional Insured.”

- **Use Clause:** Make sure to define permitted activities and any restrictions on facility use clearly. Be precise.
- **Alcohol Policy:** If alcohol is permitted, outline specific requirements for licensing, serving, and liability.
- **Cleaning and Damage Responsibilities:** Clearly state the renter’s responsibilities for cleaning and any damage caused during the event.

Signage Requirements

Proper signage is crucial for communicating rules, warnings, and important information to facility users. Effective signage should:

1. Be clearly visible and legible, with font sizes no less than half an inch. Bigger is better.
2. Include essential information such as:
 - Hours of operation
 - Emergency contact information
 - Location of first aid equipment
 - Rules and regulations for facility use
 - Warnings about potential hazards
3. Be sure to update to ensure accuracy and relevance regularly.
4. Comply with any specific legal requirements for signage in your jurisdiction.

Event Liability Insurance

It’s no secret that bad things can happen anytime you get a large group of people together. Requiring event liability insurance is a crucial risk management strategy for municipalities. This type of insurance protects both the municipality and the event organizer from potential claims arising from the event. Key considerations include:

1. **General Liability Coverage:** This should cover bodily injury, property damage, and personal injury claims arising from the event.



2. **Liquor Liability Coverage:** If alcohol is served or sold at the event, specific liquor liability coverage is essential. This protects against claims related to alcohol-related incidents.
3. **Property Damage Coverage:** This protects against claims for physical damage to the event venue.
4. **Medical Payments Coverage:** This covers medical expenses associated with bodily injuries that occur during the event.
5. **Additional Insured Status:** The municipality should be named as an additional insured on the event organizer’s policy.
6. **Certificate of Insurance:** Receive a Certificate of Insurance from the renter to verify the insurance before the event and ensure that the coverage period aligns with the event date.

continued on page 70

Addressing Alcohol Consumption on Municipal Properties

What you don't know can hurt you. The number one assumption people tend to make is that their homeowners' or renters' insurance provides them with liability for anything they do. Nothing is further from the truth. It's true that a homeowner's insurance policy would typically provide liability coverage for, say, renting a pavilion for a birthday party, but may not for anything that generates money or business-related, such as a craft show or fundraiser. More importantly, almost all homeowners insurance excludes liquor liability when alcohol is served away from their primary residence, leaving the renters without adequate protection.



Allowing alcohol consumption on municipal properties requires careful consideration and specific risk management strategies:

- **Special Occasion Permits:** Ensure that renters obtain the appropriate provincial or local Special Occasion Permit for serving alcohol.
- **Liquor Liability Insurance:** Require specific liquor liability coverage, as standard homeowners insurance policies often exclude this coverage.
- **TIPS Training:** If the rental is more of an event, consider requiring event organizers or servers to have completed Training for Intervention Procedures (TIPS) or similar responsible alcohol service training.
- **Designated Areas and Times:** Restrict alcohol consumption to specific designated areas and times to better control and monitor its use.
- **Clear Signage:** Post clear signs indicating where alcohol consumption is and is not permitted, as well as any rules or restrictions.
- **Security and Supervision:** Adequate security and supervision are required for events where alcohol is served or for BYO events.

When alcohol is involved, liquor liability coverage becomes essential. Municipalities should:

- Require renters to purchase a separate liquor liability policy if alcohol will be served or consumed.
- Provide a list of approved insurance providers or recommend event insurance programs tailored to small-scale renters.
- Receive a Certificate of Insurance from the renter to verify the insurance before the event and ensure that the coverage period aligns with the event date.

Implementing a Comprehensive Risk Management Strategy

So, how do you effectively manage risks associated with facility rentals and use?

- Conduct regular risk assessments of all facilities and properties.
- Develop and maintain a comprehensive special events policy that outlines procedures for renters and users.
- Ensure all rental agreements and permits are reviewed by legal counsel and updated regularly.
- Maintain proper insurance coverage for the municipality, including host liquor liability if applicable.
- Implement a system for regular inspection and maintenance of facilities to address potential hazards.
- Provide training for municipal staff on risk management procedures and event oversight.
- Establish clear communication channels with local law enforcement and emergency services for event support.

By implementing these strategies, municipalities can significantly reduce their liability exposure while continuing to provide valuable community spaces and services. But you need to do a follow-up. Regularly reviewing and updating these policies and procedures will ensure ongoing protection for the municipality and its residents. **B**

ABOUT THE AUTHOR



David R. Leng, CPCU, CIC, CBWA, CRM, MWCA, is the author of the Amazon #1 Best Seller Business Books *The 10 Laws of Insurance Attraction*, *Insured to Fail*, as well as *Stop Being Frustrated & Overcharged* (by your workers' compensation program.) David is

the Chief Risk Officer of the Duncan Financial Group in Irwin, Pa., a Keystone member. Leng is also an Institute of WorkComp Professionals instructor and serves on the PA Compensation Rating Bureau Classification and Rating Committee. He can be contacted at dleng@duncangrp.com. For more information, visit www.StopBeingFrustrated.com.

About Keystone: *Keystone is a network of high-performing independent insurance agencies. In partnership with Keystone Agency Partners, we're here to help your borough navigate the unique challenges and risks facing your community.*

Our Keystone agencies are more than just insurance providers—they're part of your community, living and working alongside you. They bring a deep understanding of the risks you face, leveraging resources like advanced risk assessments, environmental protection measures, and tailored insurance solutions to meet your evolving needs. Together, we're committed to safeguarding your borough's future.



Digital Magazine Advertising

The digital magazine has enhanced advertising opportunities. Embed live links to take customers right to your website! For more information, contact PJ Taylor at pj.taylor@thinkgraphtech.com.