



# Risk Management Considerations for Winter Activities

## **R**ecreational activities increase the municipality's exposure to liability.

With the cold temperatures and an abundance of snow that many areas can experience in a winter, enthusiasts can enjoy many outside activities. Along with the advent of these additional activities, the municipality's risk of liability also increases where they are carried out on municipally-owned property. Regardless of the type of activity, whether it be skating on temporary outdoor ice rinks, tobogganing, snowboarding, municipally owned premises; there are some common risk management recommendations that we encourage to minimize your exposure to liability.

Some of these suggestions are as follows:

- If there is an awareness of casual use of municipal premises for a specific recreational activity, it is appropriate to inspect the location for obvious hazards such as trees, light standards, roadways, creek beds, or anything else that may hinder the activity.
- Signage may be necessary to prohibit use in certain locations where serious hazards exist. Signs should also be posted to warn of potential dangers and hazards.
- Locations which are sanctioned or recognized by the municipality as active for winter recreational activities require considerably more study. The fact that the municipality recognizes or promotes a particular location results in absolute responsibility to safeguard the public. These locations would require removal of obvious hazards together with regular inspections and a good documentation program.
- Under the *Occupiers' Liability Act* and/or common law, a municipality has an obligation to ensure that anyone entering their property is reasonably safe while on the premises. Hence, a municipal decision to permit these activities on their premises should be accompanied by a commitment to manage the risk.
- There may be a need to install barriers where appropriate and necessary i.e. around trees. If fencing is installed the municipality has a further obligation to inspect and maintain it on a regular basis.
- Use of motorized vehicles should always be kept completely separate from other activities. For example, snowmobile use should be prohibited from areas where people will be tobogganing or snowboarding. If the municipality permits the use of their premises for any winter activities to another organization who is in control and responsible for

the premises, we suggest that the following items be incorporated in their agreement:

1. The permit holder should abide by the same safety precautions and standards that the municipality would if they were to control the activity.
2. An agreement should be drawn up between the two parties setting out their respective duties and responsibilities.
3. The contract should contain a hold harmless and indemnification clause in favour of the municipality.
4. An insurance clause should be included which would require the permit holder to carry an acceptable limit of Commercial General Liability Insurance, including the municipality as an additional Insured.
5. A current Certificate of Insurance should be provided to the municipality providing proof that the necessary insurance is in place.

Every year we see claims against municipalities involving death or serious injury to participants taking part in winter recreational activities. We encourage municipalities to take an active risk management approach in this regard. Not only is there a need to minimize your exposure to liability, but more importantly, to avoid unnecessary deaths or injuries to the public.

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